

ARIZONA ANIMAL CRUELTY LAWS

Ben Sheppard*

Introduction

This document seeks to provide a comprehensive summary of Arizona's animal cruelty laws that is beneficial for prosecutors. It opens with the updated 2019 cruelty to animals statute. This statute provides penalties for interfering, killing or harming a working or service animal. Both misdemeanor and felony penalties are provided for within this section of Chapter 29. The following section contains Arizona's bestiality statute which states that engaging in oral sexual contact, sexual contact, or sexual intercourse with an animal is unlawful. This includes causing another person to engage in those same activities with an animal and a violation of either will result in a class 6 felony conviction. However, if one causes a minor to engage in this conduct, it is a class 3 felony. The court may also order those convicted of bestiality to undergo a psychological evaluation and participate in appropriate counseling sessions.

The next section focuses on the livestock specific provisions of the anti-cruelty laws. It is unlawful to tether or confine any pig during pregnancy or any calf raised for veal, on a farm, for all or the majority of any day in such a way as to prevent the animal from lying down or turning around freely. Violations result in a class 1 misdemeanor. Equine tripping is also prohibited in Arizona. The livestock laws make it a misdemeanor to knowingly take the animal of another without the owner's consent. This also applies to the taking of any or the animal's entire carcass for the person's own use and depriving the rightful owner of the use of his animal. However, if a person intentionally or recklessly allows their own dog to kill the livestock it is a class 1 misdemeanor. If the dog chases the livestock, causing injury to the livestock the owner is guilty of a class 3 misdemeanor. This section of the animal cruelty laws also regulates the transporting of equine and it is a misdemeanor to do so in a cruel manner, which means that the animals must be able to stand up straight, be provided with ramps, be able to move with injury and be given the opportunity to rest out of the vehicle during the journey.

The fourth section is dedicated to the animal fighting provisions. Violations of this section are class 5 felonies. Arizona also includes punishment for those who are present at animal fights. If knowingly present at any place or building where preparations are made for an exhibition of fighting animals or those present at such events are guilty of a class 6 felony. Cockfighting has its own statute and is a class 5 felony. However, attendance at a cockfight is only a class 1 misdemeanor. None of the animal fighting provisions interfere with the possession, training, exhibition or use of an animal for hunting, ranching, farming, rodeos, shows and security

* Ben Sheppard produced this document as an undertaking of the George Washington University (GWU) Law School's Animal Welfare Project, and worked under the guidance of the Project's founder and faculty director, Professor Joan Schaffner. This document heavily relied on the prior hard work of Katherine Sholl. Ben graduated from George Washington University School of Law in 2021.

purposes, and it is a complete defense to cruelty to animals and bird fighting if the activity charged involves possession and training of an animal for one of those aforementioned activities.

the Arizona statutes also contain a set of animal control laws that are specific to the establishment of county pounds and the impounding and disposing of dogs and cats. There are separate statutes for biting animals and aggressive dogs. In addition, there is a statute for service animals and the rights of individuals with disabilities who use service animals in their everyday life. Next, this summary details Arizona's seizure provisions and the domestic violence statute. The seizure provisions, both for animals generally and specific to equines. Both provide for notice and a hearing upon lawful seizure of an animal within the state. In addition, the state of Arizona includes a provision within its domestic violence statute that allows for animals to be added onto a protection from abuse order. These orders protect battered women, children and animals from further abuse and serve as a specific restraining order for a limited time. The next sections include regulations for veterinarians and pet retailers. In the state of Arizona, licensed veterinarians have a duty to report suspected abuse, cruelty, neglect or animal fighting within forty-eight hours after the treatment of the animal. There is also a duty to report unprofessional conduct and animal abuse among other veterinarians. The regulations regarding pet retailers detail the appropriate animal care requirements including space, living environment, food and water and maintaining a sanitary condition in the animal's crate.

The final sections concern wildlife. First, disturbing animal life found in a cave or cavern carries a class 2 misdemeanor. Second, unlawful feeding of wildlife is a petty offense.

