



**ANIMAL LEGAL  
DEFENSE FUND** EST  
1979

## Compendium of U.S. Animal Protection Laws

# *New Hampshire*



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*This chapter contains New Hampshire’s general animal protection and related statutes with an effective date on or before September 1, 2024. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories with the relevant part of each statute italicized.*

*New Hampshire may employ similar provisions within other non-animal-specific criminal and civil statutes, may have other more specific statutes in addition to those included, and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.*

## ANIMAL PROTECTION LAWS OF NEW HAMPSHIRE

New Hampshire Laws	
SUBSTANTIVE PROHIBITIONS AND EXEMPTIONS	
1. Definition of "Animal"	"[A]nimal means a domestic animal, a household pet or a wild animal in captivity" N.H. REV. STAT. § 644:8(II)
2. General Cruelty	<p>Cruelty to animals N.H. REV. STAT. § 644:8 1<sup>st</sup> offense: Class B or Class A misdemeanor^ 1<sup>st</sup> offense if offender purposely beat, cruelly whipped, tortured, or mutilated, or so caused: Class B felony Subsequent offenses: Class B felony <b>Exemptions:</b> Veterinary practices, wildlife, accepted farm animal husbandry practices, other</p> <p>Using live vertebrate animals in science classes and science fairs N.H. REV. STAT. § 644:8-c Class B or Class A misdemeanor* <b>Exemptions:</b> Accepted farm animal husbandry practices, other</p> <p>Transporting dogs in pickup trucks N.H. REV. STAT. § 644:8-f Violation <b>Exemptions:</b> Farming, hunting activities</p> <p><i>*Misdemeanors are presumed to be Class B unless otherwise specified or if the state files a notice of intent to seek Class A misdemeanor penalties on or before the date of arraignment.</i> N.H. REV. STAT. § 625:9</p>
3. Animal Fighting	<p>Various animal fighting activities, including being a spectator at animal fights and owning/possessing/selling animal fighting paraphernalia N.H. REV. STAT. § 644:8-a Class B felony</p>
4. Sexual Assault	<p>Sexual assault of animals N.H. REV. STAT. § 644:8-g 1<sup>st</sup> offense: Class A misdemeanor Subsequent offenses: Class B felony <b>Exemptions:</b> veterinary practice, accepted farm animal husbandry practices, other</p>

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<p>5. Cruelty to Working Animals</p>	<p>Causing physical injury to a service animal  <b>N.H. REV. STAT. § 167-D:10</b>  <i>Class B or Class A misdemeanor*</i></p> <p>Killing, torturing, beating, kicking, striking, mutilating, injuring, disabling, or mistreating law enforcement dog or horse  <b>N.H. REV. STAT. § 644:8-d</b>  <i>Class B felony</i></p> <p>Interfering with police dogs or horses  <b>N.H. REV. STAT. § 644:8-d</b>  <i>Class B or Class A misdemeanor*</i></p> <p><i>*Misdemeanors are presumed to be Class B unless otherwise specified or if the state files a notice of intent to seek Class A misdemeanor penalties on or before the date of arraignment.</i>  <b>N.H. REV. STAT. § 625:9</b></p>
<p>6. Laws Specific to Farmed Animals</p>	<p>Docking the tail of a horse  <b>N.H. REV. STAT. § 644:8-b</b>  <i>Class B or Class A misdemeanor*</i>  <b>Exemption:</b> Veterinary practice  <b>N.H. REV. STAT. § 644:8-b</b></p> <p><i>*Misdemeanors are presumed to be Class B unless otherwise specified or if the state files a notice of intent to seek Class A misdemeanor penalties on or before the date of arraignment.</i>  <b>N.H. REV. STAT. § 625:9</b></p>
<p>7. Cruel Hunting, Trapping, and Fishing</p>	<p>Cruelty to wild animals  <b>N.H. REV. STAT. § 206:19-b</b>  <i>Class B felony</i>          Affirmative defenses: lawful hunting, scientific investigation</p> <p>Use of ferrets while hunting prohibited  <b>N.H. REV. STAT. § 207:6</b></p> <p>Prohibited means of taking fish  <b>N.H. REV. STAT. §§ 207:9; 207.10; 211:7</b></p> <p>Prohibited means of taking deer  <b>N.H. REV. STAT. § 208:7</b></p>

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	<p>Taking golden and bald eagles prohibited N.H. REV. STAT. § 209:9</p> <p>Interfering with or destroying nests or birds prohibited N.H. REV. STAT. § 209:10</p> <p>Injuring or destroying dens, burrows, or houses of game animals or fur-bearing animals N.H. REV. STAT. § 210:4</p> <p>Visiting traps N.H. REV. STAT. § 210:13</p> <p>Using live carp or goldfish as bait N.H. REV. STAT. § 211:16</p>
REPORTING LAWS	
8. Cross Reporting	[None]
9. Veterinary Reporting	<p>Immunity from civil actions N.H. REV. STAT. § 332-B:16-a</p> <p>Veterinarians are protected from lawsuits for their part in cruelty investigations. N.H. REV. STAT. § 644:8(V)</p>
10. “Ag-Gag” Laws	[None]
CIVIL AND CIVILIAN INTERVENTION	
11. Emergency Rescue and Relief	<p>Unlawful to leave a domestic animal, household pet, or wild animal held in captivity unattended in a vehicle with temperatures so high or low to cause serious harm. Law enforcement and humane society officer may take action to remove the animal without liability for damage to the vehicle. N.H. Rev. Stat. § 644:8-aa <i>Class B or Class A misdemeanor</i></p>
12. Civil Enforcement	[None]
13. Domestic Violence and Protection Orders	<p>Animal cruelty included in definition of “abuse” N.H. REV. STAT. § 173-B:1(1)(h)</p> <p>Court may grant petitioner exclusive care/custody/control of an animal, and</p>

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	<p>prohibit the defendant from nearing/taking/transferring/ encumbering/concealing/committing an act of cruelty or neglect/ disposing of the animal.</p> <p>N.H. REV. STAT. §§ 173-B:4(I)(a)(10), 173-B:5(I)(a)(7)</p>
CRIMINAL JUSTICE INTERVENTION	
14. Maximum Penalties and Statute of Limitations	<p>Classification of crimes</p> <p>N.H. REV. STAT. § 625:9</p> <p>Class A or B misdemeanor</p> <p><i>1 year imprisonment and/or \$2,000 fine</i></p> <p>N.H. REV. STAT. § 651:2(II)(c)</p> <p>N.H. REV. STAT. § 651:2(IV)(a)</p> <p>Class B felony</p> <p><i>7 years imprisonment and/or \$4,000 fine</i></p> <p>N.H. REV. STAT. § 651:2(II)(b)</p> <p>N.H. REV. STAT. § 651:2(IV)(a)</p> <p>Statute of Limitations</p> <p><i>Misdemeanor: 1 year</i></p> <p><i>Felony: 6 years</i></p> <p>N.H. REV. STAT. § 625:8</p>
15. Law Enforcement Policies	<p>State veterinarian has general charge of the enforcement of the animal cruelty laws and, upon request of law enforcement, shall assist in a secondary capacity in enforcing them.</p> <p>N.H. REV. STAT. § 436:8</p> <p>Cost of care fund for caring for animals seized pursuant to animal cruelty violations</p> <p>N.H. REV. STAT. § 437-B:1</p> <p>Courts shall give cases in which animals have been confiscated priority on the court calendar.</p> <p>N.H. REV. STAT. § 644:8(IV)(a)(3)</p>
16. Seizure	<p>Arresting officer may seize animals.</p> <p>N.H. REV. STAT. § 644:8(IV)(a)(1)</p> <p>A person with sole or co-ownership of a seized animal who is not the defendant can petition the court for temporary custody if the court determines it is in the animal's</p>

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	<p>best interest.  <b>N.H. REV. STAT. § 644:8(IV)(a)(4)</b></p> <p>No seized animal may be spayed or neutered or otherwise permanently altered unless a veterinarian determines it is medically necessary  <b>N.H. REV. STAT. § 644:8(IV)(a)(5)</b></p> <p>Law enforcement, animal control, or humane society agents may confiscate animals without a court order if the animal is in imminent danger; veterinarians are authorized agents for domestic animals and livestock; special requirements for animals at dog and horse racing tracks.  <b>N.H. REV. STAT. § 644:8(IV-a)(a)-(c)</b></p> <p>Animals used in fights may be seized  <b>N.H. REV. STAT. § 644:8-a(IV)</b></p>
<b>17. Courtroom Animal Advocate Program</b>	[None]
<b>18. Restitution and Reimbursement</b>	<p>Person convicted of harming a service animal may be ordered to pay restitution, including veterinary bills, replacement cost of animal, and lost wages/salary of service animal handler or trainer  <b>N.H. REV. STAT. § 167-D:10</b></p> <p>If a person is ordered to pay restitution and the amount exceeds the actual amount of costs of care of an animal, the surplus shall be remitted to the department of agriculture, markets and food to be deposited in the Cost of Care Fund.  <b>N.H. Rev. Stat. § 437-B:1</b></p> <p>The costs of care and disposal of the animal shall be borne by person convicted.  <b>N.H. REV. STAT. § 644:8(IV)(a)(7)</b></p> <p>If conviction is appealed, defendant must post bond for costs of care.  <b>N.H. REV. STAT. § 644:8(IV)(c)</b></p> <p>Costs of care for animals seized from animal fights shall be borne by the offender, and upon conviction for animal fighting proceeds from any forfeitures shall be used to reimburse local and state agencies for costs of prosecution of animal fighting cases. Any leftover money shall be deposited in a companion animal neutering fund.  <b>N.H. REV. STAT. § 644:8-a(IV),(V)</b></p>

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	<p>Persons convicted of bestiality shall reimburse the animal shelter of reasonable costs incurred for care of animal seized.</p> <p>N.H. REV. STAT. § 644:8-g(III)(b)</p>
<b>19. Forfeiture and Possession Bans</b>	<p>Upon conviction the court shall dispose of the seized animal in any manner it decides. If an animal is co-owned or fully owned by a third party, the court shall give priority to restoring full ownership in that person if doing so would be in the animal's best interest.</p> <p>N.H. REV. STAT. § 644:8(IV)(a)(6)</p> <p>Upon conviction for misdemeanor animal cruelty the court may impose a possession/ownership ban for a reasonable period.</p> <p>N.H. REV. STAT. § 644:8(IV)(b)</p> <p>Upon conviction for felony animal cruelty or any bestiality or animal fighting (whether misdemeanor or felony), the court shall impose a possession/ownership ban for a minimum of 5 years.</p> <p>N.H. REV. STAT. § 644:8(IV)(b)</p> <p>N.H. REV. STAT. § 644:8-a(VI)</p> <p>N.H. REV. STAT. § 644:8-g(III)(c)</p> <p>Upon conviction for either misdemeanor or felony, the court may impose other reasonable restrictions on a person's contact with animals including limiting places of employment.</p> <p>N.H. REV. STAT. § 644:8(IV)(b)</p> <p>N.H. REV. STAT. § 644:8-a(VI)</p> <p>Any animal kept in violation of a possession/ownership ban shall be subject to immediate forfeiture. The person violating the order may, in addition to being held in criminal contempt of court or subject to a probation violating, be fined \$1,000 for each animal.</p> <p>N.H. REV. STAT. § 644:8(IV)(b)</p> <p>N.H. REV. STAT. § 644:8-a(VI)</p> <p>If a defendant appeals their conviction, they may be required to post a bond. If the person fails to post or renew the bond as required, the animal shall be forfeited.</p> <p>N.H. REV. STAT. § 644:8(IV)(c)</p> <p>An officer may seize an animal in clear and imminent danger without a warrant. If, after 7 days the animal has not been returned or claimed, the officer shall petition the court for custody or an extension.</p>

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	<p>N.H. REV. STAT. § 644:8(IV-a)(a)</p> <p>Court has discretion on destroying/forfeiting animals upon conviction for animal fighting.</p> <p>N.H. REV. STAT. § 644:8-a (IV),(V)</p>
<b>20. Rehabilitative Sentencing</b>	<p>Persons convicted of bestiality shall submit to psychological assessment and participate in appropriate counseling.</p> <p>N.H. REV. STAT. § 644:8-g(III)</p>



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### 1. DEFINITION OF “ANIMAL”

#### N.H. REV. STAT. § 644:8. Cruelty to Animals.

- I. In this section, “cruelty” shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.
- II. *In this section, “animal” means a domestic animal, a household pet or a wild animal in captivity.*
- II-a. In this section, “shelter” or “necessary shelter” for dogs shall mean any natural or artificial area which provides protection from the direct sunlight and adequate air circulation when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from the weather shall allow the dog to remain clean and dry. Shelter shall be structurally sound and have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.
- III. A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:
  - (a) Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;
  - (b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;
  - (c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;
  - (d) Negligently transports any animal in his or her possession or custody in a manner injurious to the health, safety or physical well-being of such animal;
  - (e) Negligently abandons any animal previously in his possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance, or shelter;
  - (f) Has in his or her possession an equine colt that is less than 90 days old that is not being nursed by its dam, unless the colt was born in this state, and its dam has died within this state before the colt became 90 days old;
  - (g) Sells an equine colt that is less than 90 days old that is not being nursed by its dam; or
  - (h) Otherwise negligently permits or causes any animal in his or her possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.
- III-a. A person is guilty of a class B felony who purposely beats, cruelly whips, tortures, or mutilates any animal or causes any animal to be beaten, cruelly whipped, tortured, or mutilated.
- IV.
  - (a)
    - (1) Any person charged with animal cruelty under paragraphs III or III–a may have his or her animals confiscated by the arresting officer.
    - (2) A person charged under this section may petition the court to seek an examination of the animals by a veterinarian licensed under RSA 332–B of his or her choice at the expense of the person charged.

## ANIMAL PROTECTION LAWS OF NEW HAMPSHIRE

- (3) Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. In cases in which animals have been confiscated by an arresting officer or his or her agency, a status hearing shall be held by the court within 14 days of the confiscation of the animals.
  - (4) Any person with proof of sole ownership or co-ownership of an animal confiscated by an arresting officer in an animal cruelty case and who is not a defendant or party of interest in the criminal case may petition the court for temporary custody of the animal. The court shall give such person priority for temporary custody of the animal if the court determines it is in the best interest of the animal's health, safety, and wellbeing.
  - (5) No custodian of an animal confiscated under this section shall spay or neuter or otherwise permanently alter the confiscated animal in his or her custody pending final disposition of the court case unless a treating veterinarian deems such procedure necessary to save the life of the animal.
  - (6) Upon a person's conviction of cruelty to animals, the court shall dispose of the confiscated animal in any manner it decides except in a case in which the confiscated animal is owned or co-owned by persons other than the defendant. If the defendant does not have an ownership interest in the confiscated animal, the court shall give priority to restoring full ownership rights to any person with proof of ownership if the court determines that such is in the best interest of the animal's health, safety, and wellbeing. If the confiscated animal is co-owned by the defendant, the court shall give priority to transferring the defendant's interest in the property to the remaining owner or co-owners equitably if the court determines that such is in the best interest of the animal's health, safety, and wellbeing.
  - (7) The costs to provide the confiscated animals with humane care and adequate and necessary veterinary services, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted in accordance with rules adopted by the department of agriculture, markets, and food.
- (b) In addition, the court may prohibit any person convicted of a misdemeanor offense of animal cruelty under RSA 644:8, RSA 644:8–aa, RSA 644:8–b, RSA 644:8–c, or RSA 644:8–d, or violation of RSA 644:8–f from having future ownership or custody of, or residing with other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals. The court shall prohibit or limit any person convicted of a felony offense of animal cruelty under RSA 644:8 or a misdemeanor or felony offense of bestiality under RSA 644:8–g from having future ownership or custody of other animals for a minimum of 5 years, and may impose any other reasonable restrictions on the person's future ownership or custody of, or residing or having contact with animals as necessary for the protection of the animals. For the purposes of this paragraph, a reasonable restriction on future contact may include limiting a person from engaging in any employment in the care of animals or other similar contact as the court sees fit. Any animal involved in a violation of a court order prohibiting or limiting ownership or custody of animals shall be subject to immediate forfeiture. Any person violating such order may, in addition to being held in criminal contempt of court or subject to a

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probation violation, be fined in the amount of \$1,000 in any court of competent jurisdiction for each animal held in unlawful ownership or custody.