Overview of Statutory Provisions and Case Law

1. **Cruelty to Animals:** ARIZ. REV. STAT. ANN. § 13-2910
2. **Bestiality:** ARIZ. REV. STAT. ANN. § 13-1411
3. **Livestock Provisions:** ARIZ. REV. STAT. ANN. §13-2910.07;09; 3-1301-3-1312;; 28-912.
4. **Animal Fighting:** ARIZ. REV. STAT. ANN. § 13-2910.01 – 06
5. **Relevant Animal Control Laws:** ARIZ. REV. STAT. ANN. § 11-1013; 11-1014; 11-1014.01; 13-4281& 3-1721.
6. **Sentencing:** ARIZ. REV. STAT. ANN. § 13-702; 13-703; 13-707; 13-801 & 13-802
7. **Seizure Provisions:** ARIZ. REV. STAT. ANN. § 13-4281 & 3-1721
8. **Domestic Violence:** ARIZ. REV. STAT. ANN. §13-3602
9. **Veterinarians:** ARIZ. REV. STAT. ANN. §§ 32-2239 & 32-2240
10. **Pet Retailers:** Ariz. Rev. Stat. Ann. § 44-1799.04 & § 44-1799.08
11. **Disturbing Animal Life Found in Any Cave or Cavern:** Ariz. Rev. Stat. Ann. § 13-3702

12. Unlawful Feeding of Wildlife: Ariz. Rev. Stat. Ann. § 13-29271.
CRUELTY to Animals

13- 2910. Cruelty to animals; interference with working or service animal; classification; definitions

- A. A person commits cruelty to animals if the person does any of the following:
1. Intentionally, knowingly or recklessly subjects any animal under the person's custody or control to cruel neglect or abandonment.
 2. Intentionally, knowingly or recklessly fails to provide medical attention necessary to prevent protracted suffering to any animal under the person's custody or control.
 3. Intentionally, knowingly or recklessly inflicts unnecessary physical injury to any animal.
 4. Recklessly subjects any animal to cruel mistreatment.
 5. Intentionally, knowingly or recklessly kills any animal under the custody or control of another person without either legal privilege or consent of the owner.
 6. Recklessly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.
 7. Intentionally, knowingly or recklessly leaves an animal unattended and confined in a motor vehicle and physical injury to or death of the animal is likely to result.
 8. Intentionally or knowingly subjects any animal under the person's custody or control to cruel neglect or abandonment that results in serious physical injury to the animal.
 9. Intentionally or knowingly subjects any animal to cruel mistreatment.
 10. Intentionally or knowingly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.
 11. Intentionally or knowingly allows any dog that is under the person's custody or control to interfere with, kill or cause physical injury to a service animal.
 12. Recklessly allows any dog that is under the person's custody or control to interfere with, kill or cause physical injury to a service animal.
 13. Intentionally or knowingly obtains or exerts unauthorized control over a service animal with the intent to deprive the service animal handler of the service animal.
 14. Intentionally or knowingly subjects a domestic animal to cruel mistreatment.
 15. Intentionally or knowingly kills a domestic animal without either legal privilege or consent of the domestic animal's owner or handler.

16. Intentionally or knowingly harasses a working animal that is in a law enforcement vehicle or trailer without either legal privilege or consent of the owner.

B. It is a defense to subsection A of this section if:

1. Any person exposes poison to be taken by a dog that has killed or wounded livestock or poison to be taken by predatory animals on premises owned, leased or controlled by the person for the purpose of protecting the person or the person's livestock or poultry, the treated property is kept posted by the person who authorized or performed the treatment until the poison has been removed and the poison is removed by the person exposing the poison after the threat to the person or the person's livestock or poultry has ceased to exist. The posting required shall provide adequate warning to persons who enter the property by the point or points of normal entry. The warning notice that is posted shall be readable at a distance of fifty feet, shall contain a poison statement and symbol and shall state the word "danger" or "warning".
2. Any person uses poisons in and immediately around buildings owned, leased or controlled by the person for the purpose of controlling wild and domestic rodents as otherwise allowed by the laws of the state, excluding any fur-bearing animals as defined in section 17-101.

C. This section does not prohibit or restrict:

1. The taking of wildlife or other activities permitted by or pursuant to title 17.¹
2. Activities permitted by or pursuant to title 3.²
3. Activities regulated by the Arizona game and fish department or the Arizona department of agriculture.

D. A peace officer, animal control enforcement agent or animal control enforcement deputy may use reasonable force to open a vehicle to rescue an animal if the animal is left in the vehicle as prescribed in subsection A, paragraph 7 of this section.

E. A person who is convicted of a violation of subsection A, paragraph 6 or 10 of this section is liable as follows:

1. If the working or service animal was killed or disabled, to the owner or agency that owns the working or service animal and that employs the handler or to the owner or handler for the replacement and training costs of the working or service animal and for any veterinary bills.
2. To the owner or agency that owns a working or service animal for the salary of the handler for the period of time that the handler's services are lost to the owner or agency.
3. To the owner for the owner's contractual losses with the agency.

¹ Section 17-101 et seq.

² Section 3-101 et seq.

F. An incorporated city or town or a county may adopt an ordinance with misdemeanor provisions at least as stringent as the misdemeanor provisions of this section, except that any ordinance adopted shall not prohibit or restrict any activity involving a dog, whether the dog is restrained or not, if the activity is directly related to the business of shepherding or herding livestock and the activity is necessary for the safety of a human, the dog or livestock or is permitted by or pursuant to title 3.

G. A person who violates subsection A, paragraph 1, 2, 3, 4, 5, 6, 7, 12 or 16 of this section is guilty of a class 1 misdemeanor. A person who violates subsection A, paragraph 8, 9, 10, 11 or 13 of this section is guilty of a class 6 felony. A person who violates subsection A, paragraph 14 or 15 of this section is guilty of a class 5 felony.

H. For the purposes of this section:

1. “Animal” means a mammal, bird, reptile or amphibian.
2. “Cruel mistreatment” means to torture or otherwise inflict unnecessary serious physical injury on an animal or to kill an animal in a manner that causes protracted suffering to the animal.
3. “Cruel neglect” means to fail to provide an animal with necessary food, water or shelter.
4. “Domestic animal” means a mammal, not regulated by title 3, that is kept primarily as a pet or companion or that is bred to be a pet or companion.
- 5.. “Handler” means a law enforcement officer or any other person who has successfully completed a course of training prescribed by the person’s agency or the service animal owner and who used a specially trained animal under the direction of the person’s agency or the service animal owner.
6. “Harass” means to engage in conduct that a reasonable person would expect to impede or interfere with a working animal’s performance of its duties.
- 7.. “Service animal” means an animal that has completed a formal training program, that assists its owner in one or more daily living tasks that are associated with a productive lifestyle and that is trained to not pose a danger to the health and safety of the general public.
8. “Working animal” means a horse or dog that is used by a law enforcement agency, that is specially trained for law enforcement work and that is under the control of a handler.

Applicable Case Law:

***State ex rel. v. Montgomery v. Brain*, 422 P.3d 1065 (Ariz. Ct. App. 2018).** (Sentence and Punishment)

Defendant charged with intentionally or knowingly subjecting animal to cruel mistreatment was not subject to increased punishment for being a dangerous offender, based on his alleged use of a metal rod to beat an enclosed dog. Even though a rod could constitute a dangerous instrument in certain instances, use of a dangerous instrument in the context of criminal animal cruelty with no human victim did not qualify as a dangerous offense. Therefore, defendant was not subject to increased punishment for being a dangerous offender.

***In re Jessie T.*, 399 P.3d 103 (Ariz. Ct. App. 2017).** (Weight and sufficiency of evidence).

Defendant, a juvenile, posted a photo on Facebook holding a pellet gun in one hand and a black cat by its tail in the other hand. He later admitted to a police officer that he shot the cat because “it was a stray, and it was black.” Insufficient evidence existed to support a finding that defendant committed animal cruelty by subjecting the cat to cruel mistreatment. Defendant admitted that he shot the cat which caused the cat to die. But the state failed to present any evidence that defendant caused an *unnecessary serious physical injury* to the cat. The court found that the plain language of the cruel mistreatment subsections at issue, A.R.S. § 13–2910(A)(9), (H)(2), indicates that killing an animal without proof of protracted suffering does not equate to causing serious physical injury. The court held that the state needed to prove that the killing of an animal caused protracted suffering to be considered cruel mistreatment.