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

### IV-a.

- (a) Except as provided in subparagraphs (b) and (c) any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society may take into temporary protective custody any animal when there is probable cause to believe that it has been or is being abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court.
- (b) For purposes of subparagraph (a) the investigating officer for livestock, as defined in RSA 427:38, III, shall be accompanied by a veterinarian licensed under RSA 332-B or the state veterinarian who shall set the probable cause criteria for taking the animal or animals.
- (c)

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- (1) For purposes of subparagraph (a), for facilities licensed to conduct live running or harness horseracing or live dog racing pursuant to RSA 284, the appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society shall:
    - (A) Notify the director of the pari-mutuel commission of the circumstances arising under subparagraph (a);
    - (B) Enter the grounds of the facility with the director of the pari-mutuel commission or such person designated by the director of the pari-mutuel commission;
    - (C) Take such horses or dogs into temporary protective custody as determined by the director of the pari-mutuel commission or such person designated by the director of the pari-mutuel commission; and
    - (D) Comply with subparagraph (a) after taking a horse or dog from a facility licensed pursuant to RSA 284 into temporary protective custody.
  - (2) This paragraph shall not preempt existing or enforcement authority of the pari-mutuel commission, pursuant to RSA 284 or rules and regulations adopted pursuant to such authority.
- V. A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made for services rendered under the provisions of this section or RSA 435:11-16. Such a veterinarian is, therefore, under this paragraph, protected from a lawsuit for his part in an investigation of cruelty to animals.

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### 2. GENERAL CRUELTY

#### N.H. REV. STAT. § 644:8. Cruelty to Animals.

- I. *In this section, “cruelty” shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.*
- II. *In this section, “animal” means a domestic animal, a household pet or a wild animal in captivity.*
- II-a. *In this section, “shelter” or “necessary shelter” for dogs shall mean any natural or artificial area which provides protection from the direct sunlight and adequate air circulation when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from the weather shall allow the dog to remain clean and dry. Shelter shall be structurally sound and have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.*
- III. *A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:*
  - (a) *Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;*
  - (b) *Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;*
  - (c) *Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;*
  - (d) *Negligently transports any animal in his possession or custody in a manner injurious to the health, safety or physical well-being of such animal;*
  - (e) *Negligently abandons any animal previously in his or her possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance, or shelter;*
  - (f) *Has in his or her possession an equine colt that is less than 90 days old that is not being nursed by its dam, unless the colt was born in this state, and its dam has died within this state before the colt became 90 days old;*
  - (g) *Sells an equine colt that is less than 90 days old that is not being nursed by its dam; or*
  - (h) *Otherwise negligently permits or causes any animal in his or her possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.*
- III-a. *A person is guilty of a class B felony who purposely beats, cruelly whips, tortures, or mutilates any animal or causes any animal to be beaten, cruelly whipped, tortured, or mutilated.*
- IV.
  - (a)
    - (1) *Any person charged with animal cruelty under paragraphs III or III–a may have his or her animals confiscated by the arresting officer.*
    - (2) *A person charged under this section may petition the court to seek an examination of the animals by a veterinarian licensed under RSA 332–B of his or her choice at the expense of the person charged.*

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- (3) Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. In cases in which animals have been confiscated by an arresting officer or his or her agency, a status hearing shall be held by the court within 14 days of the confiscation of the animals.
  - (4) Any person with proof of sole ownership or co-ownership of an animal confiscated by an arresting officer in an animal cruelty case and who is not a defendant or party of interest in the criminal case may petition the court for temporary custody of the animal. The court shall give such person priority for temporary custody of the animal if the court determines it is in the best interest of the animal's health, safety, and wellbeing.
  - (5) No custodian of an animal confiscated under this section shall spay or neuter or otherwise permanently alter the confiscated animal in his or her custody pending final disposition of the court case unless a treating veterinarian deems such procedure necessary to save the life of the animal.
  - (6) Upon a person's conviction of cruelty to animals, the court shall dispose of the confiscated animal in any manner it decides except in a case in which the confiscated animal is owned or co-owned by persons other than the defendant. If the defendant does not have an ownership interest in the confiscated animal, the court shall give priority to restoring full ownership rights to any person with proof of ownership if the court determines that such is in the best interest of the animal's health, safety, and wellbeing. If the confiscated animal is co-owned by the defendant, the court shall give priority to transferring the defendant's interest in the property to the remaining owner or co-owners equitably if the court determines that such is in the best interest of the animal's health, safety, and wellbeing.
  - (7) The costs to provide the confiscated animals with humane care and adequate and necessary veterinary services, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted in accordance with rules adopted by the department of agriculture, markets, and food.
- (b) In addition, the court may prohibit any person convicted of a misdemeanor offense of animal cruelty under RSA 644:8, RSA 644:8–aa, RSA 644:8–b, RSA 644:8–c, or RSA 644:8–d, or violation of RSA 644:8–f from having future ownership or custody of, or residing with other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals. The court shall prohibit or limit any person convicted of a felony offense of animal cruelty under RSA 644:8 or a misdemeanor or felony offense of bestiality under RSA 644:8–g from having future ownership or custody of other animals for a minimum of 5 years, and may impose any other reasonable restrictions on the person's future ownership or custody of, or residing or having contact with animals as necessary for the protection of the animals. For the purposes of this paragraph, a reasonable restriction on future contact may include limiting a person from engaging in any employment in the care of animals or other similar contact as the court sees fit. Any animal involved in a violation of a court order prohibiting or limiting ownership or custody of animals shall be subject to immediate forfeiture. Any person violating such order may, in addition to being held in criminal contempt of court or subject to a probation violation, be fined in the



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amount of \$1,000 in any court of competent jurisdiction for each animal held in unlawful ownership or custody.

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

### IV-a.

- (a) Except as provided in subparagraphs (b) and (c) any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society may take into temporary protective custody any animal when there is probable cause to believe that it has been or is being abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court.
- (b) For purposes of subparagraph (a) the investigating officer for livestock, as defined in RSA 427:38, III, shall be accompanied by a veterinarian licensed under RSA 332-B or the state veterinarian who shall set the probable cause criteria for taking the animal or animals.
- (c)
  - (1) For purposes of subparagraph (a), for facilities licensed to conduct live running or harness

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horseracing or live dog racing pursuant to RSA 284, the appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society shall:

- (A) Notify the director of the pari-mutuel commission of the circumstances arising under subparagraph (a);
- (B) Enter the grounds of the facility with the director of the pari-mutuel commission or such person designated by the director of the pari-mutuel commission;
- (C) Take such horses or dogs into temporary protective custody as determined by the director of the pari-mutuel commission or such person designated by the director of the pari-mutuel commission; and
- (D) Comply with subparagraph (a) after taking a horse or dog from a facility licensed pursuant to RSA 284 into temporary protective custody.

(2) This paragraph shall not preempt existing or enforcement authority of the pari-mutuel commission, pursuant to RSA 284 or rules and regulations adopted pursuant to such authority.

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

### N.H. REV. STAT. § 644:8-c. Animal Use in Science Classes and Science Fairs.

- I. *In this section:*
  - (a) *“Animal” means any member of the kingdom of Animalia.*
  - (b) *“Vertebrate animal” means any animal belonging to the subphylum Vertebrata of the phylum Chordata, and specifically includes all mammals, fishes, birds, reptiles and amphibians.*
- II. *Live vertebrate animals shall not be used in experiments or observational studies, with the following exceptions:*
  - (a) *Observational studies may be made of the normal living patterns of wild animals, in the free living state or in zoological parks, gardens, or aquaria.*
  - (b) *Observational studies may be made of the living patterns of vertebrate animals in the classroom.*
  - (c) *Observational studies on bird egg embryos are permitted. However, if normal bird embryos are to be allowed to hatch, satisfactory humane consideration shall be made for disposal of the baby birds.*
  - (d) *Vertebrate animal cells such as red blood cells or other tissue cells, plasma or serum, or anatomical specimens, such as organs, tissues, or skeletons, may be used in experiments or observational studies.*
- III. *No school principal, administrator or teacher shall allow any live vertebrate animal to be used in any elementary or secondary school, or in any activity associated with such school, such as science fairs, as part of a scientific experiment or procedure in which the health of the animal is interfered with, or in which pain, suffering, or distress is caused. Such experiments and procedures include, but are not*



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*limited to, surgery, anesthetization, and the inducement by any means of painful, lethal, or pathological conditions through techniques that include, but are not limited to:*

- (a) Administration of drugs;*
- (b) Exposure to pathogens, ionizing radiation, carcinogens, or to toxic or hazardous substances;*
- (c) Deprivation; or*
- (d) Electric shock or other distressing stimuli.*

- IV. All experiments on live vertebrate animals which are not prohibited by this section shall be carried out under the supervision of a competent science teacher who shall be responsible for ensuring that the student has the necessary comprehension for the study to be undertaken.
- V. *No person shall, in the presence of a pupil in any elementary or secondary school, perform any of the procedures or experiments described in paragraph III or exhibit any vertebrate animal that has been used in such manner. Dissection of any dead animal, or portions thereof, shall be confined to the presence of students engaged in the study to be promoted by the dissections.*
- VI. *Science fair projects originating in other states that do not conform with the provisions of this section shall not be exhibited within the state.*
- VII. *Any live animal kept in any elementary or secondary school shall be housed and cared for in a humane and safe manner and shall be the personal responsibility of the teacher or other adult supervisor of the project or study.*
- VIII. Ordinary agricultural procedures taught in animal husbandry courses shall not be prohibited by this section.
- IX. *Any person who violates this section is guilty of a misdemeanor.*

### N.H. REV. STAT. § 644:8-f. Transporting Dogs in Pickup Trucks

- I. *No person driving a pickup truck shall transport any dog in the back of the vehicle on a public way, unless the space is enclosed or has side and tail racks to a height of at least 46 inches extending vertically from the floor, the dog is cross tethered to the vehicle, the dog is protected by a secured container or cage, or the dog is otherwise protected, in a manner which will prevent the dog from being thrown or from falling or jumping from the vehicle.*
- II. Notwithstanding paragraph I, this section shall not apply to the following:
  - (a) A dog being used by a farmer or farm employee while actually engaged in farming activities requiring the services of a dog; or
  - (b) A hunting dog being used at a hunting site or between hunting sites by a licensed hunter who is in possession of all applicable licenses and permits for the species being pursued during the legal season for such activity.
- III. *Any person who violates this section shall be guilty of a violation.*

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## 3. ANIMAL FIGHTING

## N.H. REV. STAT. § 644:8-a. Exhibitions of Fighting Animals.

- I. *No person shall offer for sale, sell, loan, export, keep, breed, or train any bird, dog, or other animal, with the intent that it or its offspring shall be engaged or used in an exhibition of fighting, or shall establish or promote an exhibition of the fighting thereof. Whoever violates the provisions of this paragraph shall be guilty of a class B felony.*
- II. *Any person present at any place or building when preparations are being made for an exhibition of such fighting with intent to be present at such exhibition, or present at, aiding in or contributing to, such an exhibition, shall be guilty of a class B felony.*
- III.
  - (a) *Any person who possesses, owns, buys, sells, transfers, or manufactures animal fighting paraphernalia with the intent to engage in or otherwise promote or facilitate such fighting shall be guilty of a class B felony.*
  - (b) *For purposes of this section, “animal fighting paraphernalia” means equipment, products, implements, and materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of animal fighting, and includes, but is not limited to, the following: breaking sticks, cat mills, fighting pits, springpoles, unprescribed anabolic steroids, unprescribed anti-inflammatory steroids, unprescribed antibiotics, treatment supplies or gaffs, slashers, heels, or any other sharp implement designed to be attached in place of the natural spur of a cock or game fowl.*
  - (c) *In determining whether an object is animal fighting paraphernalia, the court shall consider any prior convictions under federal or state law relating to animal fighting, the proximity of the object in time and space to the direct violation of this section, direct or circumstantial evidence of the intent of the accused to deliver the object to persons whom he or she knows or should reasonably know intend to use the object to facilitate a violation of this section, oral or written instructions provided with or in the vicinity of the object concerning its use, descriptive materials accompanying the object which explain or depict its use, and all other logically relevant factors.*
- IV. *All animals so kept, bred, or trained by a person charged with violating the provisions of paragraph I may be seized by the arresting officer, pursuant to RSA 595-A:6 and RSA 644:8. Upon said person’s conviction, said animals may, at the discretion of the court, be destroyed in a humane manner by a licensed veterinarian. The costs, if any, incurred in boarding the animals, pending disposition of the case, and in disposing of the animals, upon a conviction of said person for violating paragraph I, shall be borne by the person so convicted.*
- V. *Upon conviction of a violation of this section, all animals used or to be used in training, fighting, or baiting, and all equipment, paraphernalia, and money involved in a violation of this section may be forfeited to the state at the discretion of the court, pursuant to RSA 595-A:6. Proceeds of any such forfeiture shall be used to reimburse local government and state agencies for the costs of prosecution of animal fighting cases. Proceeds which are not needed for such reimbursement shall be deposited in the companion animal neutering fund, established in RSA 437-A:4-a.*

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- VI. In addition to other penalties prescribed by law, the court shall issue an order prohibiting or limiting a person who is convicted of a violation of this section from owning or possessing any animals for a period not less than 5 years, and may add other reasonable restrictions on future ownership or possession of animals as necessary for the protection of the animals. Any animal involved in a violation of a court order prohibiting or limiting ownership or possession of animals shall be subject to immediate forfeiture. Any person violating such order may, in addition to being held in criminal contempt of court or subject to a probation violation, be fined in the amount of \$1,000 in any court of competent jurisdiction for each animal held in unlawful ownership or possession. For purposes of this section, a reasonable restriction on future ownership or possession may include limiting a person from engaging in any employment in the care of animals or other similar contact as the court sees fit.