However, evidence was sufficient to find beyond a reasonable doubt that the same defendant committed animal cruelty under the lesser-included offense of A.R.S. § 13–2910(A)(3), a class one misdemeanor. The court held “That subsection prohibits intentionally, knowingly, or recklessly inflicting unnecessary physical injury on an animal.” A defendant is guilty of the class one misdemeanor, animal cruelty by infliction of unnecessary physical injury, if they (1) intentionally, knowingly, or recklessly, (2) inflict upon an animal (mammal, bird, reptile or amphibian), (3) unnecessary impairment of physical condition. A.R.S. §§ 13–2910(A)(3), (H)(1), –105(33). In the instant case, the juvenile admitted to shooting the cat with a pellet gun for no other reason than it was “black” and “stray”. Therefore, the shooting necessarily caused the cat some type of physical impairment, an element of the offense beyond a reasonable doubt. The court held that defendant violated A.R.S. § 13–2910 (A)(3), as a class one misdemeanor.

***State v. Hausner*, 280 P.3d 604 (Ariz. 2012).** (Weight and sufficiency of evidence)

Defendant argued that the state presented insufficient evidence to sustain his convictions for animal cruelty involving the dogs Shep, Irving, Payton, and Martin, and the horse Apache. A person is guilty of a class 6 felony under Arizona law if he or she “[i]ntentionally or knowingly subjects any animal to cruel mistreatment.” A.R.S. § 13–2910(A)(9).

Arizona courts review the sufficiency of evidence presented at trial only to determine if substantial evidence exists to support the jury verdict. Substantial evidence is evidence that a reasonable juror could accept as sufficient to support a jury verdict beyond a reasonable doubt. The facts are viewed in the light most favorable to sustaining the jury verdict.

Dogs Irving and Shep were shot outside their owners’ home with .22 caliber gun. Police discovered .22 caliber shell casing, guns, and live cartridges in defendant’s apartment and car. Irving and Shep were shot on November 11, 2005 the same night that defendant shot and killed Nathaniel Shoffner. In addition, an individual testified that defendant told him that he had been “out targeting a dog” on the night when defendant shot Shoffner. The Arizona Supreme Court found sufficient evidence supported defendant’s convictions for shooting dogs Irving and Shep.

Dogs Martin and Payton were shot outside their owner’s dwelling with a .22 on December 30, 2005. That same night defendant shot a car at the ABC bartending school, shot four people, and the dogs Peanut and Cherokee with a .22. Martin and Payton were shot shortly after midnight, three miles from where defendant shot Peanut at 12:30 am. The court found this sufficient evidence to support the jury’s conclusion that defendant shot Martin and Payton.

Apache, the horse, was shot with a .22 on July 22. The owner did not see or hear any gunshots. The state presented that just before midnight on July 19, defendant and killed a dog with a .22, two miles from where Apache the horse was shot. The court held that from this evidence alone, a jury could not reasonably conclude beyond reasonable doubt that defendant also shot Apache. Therefore, the court reversed defendant's conviction and sentence for animal cruelty with respect to the shooting of Apache on insufficient evidence grounds.

Campbell v. Superior Court, 924 P.2d 1045 (Ariz. Ct. App. 1996).

Facts: Campbell was found guilty of cruelty to animals after placing hot dogs containing rat poison on his front lawn, subsequently poisoning his neighbor's cat. He acknowledged that he set out the hot dogs because his neighbors were allowing their dogs to defecate on his property, killing his grass. After Campbell was charged with animal cruelty, he filed a motion for a jury trial which was denied. He was found guilty³ and placed on probation. On appeal, the judge affirmed that magistrate's decision that animal cruelty was not a jury-eligible offense. This special action followed the appeal to determine whether there is a right to a jury trial.