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## 4. SEXUAL ASSAULT

**N.H. REV. STAT. § 644:8-g. Bestiality.**

- I. *A person commits bestiality by knowingly committing any of the following acts:*
  - (a) *Engaging in sexual contact or sexual penetration with an animal for the purpose of sexual arousal or gratification.*
  - (b) *Offering or accepting the offer of an animal for consideration with the intent that it be subject to sexual contact or sexual penetration by a human.*
  - (c) *Photographing or filming or distributing such photographs or films, for the purpose of sexual arousal or gratification, of a person engaged in sexual contact or sexual penetration with an animal.*
- II. *Any person convicted of a violation of this section shall be guilty of a class A misdemeanor for a first offense and a class B felony for a second or subsequent offense.*
- III. In addition to any other penalty imposed for a violation of this section, the court shall order that the convicted person:
  - (a) Submit to a psychological assessment and participate in appropriate counseling at the convicted person's own expense.
  - (b) Reimburse an animal shelter for any reasonable costs incurred for the care and maintenance of any animal that was taken to the animal shelter as a result of conduct proscribed by this section.
  - (c) Shall not own, harbor, exercise control over, or reside in the same household with any animal for a period of time deemed reasonable by the court.
- IV. This section shall not apply to:
  - (a) Accepted veterinary medical practices.
  - (b) Insemination of animals for the purpose of procreation.
  - (c) Accepted animal husbandry practices that provide care for animals.
- V. *In this section:*
  - (a) *"Animal" means a nonhuman mammal, bird, reptile, or amphibian, either dead or alive.*
  - (b) *"Sexual contact" means any act between a person or an animal involving direct physical contact between the genitals or anus of one and the mouth, anus, or other part of the body of the other, or direct physical contact between the genitals of one and the genitals of the other, where such contact can be reasonably construed for the purpose of the person's sexual arousal or gratification.*
  - (c) *"Sexual penetration" means any intrusion, however, slight, of any part of the person's or animal's body into the body of the other, or any object manipulated by the person into the body of the animal, where such penetration can be reasonably construed for the purpose of sexual arousal or gratification.*

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### 5. CRUELTY TO WORKING ANIMALS

#### N.H. REV. STAT. § 167-D:10 Penalty [for violation of provisions of chapter governing service animals]

- I. Any person violating any provision of this chapter shall be guilty of a misdemeanor and subject to enhanced penalties in paragraphs II and III.
- II. *It is a misdemeanor if a person willfully causes physical injury to a service animal or willfully allows his or her animal to cause physical injury to a service animal. If the physical injury to a service animal is severe enough that a veterinarian or service animal trainer determines that the service animal is incapable of returning to service, that person shall be guilty of a class A misdemeanor.*
- III. In any case where a person is convicted of harming a service animal as described in paragraph II, he or she may be ordered by the court to make restitution to the person or agency owning the animal for any bills for veterinary care, the replacement cost of the animal if it is incapable of returning to service, and the salary of the service animal handler or trainer for the period of time his or her services are lost to the agency or self employment.

#### N.H. REV. STAT. § 644:8-d Maiming or Causing the Death of or Willful Interference With Police Dogs or Horses.

- I. *Whoever willfully tortures, beats, kicks, strikes, mutilates, injures, disables, or otherwise mistreats, or whoever willfully causes the death of a dog or horse owned or employed by or on behalf of a law enforcement agency and whoever knows that such dog or horse is owned or employed by or on behalf of a law enforcement agency shall be guilty of a class B felony.*
- II. *Whoever willfully interferes or attempts to interfere with the lawful performance of a dog or horse owned or employed by or on behalf of a law enforcement agency and whoever knows that such dog or horse is owned or employed by or on behalf of a law enforcement agency shall be guilty of a misdemeanor.*

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### 6. LAWS SPECIFIC TO FARMED ANIMALS

**Editor's Note:** This section does **not** contain all state or territorial laws regarding farmed animals. This section contains only criminal statutes with the primary purpose of preventing individual farmed animals from suffering unnecessary pain or suffering.

#### **N.H. REV. STAT. § 644:8-b. Docking Tail of Horse.**

*If any person shall cut the bone of the tail of a horse for the purpose of docking the tail, or shall cause or knowingly permit the same to be done upon the premises of which he is in control, or shall assist in or be present at such cutting, he shall be guilty of a misdemeanor.* Written permission from the state veterinarian shall be obtained by a licensed veterinarian to perform surgical operations pursuant to this section. The state veterinarian shall promulgate rules relative to granting authorization for such operation.

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### 7. CRUEL HUNTING, TRAPPING, AND FISHING

**Editor's Note:** *This section does **not** contain all state or territorial laws regarding hunting, trapping, and fishing. This section contains only criminal statutes with the primary purpose of preventing individual wild animals from suffering unnecessary pain or suffering.*

#### **N.H. REV. STAT. § 206:19-b Cruelty to Wild Animals, Fish, or Wild Birds; Enhanced Penalty.**

- I.
  - (a) *Any person who purposely beats, cruelly whips, tortures or mutilates any wild animal, fish or wild bird as defined in RSA 207:1, or purposely causes any wild animal, fish, or wild bird to be beaten, cruelly whipped, tortured or mutilated shall be guilty of a class B felony.*
  - (b) *Any person who negligently beats, cruelly whips, tortures or mutilates any wild animal, fish or wild bird as defined in RSA 207:1, or negligently causes any wild animal, fish or wild bird to be beaten, cruelly whipped, tortured or mutilated shall be guilty of a misdemeanor.*
- II. *It shall be an affirmative defense to prosecution and an actor shall be exempt from enhanced penalties under this section for any manner of taking, open season time limits, permitted scientific investigations or wildlife management practices lawful under title XVIII or administrative rules adopted pursuant to RSA 541-A, whether or not the actor holds a current and valid license issued by the department.*

#### **N.H. REV. STAT. § 207:6. Ferrets.**

*No person, while hunting or obviously on his way to or from hunting, shall have a ferret in his possession, custody or control.*

#### **N.H. REV. STAT. § 207:9. Angling, Restriction of Fishing to.**

*Fish shall be taken only by angling unless otherwise specifically permitted. If a fish is unintentionally taken contrary to the prohibitions or restrictions contained in a provision of this title, such fish shall be immediately liberated and returned to the water without unnecessary injury.*

#### **N.H. REV. STAT. § 207:10 Prohibited Devices.**

*A trotline, tips-ups, set and trap lines, crossbows, spears, grappling hooks, naked hooks, snatch hooks, eel wires, eel pots, and nets, shall not be used in any fresh waters of the state to take fish, unless otherwise specifically permitted. No person shall possess, while hunting or trapping any wild bird, or wild animal, including bear, any snare, jack or artificial light, swivel, pivot or set gun, except as otherwise permitted. Any person convicted of illegal night hunting shall forfeit such firearms, jacks or other equipment used or usable in*

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the illegal night hunting at the time of the violation. Prohibited articles, upon conviction of a violation of illegal night hunting, shall become the property of the fish and game department, and shall be sold at auction by the executive director within one year of the forfeiture. Nothing in this section shall be construed to prohibit the use of lights for checking traps as permitted in RSA 210:13.

### **N.H. REV. STAT. § 208:7 Manner of Hunting Deer.**

- I. *No person shall knowingly take deer with the aid or by the use of a dog, trap, snare, salt lick, swivel, pivot or set gun.*
- II. *No person shall knowingly drive deer by the use of horns, whistles, or other noise-making devices or by the use of an OHRV, snowmobile, aircraft, or other motorized vehicles.*
- III. *It shall be unlawful for more than 6 persons to participate in a drive to take deer.*

### **N.H. REV. STAT. § 209:9. Golden and Bald Eagles.**

*No person shall hunt, capture, kill, take, or possess any golden or bald eagle and no person shall molest or disturb the nest or young of any of said birds.*

### **N.H. REV. STAT. § 209:10. Nests.**

*No person shall take, or have in possession or under control, or wantonly interfere with or destroy, any nest or eggs of any game birds or protected birds.*

### **N.H. REV. STAT. § 210:4. Muskrat House, Dens, Etc.**

*No person shall at any time destroy or injure a muskrat house, den or burrow, or place a trap within 15 feet thereof. No person shall at any time injure or destroy the house, den or burrow used by any game animal or fur-bearing animal.*

### **N.H. REV. STAT. § 210:13. Visiting Traps.**

*Notwithstanding any other law to the contrary, a person shall visit his or her traps at least once in each calendar day, provided, however, that a person trapping for beaver through the ice during the open season therefor, shall visit his or her traps once in each 72 hours. Trappers shall be permitted to use artificial lights during the hours of darkness to facilitate the checking of traps under this section, subject to the following restrictions: no person shall check traps at night by the use of a rifle, revolver, or pistol larger than a .22 caliber long rifle, or air rifle larger than .25 caliber, or by use of shotgun shells carrying shot larger than number 4 birdshot; and checking traps by the use of lights from a motor vehicle shall be prohibited. Only a person whose*



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name is either stamped or engraved on the traps or on a durable tag securely affixed to the traps shall have the authority to tend the traps. In case of an emergency, the owner of the traps may grant written permission to another duly licensed trapper to tend the traps.

### **N.H. REV. STAT. § 211:7 Poison; Explosive.**

*No person shall take any fish by the use of any poisonous, stupefying or explosive substance. Possession of any such substance by any person on the waters, shores, or islands of this state, except for mining or mechanical purposes, shall be prima facie evidence that the same is possessed for use in violation of the provisions of this section.*

### **N.H. REV. STAT. § 211:16 Bait Prohibited.**

*No person shall use carp or goldfish as live bait when fishing in any waters of this state. Possession of live carp or goldfish while fishing shall be prima facie evidence of a violation of this section. No person shall use shad or whitefish for bait for cusk.*

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### 8. CROSS REPORTING

[None]

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### 9. VETERINARY REPORTING

#### N.H. REV. STAT. § 332-B:16-a. Immunity From Civil Action.

*No civil action shall be maintained against the board or any member thereof, or any agent or employee of the board, with regard to any action or activity in the performance of any duty or authority established by this chapter. Nor shall any civil action be maintained against any other organization or individual for or by reason of any good faith statement, report, communication, or testimony to the board or determination by the board in relation to proceedings under this chapter.*

#### N.H. REV. STAT. § 644:8. Cruelty to Animals.

- I. In this section, “cruelty” shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.
- II. In this section, “animal” means a domestic animal, a household pet or a wild animal in captivity.
- II-a. In this section, “shelter” or “necessary shelter” for dogs shall mean any natural or artificial area which provides protection from the direct sunlight and adequate air circulation when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from the weather shall allow the dog to remain clean and dry. Shelter shall be structurally sound and have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.
- III. A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:
  - (a) Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;
  - (b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;
  - (c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;
  - (d) Negligently transports any animal in his possession or custody in a manner injurious to the health, safety or physical well-being of such animal;
  - (e) Negligently abandons any animal previously in his or her possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance, or shelter;
  - (f) Has in his or her possession an equine colt that is less than 90 days old that is not being nursed by its dam, unless the colt was born in this state, and its dam has died within this state before the colt became 90 days old;
  - (g) Sells an equine colt that is less than 90 days old that is not being nursed by its dam; or
  - (h) Otherwise negligently permits or causes any animal in his or her possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.
- III-a. A person is guilty of a class B felony who purposely beats, cruelly whips, tortures, or mutilates any

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animal or causes any animal to be beaten, cruelly whipped, tortured, or mutilated.

IV.

(a)

- (1) Any person charged with animal cruelty under paragraphs III or III-a may have his or her animals confiscated by the arresting officer.
  - (2) A person charged under this section may petition the court to seek an examination of the animals by a veterinarian licensed under RSA 332-B of his or her choice at the expense of the person charged.
  - (3) Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. In cases in which animals have been confiscated by an arresting officer or his or her agency, a status hearing shall be held by the court within 14 days of the confiscation of the animals.
  - (4) Any person with proof of sole ownership or co-ownership of an animal confiscated by an arresting officer in an animal cruelty case and who is not a defendant or party of interest in the criminal case may petition the court for temporary custody of the animal. The court shall give such person priority for temporary custody of the animal if the court determines it is in the best interest of the animal's health, safety, and wellbeing.
  - (5) No custodian of an animal confiscated under this section shall spay or neuter or otherwise permanently alter the confiscated animal in his or her custody pending final disposition of the court case unless a treating veterinarian deems such procedure necessary to save the life of the animal.
  - (6) Upon a person's conviction of cruelty to animals, the court shall dispose of the confiscated animal in any manner it decides except in a case in which the confiscated animal is owned or co-owned by persons other than the defendant. If the defendant does not have an ownership interest in the confiscated animal, the court shall give priority to restoring full ownership rights to any person with proof of ownership if the court determines that such is in the best interest of the animal's health, safety, and wellbeing. If the confiscated animal is co-owned by the defendant, the court shall give priority to transferring the defendant's interest in the property to the remaining owner or co-owners equitably if the court determines that such is in the best interest of the animal's health, safety, and wellbeing.
  - (7) The costs to provide the confiscated animals with humane care and adequate and necessary veterinary services, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted in accordance with rules adopted by the department of agriculture, markets, and food.
- (b) In addition, the court may prohibit any person convicted of a misdemeanor offense of animal cruelty under RSA 644:8, RSA 644:8-aa, RSA 644:8-b, RSA 644:8-c, or RSA 644:8-d, or violation of RSA 644:8-f from having future ownership or custody of, or residing with other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals. The court shall prohibit or limit any person convicted of a felony offense of animal cruelty under RSA 644:8 or a misdemeanor or felony offense of bestiality under RSA 644:8-g

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from having future ownership or custody of other animals for a minimum of 5 years, and may impose any other reasonable restrictions on the person's future ownership or custody of, or residing or having contact with animals as necessary for the protection of the animals. For the purposes of this paragraph, a reasonable restriction on future contact may include limiting a person from engaging in any employment in the care of animals or other similar contact as the court sees fit. Any animal involved in a violation of a court order prohibiting or limiting ownership or custody of animals shall be subject to immediate forfeiture. Any person violating such order may, in addition to being held in criminal contempt of court or subject to a probation violation, be fined in the amount of \$1,000 in any court of competent jurisdiction for each animal held in unlawful ownership or custody.

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

### IV-a.

- (a) Except as provided in subparagraphs (b) and (c) any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society may take into temporary protective custody any animal when there is probable cause to believe that it has been or is being abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of

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the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court.

- (b) For purposes of subparagraph (a) the investigating officer for livestock, as defined in RSA 427:38, III, shall be accompanied by a veterinarian licensed under RSA 332-B or the state veterinarian who shall set the probable cause criteria for taking the animal or animals.
- (c)
  - (1) For purposes of subparagraph (a), for facilities licensed to conduct live running or harness horseracing or live dog racing pursuant to RSA 284, the appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society shall:
    - (A) Notify the director of the pari-mutuel commission of the circumstances arising under subparagraph (a);
    - (B) Enter the grounds of the facility with the director of the pari-mutuel commission or such person designated by the director of the pari-mutuel commission;
    - (C) Take such horses or dogs into temporary protective custody as determined by the director of the pari-mutuel commission or such person designated by the director of the pari-mutuel commission; and
    - (D) Comply with subparagraph (a) after taking a horse or dog from a facility licensed pursuant to RSA 284 into temporary protective custody.
  - (2) This paragraph shall not preempt existing or enforcement authority of the pari-mutuel gaming commission, pursuant to RSA 284 or rules and regulations adopted pursuant to such authority.