Holding: There are three factors to determine whether an offense is a non-petty crime under the Arizona Constitution: (1) whether the defendant is exposed to a severe penalty; (2) whether the act involves moral turpitude; and (3) whether the crime has traditionally merited a jury trial under common law. Any one of the factors alone was held to warrant a jury trial. Here, the issue was solely on the moral turpitude factor because the petitioner did not argue either of the other factors. Moral turpitude has been held to include the conduct of a depraved and inherently base person, actions which adversely reflect on the honesty, integrity, or personal values of the actor, and conduct indicating a readiness to do evil. The court stated that the charged offense does not reflect adversely upon the honesty, integrity or personal values of the petitioner because his acts were merely thoughtless expediency, regardless of the fact that they qualified as cruelty to animals. In addition, his conduct was not inherently depraved and base, nor did the conduct indicate a readiness to do evil. The court affirmed the judgment of the trial court based on the fact that they could not conclude that the nature of the consequences for the charged offense were sufficiently grave to warrant a jury trial. Petitioner offered no other circumstances stemming from his conviction; therefore, Petitioner is not entitled to a jury trial.

State v. Bohrn, No. 1 CA-CR 06-0611, 2007 WL 5187919 (Ariz. Ct. App. July 31, 2007)

Facts: Defendant and his son retreated to their home after encountering a loose Pitbull in their neighborhood. After returning home, defendant grabbed his bow and arrow and searched for the pitbull because he was worried about his dog's safety. Defendant, armed, approached the pitbull and it began to retreat. Nonetheless, the defendant fired an arrow at the pitbull and injured it.

Holding: Because the defendant's conduct was unnecessary and unreasonable (despite the defendant arguing it was done to protect himself and his dog) the jury's verdict was reasonable.

1987 Ariz. Op. Att'y Gen. 219, 1987 WL 121345 (Ariz. A.G. 1987). (Cockfighting)

Question: Whether A.R.S. §13-2910, which prohibits cruelty to animals and poultry, applies to

³ Campbell was charged with a class 2 misdemeanor. This is not longer accurate. Today, he would have been charged with a class 1 misdemeanor.

cockfighting.

Answer: It is the opinion of the Attorney General that the animal cruelty statute does not apply to cockfighting, even with the broadened scope of the statute to include poultry under its protection because there was no specific legislative intent to outlaw cockfighting. In addition, it was previously held by the Arizona Supreme Court that the pre-1977 animal cruelty statute did not outlaw cockfighting. Here, the statute in question includes the addition of poultry under its protection. This does not show legislative intent to outlaw cockfighting because the common definition of poultry does not include birds raised to fight each other; instead it includes birds that serve as a source of eggs or meat.

***State v. Stockton*, 333 P.2d 735 (Ariz. 1958). (Validity)**

Facts: Defendants were charged with cruelty to animals because they held a cockfight where gamecocks were subjected to needless suffering. Defendants argued that gamecocks were not an animal within the meaning of the animal cruelty statute and that the term needless suffering was limited to acts done for the purpose of causing suffering. In addition, the defendants contended that the terms animal and needless suffering if otherwise construed are vague and indefinite as to render the statute unconstitutional. The trial court granted the defendants' motion to quash the information without specifying the grounds relied upon and the State appealed. On appeal, the court determined whether the prior cruelty statute showed a legislative intent to include gamecocks in the term "an animal" as used within the statute.

Holding: The court held that the legislature did not express an intention to include birds or fowls within the purview of the cruelty statute because the statute did not provide sufficiently clear and definite notice to the ordinary man that he would be subjected to prosecution if he chose to engage in conducting a cockfight where needless suffering would be inflicted upon a gamecock.

***Fears v. State*, 265 P. 600 (Ariz. 1928). (Authorized animal destruction) (citing Pen.Code 1913, § 602 (A.R.S. § 13-951).)**

Facts: Defendant was a forest ranger in the Apache National Forest who killed a mare as part of his duty. He was found guilty of maliciously killing a mare and appealed. On appeal, the court was faced with the question of whether or not the defendant killed the animal maliciously, when it was already admitted that he had killed the animal in the discharge of his duty as a forest ranger.

Holding: The court held that a forest ranger, working under the regulations set by the Secretary of Agriculture that allow and/or direct him to kill the animal of another, cannot be guilty of killing the animal maliciously because the regulation itself, having the force of law until declared invalid, precludes the existence of malice as a required element of the offense.

2. Bestiality

13-1411. Bestiality; classification; definition

A. A person commits bestiality by knowingly doing either of the following:

1. Engaging in oral sexual contact, sexual contact or sexual intercourse with an animal.

2. Causing another person to engage in oral sexual contact, sexual contact or sexual intercourse with an animal.

B. In addition to any other penalty imposed for a violation of subsection A of this section, the court may order that the convicted person do any of the following:

1. Undergo a psychological assessment and participate in appropriate counseling at the convicted person's own expense.
2. Reimburse an animal shelter as defined in section 11-1022 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 subsection A of this section.

C. This section does not apply to:

1. Accepted veterinary medical practices performed by a licensed veterinarian or veterinary technician.
2. Insemination of animals by the same species, bred for commercial purposes.
3. Accepted animal husbandry practices that provide necessary care for animals bred for commercial purposes.

D. Bestiality is a class 6 felony, except that bestiality pursuant to subsection A, paragraph 2 of this section is a class 3 felony punishable pursuant to section 13-705 if the other person is a minor under fifteen years of age.

E. For the purposes of this section, "animal" means a nonhuman mammal, bird, reptile or amphibian, either dead or alive.

No applicable case law

3. Livestock Provisions

13-2910.07. Cruel and inhumane confinement of a pig during pregnancy or of a calf raised for veal

A. Notwithstanding any other provision of title 3 or title 13, a person shall not tether or confine any pig during pregnancy or any calf raised for veal, on a farm, for all or the majority of any day, in a manner that prevents such animal from:

1. Lying down and fully extending his or her limbs; or
2. Turning around freely.

B. This section shall not apply to:

1. Pigs or calves during transportation.

2. Pigs or calves in rodeo exhibitions, state or county fair exhibitions, or other similar exhibitions.
 3. The killing of pigs or calves according to the provisions of chapter 13, title 3 and other applicable law and regulations.
 4. Pigs or calves involved in lawful scientific or agricultural research.
 5. Pigs or calves while undergoing an examination, test, treatment or operation for veterinary purposes.
 6. A pig during the seven day period prior to the pig's expected date of giving birth.
- C. A person who violates this section is guilty of a class 1 misdemeanor.
- D. The following definitions shall govern this section:
1. "Calf" means a calf of the bovine species.
 2. "Calf raised for veal" means a calf raised with the intent of selling, marketing or distributing the meat, organs or any part of such calf as a food product described as "veal."
 3. "Farm" means the land, buildings, support facilities, and other equipment that is wholly or partially used for the production of animals for food or fiber.
 4. "Pig" means any animal of the porcine species.
 5. "Turning around freely" means having the ability to turn around in a complete circle without any impediment, including a tether, or, in the case of an enclosure (including what is commonly described as a "gestation crate" for pigs and a "veal crate" for calves) without touching any side of the enclosure.

No applicable case law

13-2910.09. Equine tripping; classification; definitions

- A. A person who knowingly or intentionally trips an equine for entertainment or sport is guilty of a class 1 misdemeanor.
- B. A person who is convicted of a first violation of this section:
1. Shall be sentenced to serve not less than forty-eight consecutive hours in jail and is not eligible for probation or suspension of execution of sentence unless the entire sentence is served.
 2. Shall pay a fine of not less than one thousand dollars.
- C. A person who is convicted of a second violation of this section:

1. Shall be sentenced to serve not less than thirty consecutive days in jail and is not eligible for probation or suspension of execution of sentence unless the entire sentence is served.
2. Shall pay a fine of not less than two thousand dollars.

D. A person who is convicted of a third or subsequent violation of this section:

1. Shall be sentenced to serve not less than ninety consecutive days in jail and is not eligible for probation or suspension of execution of sentence unless the entire sentence is served.
2. Shall pay a fine of not less than two thousand dollars.

E. This section does not apply to any jumping or steeplechase events, racing, training, branding, show events, calf or steer roping events, bulldogging or steer wrestling events or any other traditional western rodeo events, including barrel racing, bareback or saddled bronc riding or other similar activities or events.

F. For the purposes of this section:

1. "Equine" means a horse, pony, mule, donkey or hinny.
2. "Trips" means knowingly or intentionally causing an equine to lose its balance or fall by use of a wire, pole, stick or rope or any other object or by any other means.

No applicable case law.