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

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### 10. "AG-GAG" LAWS

[None]

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### 11. EMERGENCY RESCUE AND RELIEF

#### **N.H. REV. STAT. § 644:8-aa. Animals in Motor Vehicle.**

- I. *It shall be cruelty to confine an animal in a motor vehicle or other enclosed space in which the temperature is either so high or so low as to cause serious harm to the animal. "Animal" means a domestic animal, household pet, or wild animal held in captivity.*
- II. *Any person in violation of this section shall be guilty of a misdemeanor as set forth in RSA 644:8.*
- III. *Any law enforcement officer or agent of a licensed humane organization may take action necessary to rescue a confined animal endangered by extreme temperatures, and to remove the threat of further serious harm.*
- IV. *No officer or agent taking action under paragraph III shall be liable for damage reasonably necessary to rescue the confined animal.*



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### 12. CIVIL ENFORCEMENT

[None]

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## 13. DOMESTIC VIOLENCE AND PROTECTION ORDERS

## N.H. REV. STAT. § 173-B:1. Definitions.

In this chapter:

- I. “Abuse” means the commission or attempted commission of one or more of the acts described in subparagraphs (a) through (h) by a family or household member or by a current or former sexual or intimate partner, where such conduct is determined to constitute a credible present threat to the petitioner's safety. The court may consider evidence of such acts, regardless of their proximity in time to the filing of the petition, which, in combination with recent conduct, reflects an ongoing pattern of behavior which reasonably causes or has caused the petitioner to fear for his or her safety or well-being:
  - (a) Assault or reckless conduct as defined in RSA 631:1 through RSA 631:3.
  - (b) Criminal threatening as defined in RSA 631:4.
  - (c) Sexual assault as defined in RSA 632-A:2 through RSA 632-A:5.
  - (d) Interference with freedom as defined in RSA 633:1 through RSA 633:3-a.
  - (e) Destruction of property as defined in RSA 634:1 and RSA 634:2.
  - (f) Unauthorized entry as defined in RSA 635:1 and RSA 635:2.
  - (g) Harassment as defined in RSA 644:4.
  - (h) *Cruelty to animals as defined in RSA 644:8.*
- II. “Applicant” means any private, town, city, or regional agency or organization applying for funds under RSA 173-B:16.
- III. “Commissioner” means the commissioner of the department of health and human services.
- IV. “Contact” means any action to communicate with another either directly or indirectly, including, but not limited to, using any form of electronic communication, leaving items, or causing another to communicate in such fashion.
- V. “Coordinator” means the agency or organization appointed by the commissioner to administer the domestic violence grant program.
- VI. “Cross orders for relief” means separate orders granted to parties in a domestic violence situation where each of the parties has filed a petition pursuant to this chapter on allegations arising from the same incident or incidents of domestic violence.
- VII. “Deadly weapon” means “deadly weapon” as defined in RSA 625:11, V.
- VIII. “Department” means the department of health and human services.
- IX. “Domestic violence” means abuse as defined in RSA 173-B:1, I.
- X. “Family or household member” means:
  - (a) Spouses, ex-spouses, persons cohabiting with each other, and persons who cohabited with each other but who no longer share the same residence.
  - (b) Parents and other persons related by consanguinity or affinity, other than minor children who reside with the defendant.
- XI. “Firearm” means any weapon, including a starter gun, which will, is designed to, or may readily be converted to expel a projectile by the action of the explosive.
- XII. “Foreign protective order” means an order enforceable under RSA 173-B:13.

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- XIII. "Fund" means the special fund for domestic violence programs established by RSA 173-B:15.
- XIV. "Grantee" means any private, town, city, or regional agency or organization receiving funds under RSA 173-B:16.
- XV. "Intimate partners" means persons currently or formerly involved in a romantic relationship, whether or not such relationship was ever sexually consummated.
- XVI. "Mutual order for relief" means an order restraining both parties from abusing the other originating from a petition filed by one of the parties and arising from the same incident or incidents of domestic violence.
- XVII. "Program" means services or facilities provided to domestic violence victims.

### N.H. REV. STAT. § 173-B:4. Temporary Relief.

- I. Upon a showing of an immediate and present danger of abuse, the court may enter temporary orders to protect the plaintiff with or without actual notice to defendant. The court may issue such temporary orders by telephone or facsimile. Such telephonically issued orders shall be made by a circuit court judge to a law enforcement officer, shall be valid in any jurisdiction in the state, and shall be effective until the close of the next regular court business day. Such orders shall be returnable to the circuit court where the plaintiff resides or to which the plaintiff has fled, unless otherwise ordered by the issuing judge. If non-telephonic temporary orders are made ex parte, the party against whom such relief is issued may file a written request with the clerk of the court and request a hearing on such orders. Such hearing shall be held no less than 3 business days and no more than 5 business days after the request is received by the clerk. Such hearings may constitute the final hearing described in RSA 173-B:3, VII. Such temporary relief may direct the defendant to relinquish to a peace officer any and all firearms and ammunition in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant for the duration of the protective order. Other temporary relief may include:
  - (a) Protective orders:
    - (1) Restraining the defendant from abusing the plaintiff.
    - (2) Restraining the defendant from entering the premises and curtilage where the plaintiff resides, except when the defendant is accompanied by a peace officer and, upon reasonable notice to the plaintiff, is allowed entry by the plaintiff for the sole purpose of retrieving toiletries, medication, clothing, business equipment, and any other items as determined by the court.
    - (3) Restraining the defendant from withholding items of the plaintiff's personal property which are specified in the order. A peace officer shall accompany the plaintiff in retrieving such property to protect the plaintiff.
    - (4) Awarding custody of minor children to either party or, upon actual notice, to the department when it is in the best interest of a child.
    - (5) Denying the defendant visitation, ordering that visitation shall take place only at a supervised visitation center that uses a metal detection device and has trained security personnel on-site, ordering that visitation shall be supervised, or ordering a specific visitation schedule. Visitation shall only be ordered on an ex parte basis where such order

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can be entered consistent with the following requirements. In determining whether visitation can be safely ordered, the court shall consider the following factors:

- (A) The degree to which visitation exposes the plaintiff or the children to physical or psychological harm.
  - (B) Whether the risk of physical or psychological harm can be removed by ordering supervised visitation or by ordering supervised visitation at a center that uses a metal detection device and has trained security personnel on-site.
  - (C) Whether visitation can be ordered without requiring the plaintiff and defendant to have contact regarding the exchange of children.
- (6) Restraining the defendant from contacting the plaintiff or entering the plaintiff's place of employment, school, or any specified place frequented regularly by the plaintiff or by any family or household member.
  - (7) Restraining the defendant from abusing the plaintiff, plaintiff's relatives, regardless of their place of residence, or plaintiff's household members in any way.
  - (8) Restraining the defendant from taking, converting, or damaging property in which the plaintiff may have a legal or equitable interest.
  - (9) Directing the defendant to relinquish to the peace officer, in addition to the relief specified in RSA 173-B:4, I, any and all deadly weapons specified in the protective order that are in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant, for the duration of the protective order.
  - (10) *Granting the petitioner exclusive care, custody, or control of any animal owned, possessed, leased, kept, or held by the petitioner, defendant, or a minor child in either household, and ordering the defendant to stay away from the animal and forbidding the defendant from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect, or disposing of the animal.*
- (b) Other relief, including but not limited to:
    - (1) Awarding to the plaintiff the exclusive use and possession of an automobile, home, and household furniture, if the defendant has the legal duty to support the plaintiff or the plaintiff's minor children, or the plaintiff has contributed to the household expenses. The court shall consider the type and amount of contribution to be a factor.
    - (2) Restraining the defendant from taking any action which would lead to the disconnection of any and all utilities and services to the parties' household, or the discontinuance of existing business or service contracts, including, but not limited to, mortgage or rental agreements.
- II. The defendant may be prohibited from purchasing, receiving, or possessing any deadly weapons and any and all firearms and ammunition for the duration of the order. The court may subsequently issue a search warrant authorizing the peace officer to seize any deadly weapons specified in the protective order and any and all firearms and ammunition, if there is probable cause to believe such firearms and ammunition and specified deadly weapons are kept on the premises or curtilage of the defendant and if the court has reason to believe that all such firearms and ammunition and specified deadly weapons have not been relinquished by the defendant.

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### N.H. REV. STAT. § 173-B:5. Relief.

- I. A finding of abuse shall mean the defendant represents a credible threat to the safety of the plaintiff. Upon a showing of abuse of the plaintiff by a preponderance of the evidence, the court shall grant such relief as is necessary to bring about a cessation of abuse. Such relief shall direct the defendant to relinquish to the peace officer any and all firearms and ammunition in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant for the duration of the protective order. Other relief may include:
  - (a) Protective orders:
    - (1) Restraining the defendant from abusing the plaintiff.
    - (2) Restraining the defendant from entering the premises and curtilage where the plaintiff resides, except when the defendant is accompanied by a peace officer and is allowed entry by the plaintiff for the sole purpose of retrieving personal property specified by the court.
    - (3) Restraining the defendant from contacting the plaintiff or entering the plaintiff's place of employment, school, or any specified place frequented regularly by the plaintiff or by any family or household member.
    - (4) Restraining the defendant from abusing the plaintiff, plaintiff's relatives, regardless of their place of residence, or plaintiff's household members in any way.
    - (5) Restraining the defendant from taking, converting, or damaging property in which the plaintiff may have a legal or equitable interest.
    - (6) Directing the defendant to relinquish to the peace officer, in addition to the relief specified in RSA 173-B:5, I, any and all deadly weapons specified in the protective order that are in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant.
    - (7) *Granting the petitioner exclusive care, custody, or control of any animal owned, possessed, leased, kept, or held by the petitioner, defendant, or a minor child in either household, and ordering the defendant to stay away from the animal and forbidding the defendant from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect, or disposing of the animal.*
  - (b) Other relief including, but not limited to:
    - (1) Granting the plaintiff the exclusive use and possession of the premises and curtilage of the plaintiff's place of residence, unless the defendant exclusively owns or leases and pays for the premises and the defendant has no legal duty to support the plaintiff or minor children on the premises.
    - (2) Restraining the defendant from withholding items of the plaintiff's personal property specified by the court. A peace officer shall accompany the plaintiff in retrieving such property to protect the plaintiff.
    - (3) Granting to the plaintiff the exclusive right of use and possession of the household furniture, furnishings, or a specific automobile, unless the defendant exclusively owns such personal property and the defendant has no legal duty to support the plaintiff or minor children.
    - (4) Ordering the defendant to make automobile, insurance, health care, utilities, rent, or mortgage payments.

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- (5) Awarding temporary custody of the parties' minor children to either party or, where appropriate, to the department, provided that:
    - (A) Where custody of the parties' minor children with the department may be appropriate, the department shall receive actual notice of the hearing 10 days prior to such hearing provided that, if necessary, such hearing may be continued 10 days to provide the department adequate notice.
    - (B) The department may move at any time to rescind its custody of the parties' minor children.
  - (6) Establishing visitation rights with regard to the parties' minor children. The court shall consider, and may impose on a custody award, conditions necessary to assure the safety of the plaintiff and minor children. This may include orders denying visitation, requiring supervised visitation that shall take place only at a visitation center that uses a metal detection device and has trained security personnel on-site, or requiring supervised visitation, where such order can be entered consistent with the following requirements. In determining whether visitation shall be granted, the court shall consider whether visitation can be exercised by the non-custodial parent without risk to the plaintiff's or children's safety. In making such determination, the court shall consider, in addition to any other relevant factors, the following:
    - (A) The degree to which visitation exposes the plaintiff or the children to physical or psychological harm.
    - (B) Whether the risk of physical or psychological harm can be removed by ordering supervised visitation or by ordering supervised visitation at a center that uses a metal detection device and has trained security personnel on-site.
    - (C) Whether visitation can be ordered without requiring the plaintiff and defendant to have contact regarding the exchange of children.
  - (7) Directing the defendant to pay financial support to the plaintiff or minor children, unless the defendant has no legal duty to support the plaintiff or minor children.
  - (8) Directing the abuser to engage in a batterer's intervention program or personal counseling. If available, such intervention and counseling program shall focus on alternatives to aggression. The court shall not direct the plaintiff to engage in joint counseling services with the defendant. Court-ordered and court-referred mediation of cases involving domestic violence shall be prohibited.
  - (9) Ordering the defendant to pay the plaintiff monetary compensation for losses suffered as a direct result of the abuse which may include, but not be limited to, loss of earnings or support, medical and dental expenses, damage to property, out-of-pocket losses for injuries sustained, and moving and shelter expenses.
  - (10) Ordering the defendant to pay reasonable attorney's fees.
- II. The defendant shall be prohibited from purchasing, receiving, or possessing any deadly weapons and any and all firearms and ammunition for the duration of the order. The court may subsequently issue a search warrant authorizing a peace officer to seize any deadly weapons specified in the protective order and any and all firearms and ammunition, if there is probable cause to believe such firearms and ammunition and specified deadly weapons are kept on the premises or curtilage of the defendant.
  - III. Reconciliation after a previous order, prior to filing the current action, shall not be grounds for denying

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or terminating a new or existing protective order. Furthermore, the court shall not deny the plaintiff protective orders based solely on a lapse of time between an act of domestic violence and the filing of a petition, provided that the underlying act presents a credible threat to the plaintiff's current safety.

- IV. No order made under this section shall supersede or affect any court order pertaining to the possession of a residence; household furniture; custody of children pursuant to RSA 169-B, 169-C, or 169-D; support or custody made under RSA 458; or custody of children of unwed parents as determined by a circuit court, or title to real or personal property.
- V.
  - (a) Mutual orders for relief shall not be granted. A foreign mutual order for relief shall only be granted full faith and credit in New Hampshire if it meets the requirements set out in RSA 173-B:13, VII.
  - (b) Cross orders for relief may be granted only if:
    - (1) The court has made specific findings that each party has committed abuse against the other; and
    - (2) The court cannot determine who is the primary physical aggressor.
- VI. Any order under this section shall be for a fixed period of time not to exceed one year, but may be extended by order of the court upon a motion by the plaintiff, showing good cause, with notice to the defendant, for one year after the expiration of the first order and thereafter each extension may be for up to 5 years, upon the request of the plaintiff and at the discretion of the court. The court shall review the order, and each renewal thereof and shall grant such relief as may be necessary to provide for the safety and well-being of the plaintiff. A defendant shall have the right to a hearing on the extension of any order under this paragraph to be held within 30 days of the extension. The court shall state in writing, at the respondent's request, its reason or reasons for granting the extension. The court shall retain jurisdiction to enforce and collect the financial support obligation which accrued prior to the expiration of the protective order.
- VII. Both parties shall be issued written copies of any orders issued by the court, and all orders shall bear the following language: "A willful violation of this order is a crime, as well as contempt of court. Violations of the protective provisions shall result in arrest and may result in imprisonment." Orders shall clearly state how any party can request a further hearing and how the plaintiff may bring a criminal complaint or a petition for contempt if there is a violation of any court order.
- VIII.
  - (a) No order issued under this chapter shall be modified other than by the court. Temporary reconciliations shall not revoke an order.
  - (b) If either party wishes the defendant to be excused from any provisions of an order of protection, the remedy is to petition the court for modification of such order.
  - (c) A defendant who is restrained from contacting the plaintiff or entering the premises of the plaintiff is prohibited from doing so even if invited by the plaintiff unless the restraining order has been modified by the court.
  - (d) This paragraph shall give unequivocal direction to peace officers that orders for protection are to be enforced as written and that no action by a party relieves them of the duty to enforce the order.
- VIII-a. Upon issuing an order against a defendant, in which a defendant is restrained from having any contact with the plaintiff, the court shall advise the plaintiff that it would be unwise and possibly



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unsafe for the plaintiff to contact the defendant. If the plaintiff wishes to contact the defendant for any reason, the court shall advise the plaintiff that such contact be made only after petitioning the court for a modification of the order. In an emergency situation, the plaintiff or plaintiff's family may request that the local police department notify the defendant and the local police may accompany the defendant to a designated location, such as a hospital, if appropriate.

IX.

- (a) A copy of each protective order issued under this chapter shall be transmitted to the administrative office of the courts by facsimile or computer. An emergency protective order issued telephonically shall be transmitted by telephone or facsimile to the department of safety.
- (b) The administrative office of the courts shall enter information regarding the protective orders into the state database which shall be made available to police and sheriff departments statewide. The department of safety shall make available information regarding emergency protective orders issued telephonically to police and sheriff departments statewide.
- (c) The administrative office of the courts shall update the database upon expiration or termination of a protective order.
- (d) Notwithstanding any other provision of law, the administrative office of the courts or the department of safety, its employees and agents, and law enforcement officials shall not be held criminally or civilly liable for action taken under this chapter or RSA 458:16, provided they are acting in good faith and without gross negligence, and within the scope of their duties and authority.

IX-a. If a criminal records check conducted by the department of safety indicates that a potential buyer or transferee is prohibited from receipt or possession of a firearm pursuant to a protective order issued under this chapter, the department of safety shall notify the administrative office of the courts of the denial. The administrative office of the courts shall immediately notify the plaintiff that the defendant has attempted to purchase or obtain a firearm in violation of the protective order.

X.

- (a) Within 15 days prior to the expiration of the protective orders, the defendant may request, by motion to the court, the return of any and all firearms and ammunition and specified deadly weapons held by the law enforcement agency while the protective order was in effect. Upon receipt of such a motion, the court shall schedule a hearing no later than 15 days after the expiration of the order. The court shall provide written notice to the plaintiff who shall have the right to appear and be heard, and to the law enforcement agency which has control of the firearms, ammunition, and specified deadly weapons. The scope of the hearing shall be limited to:
  - (1) Establishing whether the defendant is subject to any state or federal law or court order that precludes the defendant from owning or possessing a firearm; and
  - (2) Under circumstances where the plaintiff has requested an extension of the protective order, whether the plaintiff has established by a preponderance of the evidence that the defendant continues to represent a credible threat to the safety of the plaintiff.
- (b) If the court finds that the defendant is not subject to any state or federal law or court order precluding the ownership or possession of firearms, or if the court denies the plaintiff's request to extend the protective order, the court shall issue a written order directing the law



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enforcement agency to return the requested firearms, ammunition, or deadly weapon to the defendant.

- (c) Law enforcement agencies shall not release firearms and ammunition and specified deadly weapons without a court order granting such release. The law enforcement agency may charge the defendant a reasonable fee for the storage of any firearms and ammunition and specified deadly weapons taken pursuant to a protective order. The fee shall not exceed the actual cost incurred by the law enforcement agency for the storage of the firearms and ammunition and specified deadly weapons. The defendant may make alternative arrangements with a federally licensed firearms dealer for the storage of firearms, at the defendant's own expense, upon approval of the court. Such firearms shall be turned over to the appropriate law enforcement agency for transfer to the storage facility. Retrieval of such firearms shall be through the law enforcement agency responsible for their transfer to the storage facility pursuant to a court order as prescribed in this paragraph.
- (d) No law enforcement agency shall be held liable for alleged damage or deterioration due to storage or transportation to any firearms and ammunition and specified deadly weapons held by a law enforcement agency, so long as due care is used.

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## 14. MAXIMUM PENALTIES AND STATUTE OF LIMITATIONS

## N.H. Rev. Stat. § 625:8. Limitations.

- IV. Except as otherwise provided in this section, prosecutions are subject to the following periods of limitations:
  - (a) For a class A felony, 6 years;
  - (b) *For a class B felony, 6 years;*
  - (c) *For a misdemeanor, one year;*
  - (d) For a violation, 3 months.
  - (e) For an offense defined by RSA 282-A, 6 years.
  - (f) For an offense defined in RSA 638:1, III-a, 2 years.
- V. Murder may be prosecuted at any time.
- II-a. [Repealed.]
- VI. If the period prescribed in paragraph I has expired, a prosecution may nevertheless be commenced:
  - (a) Within one year after its discovery by an aggrieved party or by a person who has a duty to represent such person and who is himself not a party to the offense for a theft where possession of the property was lawfully obtained and subsequently misappropriated or for any offense, a material element of which is either fraud or a breach of fiduciary duty.
  - (b) For any offense based upon misconduct in office by a public servant, at any time when the defendant is in public office or within 2 years thereafter.
  - (c) For any offense under RSA 208, RSA 210, or RSA 215, within 3 years thereafter.
  - (d) For any offense under RSA 632-A or for an offense under RSA 639:2, where the victim was under 18 years of age when the alleged offense occurred, within 22 years of the victim's eighteenth birthday.
  - (e) For any offense where destruction or falsification of evidence, witness tampering, or other unlawful conduct delayed discovery of the offense, within one year of the discovery of the offense.
  - (f) For any offense under RSA 153:24 and RSA 153:5, the state fire code, within one year of its discovery.
  - (g) For any offense under RSA 641:1 through 641:7, if committed with the purpose to assist in a murder, to conceal a murder, or to conceal or hinder the investigation or apprehension of an individual responsible for murder, at any time.
  - (h) For any violation-level offense involving a motor vehicle accident resulting in death or serious bodily injury, within 6 months of the accident.
  - (i) For any offense under RSA 633:7, within 20 years, except where the victim was under 18 years of age when the alleged offense occurred, in which case within 20 years of the victim's eighteenth birthday.
- VII. Time begins to run on the day after all elements of an offense have occurred or, in the case of an offense comprised of a continuous course of conduct, on the day after that conduct or the defendant's complicity therein terminates.

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- VIII. A prosecution is commenced on the day when a warrant or other process is issued, an indictment returned, or an information is filed, whichever is the earliest.
- IX. The period of limitations does not run:
  - (a) During any time when the accused is continuously absent from the state or has no reasonably ascertained place of abode or work within this state; or
  - (b) During any time when a prosecution is pending against the accused in this state based on the same conduct.

### N.H. REV. STAT. § 625:9. Classification of Crimes.

- I. The provisions of this section govern the classification of every offense, whether defined within this code or by any other statute.
- II. Every offense is either a felony, misdemeanor or violation.
  - (a) Felonies and misdemeanors are crimes.
  - (b) A violation does not constitute a crime and conviction of a violation shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense.
- III. A felony is murder or a crime so designated by statute within or outside this code or a crime defined by statute outside of this code where the maximum penalty provided is imprisonment in excess of one year; provided, however, that a crime defined by statute outside of this code is a felony when committed by a corporation or an unincorporated association if the maximum fine therein provided is more than \$200.
  - (a) Felonies other than murder are either class A felonies or class B felonies when committed by an individual. Felonies committed by a corporation or an unincorporated association are unclassified.
    - (1) Class A felonies are crimes so designated by statute within or outside this code and any crime defined by statute outside of this code for which the maximum penalty, exclusive of fine, is imprisonment in excess of 7 years.
    - (2) Class B felonies are crimes so designated by statute within or outside this code and any crime defined outside of this code for which the maximum penalty, exclusive of fine, is imprisonment in excess of one year but not in excess of 7 years.
- IV. *Misdemeanors are either class A misdemeanors or class B misdemeanors when committed by an individual. Misdemeanors committed by a corporation or an unincorporated association are unclassified.*
  - (a) A class A misdemeanor is any crime so designated by statute within or outside this code and any crime defined outside of this code for which the maximum penalty, exclusive of fine, is imprisonment not in excess of one year.
  - (b) A class B misdemeanor is any crime so designated by statute within or outside this code and any crime defined outside of this code for which the maximum penalty does not include any term of imprisonment or any fine in excess of the maximum provided for a class B misdemeanor in RSA 651:2, IV(a).
  - (c) *Any crime designated within or outside this code as a misdemeanor without specification of the classification shall be presumed to be a class B misdemeanor unless:*

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- (1) An element of the offense involves an “act of violence” or “threat of violence” as defined in paragraph VII; or
    - (2) *The state files a notice of intent to seek class A misdemeanor penalties on or before the date of arraignment. Such notice shall be on a form approved in accordance with RSA 490:26-d*
    - (3) *The misdemeanor charge is filed directly in superior court.*
  - (d) Nothing in this paragraph shall prohibit the state from reducing any offense originally charged as a class A misdemeanor to a class B misdemeanor at any time with the agreement of the person charged.
- V. A violation is an offense so designated by statute within or outside this code and, except as provided in this paragraph, any offense defined outside of this code for which there is no other penalty provided other than a fine or fine and forfeiture or other civil penalty. In the case of a corporation or an unincorporated association, offenses defined outside of this code are violations if the amount of any such fine provided does not exceed \$50.
- V-a. The violation of any requirement created by statute or by municipal regulation enacted pursuant to an enabling statute, where the statute neither specifies the penalty or offense classification, shall be deemed a violation, and the penalties to be imposed by the court shall be those provided for a violation under RSA 651:2.
- VI. Prior to or at the time of arraignment, the state may, in its discretion, charge any offense designated a misdemeanor, as defined by paragraph IV, as a violation. At such time, the prosecutor shall make an affirmative statement to the court as to whether he intends to proceed under this paragraph. In such cases the penalties to be imposed by the court shall be those provided for a violation under RSA 651:2. This paragraph shall not apply to any offense for which a statute prescribes an enhanced penalty for a subsequent conviction of the same offense.
- VII. The state may change any offense designated or defined as a class A misdemeanor as defined by paragraph IV to a class B misdemeanor, so long as no element of the offense involves an act of violence or threat of violence. The term “act of violence” means attempting to cause or purposely or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon; and the term “threat of violence” means placing or attempting to place another in fear of imminent bodily injury either by physical menace or by threats to commit a crime against the person of the other. The state may change an offense pursuant to this paragraph if such change is in the interest of public safety and welfare and is not inconsistent with the societal goals of deterrence and prevention of recidivism, as follows:
- (a) In its own discretion prior to or at the time of arraignment in the district court;
  - (b) In its own discretion following an entry of appeal in the superior court or within 20 days thereafter;
  - (c) With the agreement of the person charged at any other time; or
  - (d) In its own discretion, following entry of a complaint at a regional jury trial court or within 21 days thereafter.
- VIII. If a person convicted of a class A misdemeanor has been sentenced and such sentence does not include any period of actual incarceration or a suspended or deferred jail sentence or any fine in excess of the maximum provided for a class B misdemeanor in RSA 651:2, IV(a), the court shall record such conviction and sentence as a class B misdemeanor.

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### N.H. REV. STAT. § 651:2. Sentences and Limitations.

- I. *A person convicted of a felony or a Class A misdemeanor may be sentenced to imprisonment, probation, conditional or unconditional discharge, or a fine.*
- II. If a sentence of imprisonment is imposed, the court shall fix the maximum thereof which is not to exceed:
  - (a) Fifteen years for a class A felony,
  - (b) *Seven years for a class B felony,*
  - (c) *One year for a class A misdemeanor,*
  - (d) Life imprisonment for murder in the second degree, and, in the case of a felony only, a minimum which is not to exceed 2 of the maximum, or if the maximum is life imprisonment, such minimum term as the court may order.
- II-a. A person convicted of murder in the first degree shall be sentenced as provided in RSA 630:1-a.
- II-b. A person convicted of a second or subsequent offense for the felonious use of a firearm, as provided in RSA 650-A:1, shall, in addition to any punishment provided for the underlying felony, be given a minimum mandatory sentence of 3 years imprisonment. Neither the whole nor any part of the additional sentence of imprisonment hereby provided shall be served concurrently with any other term nor shall the whole or any part of such additional term of imprisonment be suspended. No action brought to enforce sentencing under this section shall be continued for sentencing, nor shall the provisions of RSA 651-A relative to parole apply to any sentence of imprisonment imposed.
- II-c. [Repealed]
- II-d. A person convicted of manslaughter shall be sentenced as provided in RSA 630:2, II.
- II-e. To the minimum sentence of every person who is sentenced to imprisonment for a maximum of more than one year shall be added a disciplinary period equal to 150 days for each year of the minimum term of the sentence, to be prorated for any part of the year. The presiding justice shall certify, at the time of sentencing, the minimum term of the sentence and the additional disciplinary period required under this paragraph. This additional disciplinary period may be reduced for good conduct as provided in RSA 651-A:22 and for earned time as provided in RSA 651-A:22-a. There shall be no addition to the sentence under this section for the period of pre-trial confinement for which credit against the sentence is awarded pursuant to RSA 651-A:23.
- II-f. A person convicted of violating RSA 159:3-a, I shall be sentenced as provided in RSA 159:3-a, II and III.
- II-g. If a person is convicted of a felony, an element of which is the possession, use or attempted use of a deadly weapon, and the deadly weapon is a firearm, such person may be sentenced to a maximum term of 20 years' imprisonment in lieu of any other sentence prescribed for the crime.
- II-h. A person charged with any offense under RSA 265, RSA 265-A, or RSA 630:3 whose offense was also based on facts involving the prohibited use of a mobile electronic device while driving, as defined in RSA 265:79-c, may be subject to enhanced penalties for such offenses, as follows:
  - (a) If the offense would otherwise constitute a violation, it may be charged as a class B misdemeanor.
  - (b) If the offense would otherwise constitute a class B misdemeanor, it may be charged as a class A misdemeanor.

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- (c) If the offense would otherwise constitute a class A misdemeanor, it may be charged as a class B felony.
- (d) If the offense would otherwise constitute a class B felony, it may be charged as a class A felony.
- (e) If the offense is a class A felony or an unclassified felony, there shall be no enhanced charge.
- III. A person convicted of a class B misdemeanor may be sentenced to conditional or unconditional discharge, a fine, or other sanctions, which shall not include incarceration or probation but may include monitoring by the department of corrections if deemed necessary and appropriate.
- III-a. A person convicted of a violation may be sentenced to conditional or unconditional discharge, or a fine.
- IV. *A fine may be imposed in addition to any sentence of imprisonment, probation, or conditional discharge. The limitations on amounts of fines authorized in subparagraphs (a) and (b) shall not include the amount of any civil penalty, the imposition of which is authorized by statute or by a properly adopted local ordinance, code, or regulation. The amount of any fine imposed on:*
  - (a) *Any individual may not exceed \$4,000 for a felony, \$2,000 for a class A misdemeanor, \$1,200 for a class B misdemeanor, and \$1,000 for a violation.*
  - (b) *A corporation or unincorporated association may not exceed \$100,000 for a felony, \$20,000 for a misdemeanor and \$1,000 for a violation. A writ of execution may be issued by the court against the corporation or unincorporated association to compel payment of the fine, together with costs and interest.*
  - (c) If a defendant has gained property through the commission of any felony, then in lieu of the amounts authorized in paragraphs (a) and (b), the fine may be an amount not to exceed double the amount of that gain.
- V.
  - (a) A person may be placed on probation if the court finds that such person is in need of the supervision and guidance that the probation service can provide under such conditions as the court may impose. The period of probation shall be for a period to be fixed by the court not to exceed 5 years for a felony and 2 years for a class A misdemeanor. Upon petition of the probation officer or the probationer, the period may be terminated sooner by the court if the conduct of the probationer warrants it.
  - (b) In cases of persons convicted of felonies or class A misdemeanors, or in cases of persons found to be habitual offenders within the meaning of RSA 259:39 and convicted of an offense under RSA 262:23, the sentence may include, as a condition of probation, confinement to a person's place of residence for not more than one year in case of a class A misdemeanor or more than 5 years in case of a felony. Such home confinement may be monitored by a probation officer and may be supplemented, as determined by the department of corrections or by the county department of corrections, by electronic monitoring to verify compliance.
  - (c) Upon recommendation by the department of corrections or by the county department of corrections, the court may, as a condition of probation, order an incarceration-bound offender placed in an intensive supervision program as an alternative to incarceration, under requirements and restrictions established by the department of corrections or by the county department of corrections.
  - (d) Upon recommendation by the department of corrections or by the county department of

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corrections, the court may sentence an incarceration-bound offender to a special alternative incarceration program involving short term confinement followed by intensive community supervision.