3-1301. Gathering cattle for tournament or contest without consent of owner; classification

A person who knowingly gathers range cattle for the purpose of a tournament or contest for amusement or reward, or competition for prizes, or who engages in a steer-tying contest or exhibition of steer-tying, or who casts, ropes or throws a horse, cow or other kind of animal without the written consent of the owner, except in the necessary work done on the range or elsewhere in handling such animals, is guilty of a class 2 misdemeanor.

Applicable Case Law:

***Sunland Dairy LLC. v. Milky Way Dairy LLC.*, No. CV 2015-014128, 2018 WL 8058179 (Ariz.Super. Jan. 04, 2018)**

Holding: 3-1301 prohibits roping or throwing livestock without the owner's consent.

§ 3-1302. Taking animal without consent of owner; classification

A person who knowingly takes from a range, ranch, farm, corral, yard or stable any livestock and uses it without the consent of the owner or the person having the animal lawfully in charge is guilty of a class 2 misdemeanor.

Applicable Case Law:

Sunland Dairy LLC. v. Milky Way Dairy LLC., No. CV 2015-014128, 2018 WL 8058179 (Ariz.Super. Jan. 04, 2018)

Holding: § 3-1302 only deals with trespass to chattels, not conversion.

§ 3-1303. Driving livestock from range without consent of owner; classification

When livestock of a resident of the state is intentionally driven off its range by any person, without consent of the owner, the person is guilty of a class 5 felony.

Applicable Case Law:

Sunland Dairy LLC. v. Milky Way Dairy LLC., No. CV 2015-014128, 2018 WL 8058179 (Ariz.Super. Jan. 04, 2018)

Holding: § 3-1303 makes driving cattle off “its range without the owner’s consent a class 5 felony offense.

§ 3-1304. Branding or altering brand of animal of another; classification

A person who brands or marks an animal with a brand other than the recorded brand of the owner, or who effaces, defaces, alters or obliterates any brand or mark upon any animal, with intent to convert the animal to his own use, is guilty of a class 4 felony and is liable to the owner of the animal for three times the value thereof.

Applicable Case Law:

Sunland Dairy LLC. v. Milky Way Dairy LLC., No. CV 2015-014128, 2018 WL 8058179 (Ariz.Super. Jan. 04, 2018)

Plaintiff alleged Defendant violated § 3-1304 by removing the ear tags of 470 heifer calves for the purpose of converting the animals. Defendant’s removal of the ear tags effaced or obliterated a mark placed on the plaintiff’s calves. The court held that the statute did not apply only to permanent marks.

§ 3-1305. Obliterating or changing brand or mark; classification

A person who intentionally obliterates, disfigures, extends or changes a recorded brand, or by other and additional marks, figures or characters converts a recorded brand into some other brand, is guilty of a class 4 felony.

Sunland Dairy LLC. v. Milky Way Dairy LLC., No. CV 2015-014128, 2018 WL 8058179 (Ariz.Super. Jan. 04, 2018)

Holding: Changing a brand is a class 4 felony offense. **§ 3-1306. Prima facie guilt of owner of brand to which another brand is altered**

When it is proved that a recorded brand has been converted or changed into another brand claimed or owned by any person, it shall be prima facie evidence in the courts and before the department and boards

or commissions of this state that the claimant or owner of the latter brand obliterated, disfigured and changed the prior recorded brand.

Sunland Dairy LLC. v. Milky Way Dairy LLC., No. CV 2015-014128, 2018 WL 8058179 (Ariz.Super. Jan. 04, 2018)

Holding: § 3-1306 creates a presumption that the “owner” of livestock with an altered brand altered the brand.

§ 3-1307. Unlawfully killing, selling or purchasing livestock of another; classification; civil penalty; exception

A. A person who knowingly kills or sells livestock of another, the ownership of which is known or unknown, or who knowingly purchases livestock of another, the ownership of which is known or unknown, from a person not having the lawful right to sell or dispose of such animals, is guilty of a class 5 felony.

B. A person who knowingly attempts to take or does take all or any part of a carcass of any such animal, pursuant to subsection A, for such person's own use, the use of others or for sale is guilty of a class 5 felony.