- (e) The department of corrections and the various county departments of corrections shall adopt rules governing eligibility for home confinement, intensive supervision and special alternative incarceration programs.
- (f) Any offender placed in a home confinement, intensive supervision or special alternative incarceration program who violates the conditions or restrictions of probation shall be subject to immediate arrest by a probation officer or any authorized law enforcement officer and brought before the court for an expeditious hearing pending further disposition.
- (g) The court may include, as a condition of probation, restitution to the victim as provided in RSA 651:62 or performance of uncompensated public service as provided in RSA 651:68-70.
- (h) In cases of a person convicted of a felony or class A misdemeanor, a court may require such person to be screened and/or evaluated for risk of substance used disorders at an impaired driver care management program (IDCMP) approved by the department of health and human services, and to comply with the treatment plan developed by the IDCMP as established under RSA 265-A:40, if the evidence demonstrates that substances were a contributing factor in the commission of the offense and if such person has the ability to pay the fees for the program in full.
- (i) The court may include, as a condition of probation, a jail sentence of up to 30 days that a probation/parole officer may impose in segments of one to 7 days over the course of the probation period, in response to any violation of a condition of probation, in lieu of a violation of probation hearing. Such jail sanction shall be served at the county jail facility closest to or in reasonable proximity to where the probationer is under supervision.

### VI.

- (b) A person may be sentenced to a period of conditional discharge if such person is not imprisoned and the court is of the opinion that probationary supervision is unnecessary, but that the defendant's conduct should be according to conditions determined by the court. Such conditions may include:
  - (1) Restrictions on the defendant's travel, association, place of abode, such as will protect the victim of the crime or insure the public peace;
  - (2) An order requiring the defendant to attend counseling or any other mode of treatment the court deems appropriate;
  - (3) Restitution to the victim; and
  - (4) Performance of uncompensated public service as provided in RSA 651:68-70.
- (b) The period of a conditional discharge shall be 3 years for a felony and one year for a misdemeanor or violation. However, if the court has required as a condition that the defendant make restitution or reparation to the victim of the defendant's offense or that the defendant perform uncompensated public service and that condition has not been satisfied, the court may, at any time prior to the termination of the above periods, extend the period for a felony by no more than 2 years and for a misdemeanor or violation by no more than one year in order to allow the defendant to satisfy the condition. During any period of conditional discharge the court may, upon its own motion or on petition of the defendant, discharge the defendant



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unconditionally if the conduct of the defendant warrants it. The court is not required to revoke a conditional discharge if the defendant commits an additional offense or violates a condition.

VI-a. [Repealed.]

VI-b. A person sentenced to conditional discharge under paragraph VI may apply for annulment of the criminal record under RSA 651:5.

VII.

(a) If a probationer violates his or her probation, the court may order any of the following:

(1) Continue the sentence of probation.

(2) Modify the conditions of the probation.

(3) Extend the period of probation, provided the probationer agrees to the extension and the original period of probation plus any extension shall not exceed the probation periods authorized in paragraph V.

(4) Revoke the sentence of probation.

(b) When a sentence of probation or a conditional discharge is revoked, the defendant may be fined, as authorized by paragraph IV, if a fine was not imposed in addition to the probation or conditional discharge. Otherwise the defendant shall be sentenced to imprisonment as authorized by paragraph II.

VIII. A person may be granted an unconditional discharge if the court is of the opinion that no proper purpose would be served by imposing any condition or supervision upon the defendant's release. A sentence of unconditional discharge is for all purposes a final judgment of conviction.



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### 15. LAW ENFORCEMENT POLICIES

#### N.H. REV. STAT. § 436:8. Powers.

*The state veterinarian, under the direction of the commissioner, shall have all of the powers of the commissioner and shall have general charge of the enforcement of this chapter. Complaints under RSA 644:8, 644:8-a, 644:8-aa and any other law pertaining to the abuse of domestic animals, as defined under RSA 436:1, shall initially be filed with the local law enforcement agency, animal control officer, state police, or sheriff which has jurisdiction over where the animal is located or kept. At the request of the local law enforcement agency, animal control officer, state police, or sheriff, the state veterinarian shall assist in a secondary capacity in enforcing the provisions of and investigating said complaints. In the event the commissioner becomes incapacitated or a vacancy occurs in the office, the state veterinarian shall perform all the duties of that office during any such incapacity or until any such vacancy is filled. The commissioner may direct the state veterinarian to act for him or her in an official capacity whenever he or she may be absent from his or her duties.*

#### N.H. Rev. Stat. § 437-B:1 Cost of Care Fund.

- I. *There is established in the department of agriculture, markets, and food a nonlapsing fund to be known as the cost of care fund which shall be kept distinct and separate from all funds.*

*The cost of care fund is established to assist municipalities in covering the costs of care incurred from caring for animals pending the resolution of any action brought for animal cruelty under RSA 644:8 or RSA 644:8-a.*

- II. *The treasurer shall deposit in the cost of care fund court-ordered restitution for care in animal cruelty cases under RSA 644:8 or RSA 644:8-a as specified in paragraph VI and moneys received from RSA 435:20, IV provided the balance in the cost of care fund shall not exceed \$2,000,000.*
- III. *The arresting officer or his or her designee may apply to the commissioner of the department of agriculture, markets, and food for a grant from the cost of care fund to reimburse or pay directly to a third party costs incurred caring for animals in animal cruelty cases brought under RSA 644:8 or RSA 644:8-a during pretrial care, for the period between when the animals are seized and until the final disposition of the case. The commissioner of the department of agriculture, markets, and food shall review such applications, respond to such applications within 15 days, and distribute no more than \$500,000 per application.*
- IV. *The commissioner shall establish rules under RSA 541-A relative to:*
  - (a) *The administration and disbursement of the cost of care fund, including guidelines to ensure that multiple applicants would have equitable access to grants.*
  - (b) *The application process by an arresting officer or his or her designee for financial assistance to*

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cover the cost of emergency veterinary treatment.

- V. The commissioner may accept private gifts and donations of any kind for the purpose of supporting the cost of animal care which shall be deposited into the cost of care fund.
- VI. If a person is convicted of animal cruelty and is ordered by the court to make restitution, the municipality shall report such restitution to the department of agriculture, markets, and food. If the restitution exceeds the costs incurred by the municipality in caring for the seized animals, that excess shall be remitted to the department and shall be deposited into the cost of care fund.

### N.H. REV. STAT. § 644:8. Cruelty to Animals.

- I. In this section, “cruelty” shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.
- II. In this section, “animal” means a domestic animal, a household pet or a wild animal in captivity.
- II-a. In this section, “shelter” or “necessary shelter” for dogs shall mean any natural or artificial area which provides protection from the direct sunlight and adequate air circulation when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from the weather shall allow the dog to remain clean and dry. Shelter shall be structurally sound and have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.
- III. A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:
  - (a) Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;
  - (b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;
  - (c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;
  - (d) Negligently transports any animal in his possession or custody in a manner injurious to the health, safety or physical well-being of such animal;
  - (e) Negligently abandons any animal previously in his or her possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance, or shelter;
  - (f) Has in his or her possession an equine colt that is less than 90 days old that is not being nursed by its dam, unless the colt was born in this state, and its dam has died within this state before the colt became 90 days old;
  - (g) Sells an equine colt that is less than 90 days old that is not being nursed by its dam; or
  - (h) Otherwise negligently permits or causes any animal in his or her possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.
- III-a. A person is guilty of a class B felony who purposely beats, cruelly whips, tortures, or mutilates any animal or causes any animal to be beaten, cruelly whipped, tortured, or mutilated.
- IV.
  - (a)

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- (1) Any person charged with animal cruelty under paragraphs III or III-a may have his or her animals confiscated by the arresting officer.
  - (2) A person charged under this section may petition the court to seek an examination of the animals by a veterinarian licensed under RSA 332-B of his or her choice at the expense of the person charged.
  - (3) *Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. In cases in which animals have been confiscated by an arresting officer or his or her agency, a status hearing shall be held by the court within 14 days of the confiscation of the animals.*
  - (4) Any person with proof of sole ownership or co-ownership of an animal confiscated by an arresting officer in an animal cruelty case and who is not a defendant or party of interest in the criminal case may petition the court for temporary custody of the animal. The court shall give such person priority for temporary custody of the animal if the court determines it is in the best interest of the animal's health, safety, and wellbeing.
  - (5) No custodian of an animal confiscated under this section shall spay or neuter or otherwise permanently alter the confiscated animal in his or her custody pending final disposition of the court case unless a treating veterinarian deems such procedure necessary to save the life of the animal.
  - (6) Upon a person's conviction of cruelty to animals, the court shall dispose of the confiscated animal in any manner it decides except in a case in which the confiscated animal is owned or co-owned by persons other than the defendant. If the defendant does not have an ownership interest in the confiscated animal, the court shall give priority to restoring full ownership rights to any person with proof of ownership if the court determines that such is in the best interest of the animal's health, safety, and wellbeing. If the confiscated animal is co-owned by the defendant, the court shall give priority to transferring the defendant's interest in the property to the remaining owner or co-owners equitably if the court determines that such is in the best interest of the animal's health, safety, and wellbeing.
  - (7) The costs to provide the confiscated animals with humane care and adequate and necessary veterinary services, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted in accordance with rules adopted by the department of agriculture, markets, and food.
- (b) In addition, the court may prohibit any person convicted of a misdemeanor offense of animal cruelty under RSA 644:8, RSA 644:8-aa, RSA 644:8-b, RSA 644:8-c, or RSA 644:8-d, or violation of RSA 644:8-f from having future ownership or custody of, or residing with other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals. The court shall prohibit or limit any person convicted of a felony offense of animal cruelty under RSA 644:8 or a misdemeanor or felony offense of bestiality under RSA 644:8-g from having future ownership or custody of other animals for a minimum of 5 years, and may impose any other reasonable restrictions on the person's future ownership or custody of, or residing or having contact with animals as necessary for the protection of the animals. For the

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purposes of this paragraph, a reasonable restriction on future contact may include limiting a person from engaging in any employment in the care of animals or other similar contact as the court sees fit. Any animal involved in a violation of a court order prohibiting or limiting ownership or custody of animals shall be subject to immediate forfeiture. Any person violating such order may, in addition to being held in criminal contempt of court or subject to a probation violation, be fined in the amount of \$1,000 in any court of competent jurisdiction for each animal held in unlawful ownership or custody.

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

IV-a.

- (a) Except as provided in subparagraphs (b) and (c) any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society may take into temporary protective custody any animal when there is probable cause to believe that it has been or is being abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the

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- officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court.
- (b) For purposes of subparagraph (a) the investigating officer for livestock, as defined in RSA 427:38, III, shall be accompanied by a veterinarian licensed under RSA 332-B or the state veterinarian who shall set the probable cause criteria for taking the animal or animals.
  - (c)
    - (1) For purposes of subparagraph (a), for facilities licensed to conduct live running or harness horseracing or live dog racing pursuant to RSA 284, the appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society shall:
      - (A) Notify the director of the pari-mutuel commission of the circumstances arising under subparagraph (a);
      - (B) Enter the grounds of the facility with the director of the pari-mutuel commission or such person designated by the director of the pari-mutuel commission;
      - (C) Take such horses or dogs into temporary protective custody as determined by the director of the pari-mutuel commission or such person designated by the director of the pari-mutuel commission; and
      - (D) Comply with subparagraph (a) after taking a horse or dog from a facility licensed pursuant to RSA 284 into temporary protective custody.
    - (2) This paragraph shall not preempt existing or enforcement authority of the pari-mutuel commission, pursuant to RSA 284 or rules and regulations adopted pursuant to such authority.
  - V. A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made for services rendered under the provisions of this section or RSA 435:11-16. Such a veterinarian is, therefore, under this paragraph, protected from a lawsuit for his part in an investigation of cruelty to animals.

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## 16. SEIZURE

## N.H. REV. STAT. § 644:8. Cruelty to Animals.

- I. In this section, “cruelty” shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.
- II. In this section, “animal” means a domestic animal, a household pet or a wild animal in captivity.
  - II-a. In this section, “shelter” or “necessary shelter” for dogs shall mean any natural or artificial area which provides protection from the direct sunlight and adequate air circulation when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from the weather shall allow the dog to remain clean and dry. Shelter shall be structurally sound and have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.
- III. A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:
  - (a) Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;
  - (b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;
  - (c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;
  - (d) Negligently transports any animal in his or her possession or custody in a manner injurious to the health, safety or physical well-being of such animal;
  - (e) Negligently abandons any animal previously in his possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance, or shelter;
  - (f) Has in his or her possession an equine colt that is less than 90 days old that is not being nursed by its dam, unless the colt was born in this state, and its dam has died within this state before the colt became 90 days old;
  - (g) Sells an equine colt that is less than 90 days old that is not being nursed by its dam; or
  - (h) Otherwise negligently permits or causes any animal in his or her possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.
- III-a. A person is guilty of a class B felony who purposely beats, cruelly whips, tortures, or mutilates any animal or causes any animal to be beaten, cruelly whipped, tortured, or mutilated.
- IV.
  - (a)
    - (1) *Any person charged with animal cruelty under paragraphs III or III–a may have his or her animals confiscated by the arresting officer.*
    - (2) A person charged under this section may petition the court to seek an examination of the animals by a veterinarian licensed under RSA 332–B of his or her choice at the expense of the person charged.



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- (3) Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. In cases in which animals have been confiscated by an arresting officer or his or her agency, a status hearing shall be held by the court within 14 days of the confiscation of the animals.
  - (4) *Any person with proof of sole ownership or co-ownership of an animal confiscated by an arresting officer in an animal cruelty case and who is not a defendant or party of interest in the criminal case may petition the court for temporary custody of the animal. The court shall give such person priority for temporary custody of the animal if the court determines it is in the best interest of the animal's health, safety, and wellbeing.*
  - (5) *No custodian of an animal confiscated under this section shall spay or neuter or otherwise permanently alter the confiscated animal in his or her custody pending final disposition of the court case unless a treating veterinarian deems such procedure necessary to save the life of the animal.*
  - (6) Upon a person's conviction of cruelty to animals, the court shall dispose of the confiscated animal in any manner it decides except in a case in which the confiscated animal is owned or co-owned by persons other than the defendant. If the defendant does not have an ownership interest in the confiscated animal, the court shall give priority to restoring full ownership rights to any person with proof of ownership if the court determines that such is in the best interest of the animal's health, safety, and wellbeing. If the confiscated animal is co-owned by the defendant, the court shall give priority to transferring the defendant's interest in the property to the remaining owner or co-owners equitably if the court determines that such is in the best interest of the animal's health, safety, and wellbeing.
  - (7) The costs to provide the confiscated animals with humane care and adequate and necessary veterinary services, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted in accordance with rules adopted by the department of agriculture, markets, and food.
- (b) In addition, the court may prohibit any person convicted of a misdemeanor offense of animal cruelty under RSA 644:8, RSA 644:8–aa, RSA 644:8–b, RSA 644:8–c, or RSA 644:8–d, or violation of RSA 644:8–f from having future ownership or custody of, or residing with other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals. The court shall prohibit or limit any person convicted of a felony offense of animal cruelty under RSA 644:8 or a misdemeanor or felony offense of bestiality under RSA 644:8–g from having future ownership or custody of other animals for a minimum of 5 years, and may impose any other reasonable restrictions on the person's future ownership or custody of, or residing or having contact with animals as necessary for the protection of the animals. For the purposes of this paragraph, a reasonable restriction on future contact may include limiting a person from engaging in any employment in the care of animals or other similar contact as the court sees fit. Any animal involved in a violation of a court order prohibiting or limiting ownership or custody of animals shall be subject to immediate forfeiture. Any person violating such order may, in addition to being held in criminal contempt of court or subject to a probation

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violation, be fined in the amount of \$1,000 in any court of competent jurisdiction for each animal held in unlawful ownership or custody.

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

IV-a.

- (a) *Except as provided in subparagraphs (b) and (c) any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society may take into temporary protective custody any animal when there is probable cause to believe that it has been or is being abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court.*
- (b) *For purposes of subparagraph (a) the investigating officer for livestock, as defined in RSA 427:38, III, shall be accompanied by a veterinarian licensed under RSA 332-B or the state veterinarian who shall set the probable cause criteria for taking the animal or animals.*
- (c)



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- (1) *For purposes of subparagraph (a), for facilities licensed to conduct live running or harness horseracing or live dog racing pursuant to RSA 284, the appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society shall:*
    - (A) *Notify the director of the pari-mutuel commission of the circumstances arising under subparagraph (a);*
    - (B) *Enter the grounds of the facility with the director of the pari-mutuel commission or such person designated by the director of the pari-mutuel commission;*
    - (C) *Take such horses or dogs into temporary protective custody as determined by the director of the pari-mutuel commission or such person designated by the director of the pari-mutuel commission; and*
    - (D) *Comply with subparagraph (a) after taking a horse or dog from a facility licensed pursuant to RSA 284 into temporary protective custody.*
  - (2) *This paragraph shall not preempt existing or enforcement authority of the pari-mutuel commission, pursuant to RSA 284 or rules and regulations adopted pursuant to such authority.*
- V. A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made for services rendered under the provisions of this section or RSA 435:11-16. Such a veterinarian is, therefore, under this paragraph, protected from a lawsuit for his part in an investigation of cruelty to animals.

### N.H. REV. STAT. § 644:8-a. Exhibitions of Fighting Animals.

- I. No person shall offer for sale, sell, loan, export, keep, breed, or train any bird, dog, or other animal, with the intent that it or its offspring shall be engaged or used in an exhibition of fighting, or shall establish or promote an exhibition of the fighting thereof. Whoever violates the provisions of this paragraph shall be guilty of a class B felony.
- II. Any person present at any place or building when preparations are being made for an exhibition of such fighting with intent to be present at such exhibition, or present at, aiding in or contributing to, such an exhibition, shall be guilty of a class B felony.
- III.
  - (a) Any person who possesses, owns, buys, sells, transfers, or manufactures animal fighting paraphernalia with the intent to engage in or otherwise promote or facilitate such fighting shall be guilty of a class B felony.
  - (b) For purposes of this section, “animal fighting paraphernalia” means equipment, products, implements, and materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of animal fighting, and includes, but is not limited to, the following: breaking sticks, cat mills, fighting pits, springpoles, unprescribed anabolic steroids, unprescribed anti-inflammatory steroids, unprescribed antibiotics, treatment supplies or gaffs, slashers, heels, or any other sharp implement designed to be attached in place of the natural spur of a cock or game fowl.

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- (c) In determining whether an object is animal fighting paraphernalia, the court shall consider any prior convictions under federal or state law relating to animal fighting, the proximity of the object in time and space to the direct violation of this section, direct or circumstantial evidence of the intent of the accused to deliver the object to persons whom he or she knows or should reasonably know intend to use the object to facilitate a violation of this section, oral or written instructions provided with or in the vicinity of the object concerning its use, descriptive materials accompanying the object which explain or depict its use, and all other logically relevant factors.
- IV. *All animals so kept, bred, or trained by a person charged with violating the provisions of paragraph I may be seized by the arresting officer, pursuant to RSA 595-A:6 and RSA 644:8. Upon said person's conviction, said animals may, at the discretion of the court, be destroyed in a humane manner by a licensed veterinarian. The costs, if any, incurred in boarding the animals, pending disposition of the case, and in disposing of the animals, upon a conviction of said person for violating paragraph I, shall be borne by the person so convicted.*
- V. Upon conviction of a violation of this section, all animals used or to be used in training, fighting, or baiting, and all equipment, paraphernalia, and money involved in a violation of this section may be forfeited to the state at the discretion of the court, pursuant to RSA 595-A:6. Proceeds of any such forfeiture shall be used to reimburse local government and state agencies for the costs of prosecution of animal fighting cases. Proceeds which are not needed for such reimbursement shall be deposited in the companion animal neutering fund, established in RSA 437-A:4-a.
- VI. In addition to other penalties prescribed by law, the court shall issue an order prohibiting or limiting a person who is convicted of a violation of this section from owning or possessing any animals for a period not less than 5 years, and may add other reasonable restrictions on future ownership or possession of animals as necessary for the protection of the animals. Any animal involved in a violation of a court order prohibiting or limiting ownership or possession of animals shall be subject to immediate forfeiture. Any person violating such order may, in addition to being held in criminal contempt of court or subject to a probation violation, be fined in the amount of \$1,000 in any court of competent jurisdiction for each animal held in unlawful ownership or possession. For purposes of this section, a reasonable restriction on future ownership or possession may include limiting a person from engaging in any employment in the care of animals or other similar contact as the court sees fit.

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### 17. COURTROOM ANIMAL ADVOCATE PROGRAM

[None]

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### 18. RESTITUTION AND REIMBURSEMENT

#### N.H. REV. STAT. § 167-D:10. Penalty [for violation of provisions of chapter governing service animals]

- I. Any person violating any provision of this chapter shall be guilty of a misdemeanor and subject to enhanced penalties in paragraphs II and III.
- II. It is a misdemeanor if a person willfully causes physical injury to a service animal or willfully allows his or her animal to cause physical injury to a service animal. If the physical injury to a service animal is severe enough that a veterinarian or service animal trainer determines that the service animal is incapable of returning to service, that person shall be guilty of a class A misdemeanor.
- III. *In any case where a person is convicted of harming a service animal as described in paragraph II, he or she may be ordered by the court to make restitution to the person or agency owning the animal for any bills for veterinary care, the replacement cost of the animal if it is incapable of returning to service, and the salary of the service animal handler or trainer for the period of time his or her services are lost to the agency or self employment.*

#### N.H. Rev. Stat. § 437-B:1 Cost of Care Fund.

- I. There is established in the department of agriculture, markets, and food a nonlapsing fund to be known as the cost of care fund which shall be kept distinct and separate from all funds.  
  
The cost of care fund is established to assist municipalities in covering the costs of care incurred from caring for animals pending the resolution of any action brought for animal cruelty under RSA 644:8 or RSA 644:8-a.
- II. The treasurer shall deposit in the cost of care fund court-ordered restitution for care in animal cruelty cases under RSA 644:8 or RSA 644:8-a as specified in paragraph VI and moneys received from RSA 435:20, IV provided the balance in the cost of care fund shall not exceed \$2,000,000.
- III. The arresting officer or his or her designee may apply to the commissioner of the department of agriculture, markets, and food for a grant from the cost of care fund to reimburse or pay directly to a third party costs incurred caring for animals in animal cruelty cases brought under RSA 644:8 or RSA 644:8-a during pretrial care, for the period between when the animals are seized and until the final disposition of the case. The commissioner of the department of agriculture, markets, and food shall review such applications, respond to such applications within 15 days, and distribute no more than \$500,000 per application.
- IV. The commissioner shall establish rules under RSA 541-A relative to:
  - (a) The administration and disbursement of the cost of care fund, including guidelines to ensure that multiple applicants would have equitable access to grants.
  - (b) The application process by an arresting officer or his or her designee for financial assistance to cover the cost of emergency veterinary treatment.

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- V. The commissioner may accept private gifts and donations of any kind for the purpose of supporting the cost of animal care which shall be deposited into the cost of care fund.
- VI. *If a person is convicted of animal cruelty and is ordered by the court to make restitution, the municipality shall report such restitution to the department of agriculture, markets, and food. If the restitution exceeds the costs incurred by the municipality in caring for the seized animals, that excess shall be remitted to the department and shall be deposited into the cost of care fund.*

### N.H. REV. STAT. § 644:8. Cruelty to Animals.

- I. In this section, “cruelty” shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.
- II. In this section, “animal” means a domestic animal, a household pet or a wild animal in captivity.
- II-a. In this section, “shelter” or “necessary shelter” for dogs shall mean any natural or artificial area which provides protection from the direct sunlight and adequate air circulation when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from the weather shall allow the dog to remain clean and dry. Shelter shall be structurally sound and have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.
- III. A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:
  - (a) Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;
  - (b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;
  - (c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;
  - (d) Negligently transports any animal in his possession or custody in a manner injurious to the health, safety or physical well-being of such animal;
  - (e) Negligently abandons any animal previously in his or her possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance, or shelter;
  - (f) *Has in his or her possession an equine colt that is less than 90 days old that is not being nursed by its dam, unless the colt was born in this state, and its dam has died within this state before the colt became 90 days old;*
  - (g) *Sells an equine colt that is less than 90 days old that is not being nursed by its dam; or*
  - (h) Otherwise negligently permits or causes any animal in his or her possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.
- III-a. A person is guilty of a class B felony who purposely beats, cruelly whips, tortures, or mutilates any animal or causes any animal to be beaten, cruelly whipped, tortured, or mutilated.
- IV.
  - (a)

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- (1) Any person charged with animal cruelty under paragraphs III or III–a may have his or her animals confiscated by the arresting officer.
  - (2) A person charged under this section may petition the court to seek an examination of the animals by a veterinarian licensed under RSA 332–B of his or her choice at the expense of the person charged.
  - (3) Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. In cases in which animals have been confiscated by an arresting officer or his or her agency, a status hearing shall be held by the court within 14 days of the confiscation of the animals.
  - (4) Any person with proof of sole ownership or co-ownership of an animal confiscated by an arresting officer in an animal cruelty case and who is not a defendant or party of interest in the criminal case may petition the court for temporary custody of the animal. The court shall give such person priority for temporary custody of the animal if the court determines it is in the best interest of the animal's health, safety, and wellbeing.
  - (5) No custodian of an animal confiscated under this section shall spay or neuter or otherwise permanently alter the confiscated animal in his or her custody pending final disposition of the court case unless a treating veterinarian deems such procedure necessary to save the life of the animal.
  - (6) Upon a person's conviction of cruelty to animals, the court shall dispose of the confiscated animal in any manner it decides except in a case in which the confiscated animal is owned or co-owned by persons other than the defendant. If the defendant does not have an ownership interest in the confiscated animal, the court shall give priority to restoring full ownership rights to any person with proof of ownership if the court determines that such is in the best interest of the animal's health, safety, and wellbeing. If the confiscated animal is co-owned by the defendant, the court shall give priority to transferring the defendant's interest in the property to the remaining owner or co-owners equitably if the court determines that such is in the best interest of the animal's health, safety, and wellbeing.
  - (7) *The costs to provide the confiscated animals with humane care and adequate and necessary veterinary services, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted in accordance with rules adopted by the department of agriculture, markets, and food.*
- (b) In addition, the court may prohibit any person convicted of a misdemeanor offense of animal cruelty under RSA 644:8, RSA 644:8–aa, RSA 644:8–b, RSA 644:8–c, or RSA 644:8–d, or violation of RSA 644:8–f from having future ownership or custody of, or residing with other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals. The court shall prohibit or limit any person convicted of a felony offense of animal cruelty under RSA 644:8 or a misdemeanor or felony offense of bestiality under RSA 644:8–g from having future ownership or custody of other animals for a minimum of 5 years, and may impose any other reasonable restrictions on the person's future ownership or custody of, or residing or having contact with animals as necessary for the protection of the animals. For the

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purposes of this paragraph, a reasonable restriction on future contact may include limiting a person from engaging in any employment in the care of animals or other similar contact as the court sees fit. Any animal involved in a violation of a court order prohibiting or limiting ownership or custody of animals shall be subject to immediate forfeiture. Any person violating such order may, in addition to being held in criminal contempt of court or subject to a probation violation, be fined in the amount of \$1,000 in any court of competent jurisdiction for each animal held in unlawful ownership or custody.

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

### IV-a.

- (a) Except as provided in subparagraphs (b) and (c) any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society may take into temporary protective custody any animal when there is probable cause to believe that it has been or is being abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that



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charges should be filed under this section, the officer shall petition the court.

- (b) For purposes of subparagraph (a) the investigating officer for livestock, as defined in RSA 427:38, III, shall be accompanied by a veterinarian licensed under RSA 332-B or the state veterinarian who shall set the probable cause criteria for taking the animal or animals.

(c)

- (1) For purposes of subparagraph (a), for facilities licensed to conduct live running or harness horseracing or live dog racing pursuant to RSA 284, the appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society shall:
  - (A) Notify the director of the *pari-mutuel* commission of the circumstances arising under subparagraph (a);
  - (B) Enter the grounds of the facility with the director of the *pari-mutuel* commission or such person designated by the director of the *pari-mutuel* commission;
  - (C) Take such horses or dogs into temporary protective custody as determined by the director of the *pari-mutuel* commission or such person designated by the director of the *pari-mutuel* commission; and
  - (D) Comply with subparagraph (a) after taking a horse or dog from a facility licensed pursuant to RSA 284 into temporary protective custody.
- (2) This paragraph shall not preempt existing or enforcement authority of the *pari-mutuel* commission, pursuant to RSA 284 or rules and regulations adopted pursuant to such authority.

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

### N.H. REV. STAT. § 644:8-a. Exhibitions of Fighting Animals.

- I. No person shall offer for sale, sell, loan, export, keep, breed, or train any bird, dog, or other animal, with the intent that it or its offspring shall be engaged or used in an exhibition of fighting, or shall establish or promote an exhibition of the fighting thereof. Whoever violates the provisions of this paragraph shall be guilty of a class B felony.
- II. Any person present at any place or building when preparations are being made for an exhibition of such fighting with intent to be present at such exhibition, or present at, aiding in or contributing to, such an exhibition, shall be guilty of a class B felony.
- III.
  - (a) Any person who possesses, owns, buys, sells, transfers, or manufactures animal fighting paraphernalia with the intent to engage in or otherwise promote or facilitate such fighting shall be guilty of a class B felony.
  - (b) For purposes of this section, “animal fighting paraphernalia” means equipment, products, implements, and materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of animal fighting, and includes, but is not limited to, the following: breaking sticks, cat mills, fighting pits, springpoles, unprescribed



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anabolic steroids, unprescribed anti-inflammatory steroids, unprescribed antibiotics, treatment supplies or gaffs, slashers, heels, or any other sharp implement designed to be attached in place of the natural spur of a cock or game fowl.

- (c) In determining whether an object is animal fighting paraphernalia, the court shall consider any prior convictions under federal or state law relating to animal fighting, the proximity of the object in time and space to the direct violation of this section, direct or circumstantial evidence of the intent of the accused to deliver the object to persons whom he or she knows or should reasonably know intend to use the object to facilitate a violation of this section, oral or written instructions provided with or in the vicinity of the object concerning its use, descriptive materials accompanying the object which explain or depict its use, and all other logically relevant factors.

- IV. All animals so kept, bred, or trained by a person charged with violating the provisions of paragraph I may be seized by the arresting officer, pursuant to RSA 595-A:6 and RSA 644:8. Upon said person's conviction, said animals may, at the discretion of the court, be destroyed in a humane manner by a licensed veterinarian. *The costs, if any, incurred in boarding the animals, pending disposition of the case, and in disposing of the animals, upon a conviction of said person for violating paragraph I, shall be borne by the person so convicted.*
- V. *Upon conviction of a violation of this section, all animals used or to be used in training, fighting, or baiting, and all equipment, paraphernalia, and money involved in a violation of this section may be forfeited to the state at the discretion of the court, pursuant to RSA 595-A:6. Proceeds of any such forfeiture shall be used to reimburse local government and state agencies for the costs of prosecution of animal fighting cases. Proceeds which are not needed for such reimbursement shall be deposited in the companion animal neutering fund, established in RSA 437-A:4-a.*
- VI. In addition to other penalties prescribed by law, the court shall issue an order prohibiting or limiting a person who is convicted of a violation of this section from owning or possessing any animals for a period not less than 5 years, and may add other reasonable restrictions on future ownership or possession of animals as necessary for the protection of the animals. Any animal involved in a violation of a court order prohibiting or limiting ownership or possession of animals shall be subject to immediate forfeiture. Any person violating such order may, in addition to being held in criminal contempt of court or subject to a probation violation, be fined in the amount of \$1,000 in any court of competent jurisdiction for each animal held in unlawful ownership or possession. For purposes of this section, a reasonable restriction on future ownership or possession may include limiting a person from engaging in any employment in the care of animals or other similar contact as the court sees fit.

### N.H. REV. STAT. § 644:8-g. Bestiality.

- I. A person commits bestiality by knowingly committing any of the following acts:
  - (a) Engaging in sexual contact or sexual penetration with an animal for the purpose of sexual arousal or gratification.
  - (b) Offering or accepting the offer of an animal for consideration with the intent that it be subject to sexual contact or sexual penetration by a human.
  - (c) Photographing or filming or distributing such photographs or films, for the purpose of sexual

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arousal or gratification, of a person engaged in sexual contact or sexual penetration with an animal.

- II. Any person convicted of a violation of this section shall be guilty of a class A misdemeanor for a first offense and a class B felony for a second or subsequent offense.
- III. *In addition to any other penalty imposed for a violation of this section, the court shall order that the convicted person:*
  - (a) Submit to a psychological assessment and participate in appropriate counseling at the convicted person's own expense.
  - (b) *Reimburse an animal shelter for any reasonable costs incurred for the care and maintenance of any animal that was taken to the animal shelter as a result of conduct proscribed by this section.*
  - (c) Shall not own, harbor, exercise control over, or reside in the same household with any animal for a period of time deemed reasonable by the court.
- IV. This section shall not apply to:
  - (a) Accepted veterinary medical practices.
  - (b) Insemination of animals for the purpose of procreation.
  - (c) Accepted animal husbandry practices that provide care for animals.
- V. In this section:
  - (a) "Animal" means a nonhuman mammal, bird, reptile, or amphibian, either dead or alive.
  - (b) "Sexual contact" means any act between a person or an animal involving direct physical contact between the genitals or anus of one and the mouth, anus, or other part of the body of the other, or direct physical contact between the genitals of one and the genitals of the other, where such contact can be reasonably construed for the purpose of the person's sexual arousal or gratification.
  - (c) "Sexual penetration" means any intrusion, however, slight, of any part of the person's or animal's body into the body of the other, or any object manipulated by the person into the body of the animal, where such penetration can be reasonably construed for the purpose of sexual arousal or gratification.

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### 19. FORFEITURE AND POSSESSION BANS

#### N.H. REV. STAT. § 644:8. Cruelty to Animals.

- I. In this section, “cruelty” shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.
- II. In this section, “animal” means a domestic animal, a household pet or a wild animal in captivity.
- II-a. In this section, “shelter” or “necessary shelter” for dogs shall mean any natural or artificial area which provides protection from the direct sunlight and adequate air circulation when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from the weather shall allow the dog to remain clean and dry. Shelter shall be structurally sound and have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.
- III. A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:
  - (a) Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;
  - (b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;
  - (c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;
  - (d) Negligently transports any animal in his or her possession or custody in a manner injurious to the health, safety or physical well-being of such animal;
  - (e) Negligently abandons any animal previously in his possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance, or shelter;
  - (f) Has in his or her possession an equine colt that is less than 90 days old that is not being nursed by its dam, unless the colt was born in this state, and its dam has died within this state before the colt became 90 days old;
  - (g) Sells an equine colt that is less than 90 days old that is not being nursed by its dam; or
  - (h) Otherwise negligently permits or causes any animal in his or her possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.
- III-a. A person is guilty of a class B felony who purposely beats, cruelly whips, tortures, or mutilates any animal or causes any animal to be beaten, cruelly whipped, tortured, or mutilated.
- IV.
  - (a)
    - (1) Any person charged with animal cruelty under paragraphs III or III–a may have his or her animals confiscated by the arresting officer.
    - (2) A person charged under this section may petition the court to seek an examination of the animals by a veterinarian licensed under RSA 332–B of his or her choice at the expense of the person charged.

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- (3) Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. In cases in which animals have been confiscated by an arresting officer or his or her agency, a status hearing shall be held by the court within 14 days of the confiscation of the animals.
- (4) Any person with proof of sole ownership or co-ownership of an animal confiscated by an arresting officer in an animal cruelty case and who is not a defendant or party of interest in the criminal case may petition the court for temporary custody of the animal. The court shall give such person priority for temporary custody of the animal if the court determines it is in the best interest of the animal's health, safety, and wellbeing.
- (5) No custodian of an animal confiscated under this section shall spay or neuter or otherwise permanently alter the confiscated animal in his or her custody pending final disposition of the court case unless a treating veterinarian deems such procedure necessary to save the life of the animal.
- (6) *Upon a person's conviction of cruelty to animals, the court shall dispose of the confiscated animal in any manner it decides except in a case in which the confiscated animal is owned or co-owned by persons other than the defendant. If the defendant does not have an ownership interest in the confiscated animal, the court shall give priority to restoring full ownership rights to any person with proof of ownership if the court determines that such is in the best interest of the animal's health, safety, and wellbeing. If the confiscated animal is co-owned by the defendant, the court shall give priority to transferring the defendant's interest in the property to the remaining owner or co-owners equitably if the court determines that such is in the best interest of the animal's health, safety, and wellbeing.*
- (7) The costs to provide the confiscated animals with humane care and adequate and necessary veterinary services, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted in accordance with rules adopted by the department of agriculture, markets, and food.
- (b) *In addition, the court may prohibit any person convicted of a misdemeanor offense of animal cruelty under RSA 644:8, RSA 644:8-aa, RSA 644:8-b, RSA 644:8-c, or RSA 644:8-d, or violation of RSA 644:8-f from having future ownership or custody of, or residing with other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals. The court shall prohibit or limit any person convicted of a felony offense of animal cruelty under RSA 644:8 or a misdemeanor or felony offense of bestiality under RSA 644:8-g from having future ownership or custody of other animals for a minimum of 5 years, and may impose any other reasonable restrictions on the person's future ownership or custody of, or residing or having contact with animals as necessary for the protection of the animals. For the purposes of this paragraph, a reasonable restriction on future contact may include limiting a person from engaging in any employment in the care of animals or other similar contact as the court sees fit. Any animal involved in a violation of a court order prohibiting or limiting ownership or custody of animals shall be subject to immediate forfeiture. Any person violating such order may, in addition to being held in criminal contempt of court or subject to a probation*

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*violation, be fined in the amount of \$1,000 in any court of competent jurisdiction for each animal held in unlawful ownership or custody.*

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

IV-a.

- (b) Except as provided in subparagraphs (b) and (c) any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society may take into temporary protective custody any animal when there is probable cause to believe that it has been or is being abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. *If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court.*
- (c) For purposes of subparagraph (a) the investigating officer for livestock, as defined in RSA 427:38, III, shall be accompanied by a veterinarian licensed under RSA 332-B or the state veterinarian who shall set the probable cause criteria for taking the animal or animals.
- (d)

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- (1) For purposes of subparagraph (a), for facilities licensed to conduct live running or harness horseracing or live dog racing pursuant to RSA 284, the appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society shall:
    - (A) Notify the director of the racing and charitable gaming commission of the circumstances arising under subparagraph (a);
    - (B) Enter the grounds of the facility with the director of the racing and charitable gaming commission or such person designated by the director of the racing and charitable gaming commission;
    - (C) Take such horses or dogs into temporary protective custody as determined by the director of the racing and charitable gaming commission or such person designated by the director of the racing and charitable gaming commission; and
    - (D) Comply with subparagraph (a) after taking a horse or dog from a facility licensed pursuant to RSA 284 into temporary protective custody.
  - (2) This paragraph shall not preempt existing or enforcement authority of the racing and charitable gaming commission, pursuant to RSA 284 or rules and regulations adopted pursuant to such authority.
- V. A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made for services rendered under the provisions of this section or RSA 435:11-16. Such a veterinarian is, therefore, under this paragraph, protected from a lawsuit for his part in an investigation of cruelty to animals.

### N.H. REV. STAT. § 644:8-a. Exhibitions of Fighting Animals.

- I. No person shall offer for sale, sell, loan, export, keep, breed, or train any bird, dog, or other animal, with the intent that it or its offspring shall be engaged or used in an exhibition of fighting, or shall establish or promote an exhibition of the fighting thereof. Whoever violates the provisions of this paragraph shall be guilty of a class B felony.
- II. Any person present at any place or building when preparations are being made for an exhibition of such fighting with intent to be present at such exhibition, or present at, aiding in or contributing to, such an exhibition, shall be guilty of a class B felony.
- III.
  - (a) Any person who possesses, owns, buys, sells, transfers, or manufactures animal fighting paraphernalia with the intent to engage in or otherwise promote or facilitate such fighting shall be guilty of a class B felony.
  - (b) For purposes of this section, “animal fighting paraphernalia” means equipment, products, implements, and materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of animal fighting, and includes, but is not limited to, the following: breaking sticks, cat mills, fighting pits, springpoles, unprescribed anabolic steroids, unprescribed anti-inflammatory steroids, unprescribed antibiotics, treatment supplies or gaffs, slashers, heels, or any other sharp implement designed to be attached in place of the natural spur of a cock or game fowl.



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- (c) In determining whether an object is animal fighting paraphernalia, the court shall consider any prior convictions under federal or state law relating to animal fighting, the proximity of the object in time and space to the direct violation of this section, direct or circumstantial evidence of the intent of the accused to deliver the object to persons whom he or she knows or should reasonably know intend to use the object to facilitate a violation of this section, oral or written instructions provided with or in the vicinity of the object concerning its use, descriptive materials accompanying the object which explain or depict its use, and all other logically relevant factors.
- IV. All animals so kept, bred, or trained by a person charged with violating the provisions of paragraph I may be seized by the arresting officer, pursuant to RSA 595-A:6 and RSA 644:8. Upon said person's conviction, *said animals may, at the discretion of the court, be destroyed in a humane manner by a licensed veterinarian.* The costs, if any, incurred in boarding the animals, pending disposition of the case, and in disposing of the animals, upon a conviction of said person for violating paragraph I, shall be borne by the person so convicted.
- V. *Upon conviction of a violation of this section, all animals used or to be used in training, fighting, or baiting, and all equipment, paraphernalia, and money involved in a violation of this section may be forfeited to the state at the discretion of the court, pursuant to RSA 595-A:6.* Proceeds of any such forfeiture shall be used to reimburse local government and state agencies for the costs of prosecution of animal fighting cases. Proceeds which are not needed for such reimbursement shall be deposited in the companion animal neutering fund, established in RSA 437-A:4-a.
- VI. *In addition to other penalties prescribed by law, the court shall issue an order prohibiting or limiting a person who is convicted of a violation of this section from owning or possessing any animals for a period not less than 5 years, and may add other reasonable restrictions on future ownership or possession of animals as necessary for the protection of the animals. Any animal involved in a violation of a court order prohibiting or limiting ownership or possession of animals shall be subject to immediate forfeiture. Any person violating such order may, in addition to being held in criminal contempt of court or subject to a probation violation, be fined in the amount of \$1,000 in any court of competent jurisdiction for each animal held in unlawful ownership or possession. For purposes of this section, a reasonable restriction on future ownership or possession may include limiting a person from engaging in any employment in the care of animals or other similar contact as the court sees fit.*

### N.H. REV. STAT. § 644:8-g. Bestiality.

- I. A person commits bestiality by knowingly committing any of the following acts:
- Engaging in sexual contact or sexual penetration with an animal for the purpose of sexual arousal or gratification.
  - Offering or accepting the offer of an animal for consideration with the intent that it be subject to sexual contact or sexual penetration by a human.
  - Photographing or filming or distributing such photographs or films, for the purpose of sexual arousal or gratification, of a person engaged in sexual contact or sexual penetration with an animal.
- II. Any person convicted of a violation of this section shall be guilty of a class A misdemeanor for a first offense and a class B felony for a second or subsequent offense.



## ANIMAL PROTECTION LAWS OF NEW HAMPSHIRE

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- III. *In addition to any other penalty imposed for a violation of this section, the court shall order that the convicted person:*
- (a) Submit to a psychological assessment and participate in appropriate counseling at the convicted person's own expense.
  - (b) Reimburse an animal shelter for any reasonable costs incurred for the care and maintenance of any animal that was taken to the animal shelter as a result of conduct proscribed by this section.
  - (c) *Shall not own, harbor, exercise control over, or reside in the same household with any animal for a period of time deemed reasonable by the court.*
- IV. This section shall not apply to:
- (a) Accepted veterinary medical practices.
  - (b) Insemination of animals for the purpose of procreation.
  - (c) Accepted animal husbandry practices that provide care for animals.
- V. In this section:
- (a) "Animal" means a nonhuman mammal, bird, reptile, or amphibian, either dead or alive.
  - (b) "Sexual contact" means any act between a person or an animal involving direct physical contact between the genitals or anus of one and the mouth, anus, or other part of the body of the other, or direct physical contact between the genitals of one and the genitals of the other, where such contact can be reasonably construed for the purpose of the person's sexual arousal or gratification.
  - (c) "Sexual penetration" means any intrusion, however, slight, of any part of the person's or animal's body into the body of the other, or any object manipulated by the person into the body of the animal, where such penetration can be reasonably construed for the purpose of sexual arousal or gratification.

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## 20. REHABILITATIVE SENTENCING

## N.H. REV. STAT. § 644:8-g. Bestiality.

- I. A person commits bestiality by knowingly committing any of the following acts:
  - (a) Engaging in sexual contact or sexual penetration with an animal for the purpose of sexual arousal or gratification.
  - (b) Offering or accepting the offer of an animal for consideration with the intent that it be subject to sexual contact or sexual penetration by a human.
  - (c) Photographing or filming or distributing such photographs or films, for the purpose of sexual arousal or gratification, of a person engaged in sexual contact or sexual penetration with an animal.
- II. Any person convicted of a violation of this section shall be guilty of a class A misdemeanor for a first offense and a class B felony for a second or subsequent offense.
- III. *In addition to any other penalty imposed for a violation of this section, the court shall order that the convicted person:*
  - (a) *Submit to a psychological assessment and participate in appropriate counseling at the convicted person's own expense.*
  - (b) Reimburse an animal shelter for any reasonable costs incurred for the care and maintenance of any animal that was taken to the animal shelter as a result of conduct proscribed by this section.
  - (c) Shall not own, harbor, exercise control over, or reside in the same household with any animal for a period of time deemed reasonable by the court.
- IV. This section shall not apply to:
  - (a) Accepted veterinary medical practices.
  - (b) Insemination of animals for the purpose of procreation.
  - (c) Accepted animal husbandry practices that provide care for animals.
- V. In this section:
  - (a) "Animal" means a nonhuman mammal, bird, reptile, or amphibian, either dead or alive.
  - (b) "Sexual contact" means any act between a person or an animal involving direct physical contact between the genitals or anus of one and the mouth, anus, or other part of the body of the other, or direct physical contact between the genitals of one and the genitals of the other, where such contact can be reasonably construed for the purpose of the person's sexual arousal or gratification.
  - (c) "Sexual penetration" means any intrusion, however, slight, of any part of the person's or animal's body into the body of the other, or any object manipulated by the person into the body of the animal, where such penetration can be reasonably construed for the purpose of sexual arousal or gratification.