C. In addition to any other penalty imposed by this section, a person depriving the owner of the use of his animal or animals under subsection A or B of this section shall be liable to the owner for damages equal to three times the value of such animal or animals.

D. This section shall not apply to taking up animals under the estray laws.

Applicable Case Law:

Sunland Dairy LLC. v. Milky Way Dairy LLC., No. CV 2015-014128, 2018 WL 8058179 (Ariz.Super. Jan. 04, 2018)

Holding: § 3-1307 criminalizes possessing livestock when the ownership of the livestock is unknown.

***State v. Gallagher*, 818 P.2d 187 (Ariz. Ct. App. 1991).**

*Opinion cites to A.R.S. §24-246(D), but the former A.R.S. §24-246(D) was renumbered as AZ ST §3-1297 to 3-1310.

Facts: Louise Gallagher was convicted of one count of criminal damage, a class 6 felony, and one count of unlawful killing of livestock, a class 5 felony, after the shooting and killing of Rosie, a six year-old palomino horse owned by her neighbor. A tenant of Gallagher had told her that several horses were on her property near the pig pen. Upon receiving information from her tenant that several horses were on her property, Gallagher grabbed her gun and asked if the tenant would like to go down there to shoot a horse. Defendant testified that she had gone to feed the pigs when the horses started running toward her and as she backed up, she tripped, accidentally discharging the rifle she was carrying as protection from coyotes. Testimony at trial however, concluded that the bullet had entered the horse on a downward path through the neck. It was not disputed that the horse was shot on defendant’s property, where they were without

defendant's permission. Gallagher was found guilty and sentenced to thirty days in the county jail and concurrent terms of six months probation.

Holding: The court held that there was sufficient evidence based on the tenant's testimony, whether or not impeached, because the appellate court reviews the evidence before the trial court and not the credibility of a witness. It was not disputed that Rosie was a stray animal at the time of the shooting; however the law creates no rights in private individuals with regard to strays, especially no rights to destroy them. The law refers to taking possession of an animal running loose and in no way supports a remedy of self-help by killing the stray livestock on their property. Judgment and sentence affirmed.
Current through June 29, 2012

State v. Cruce, 147 P.2d 698 (Ariz. 1944).

Facts: Eva Cruce was convicted of (1) feloniously marking and branding a six-month-old colt, the property of another, (2) feloniously killing a certain mare branded 4F, the property of Carlos Ybarra, (3) feloniously stealing a six-month-old colt, the property of Carlos Ybarra, and (4) unlawfully taking the colt from its range without the owner's consent.

Holding: The court held that the evidence admitted over her objections was immaterial to the case because the issue at hand was whether the animals that defendant was charged with having unlawfully and feloniously converted were hers or the property of Ybarra. The evidence in question was about the number of cattle and horses owned at the time of her father's death and would have had not influence over the jury's decision. The court held that any errors committed in the trial court were technical and harmless and may be ignored so long as substantial justice has been done. Judgment affirmed.

§ 3-1308. Evidence of illegal possession of livestock

Upon trial of a person charged with unlawful possession, handling, driving or killing of livestock, the possession under claim of ownership without a written and acknowledged bill of sale, as provided by § 3-1291, is prima facie evidence against the accused that the possession is illegal.

Applicable Case Law:

Sunland Dairy LLC. v. Milky Way Dairy LLC., No. CV 2015-014128, 2018 WL 8058179 (Ariz.Super. Jan. 04, 2018)

Holding: § 3-1308 creates a presumption of illegal possession if a possessor of livestock does not have a "written and acknowledged" bill of sale.

Vigil v. State, 262 P. 14 (Ariz. 1927) (Evidence)

Facts: Defendants were charged with grand larceny for stealing calves. The Arizona Supreme Court held that evidence of defendants' similar offenses was admissible to show a common scheme or plan, without proving that defendant was actually convicted of the other offenses.

Epperson v. Crozier, 85 P. 482 (Ariz. Terr. 1906) (interpreting Acts 1897, p. 28, No. 6, § 57 ((requiring bill of sale for horses or cattle))).:

A defendant is considered a prima facie thief if they purchased or took possession of animals enumerated in the statute, without having a bill of sale that complies with the statute.

Maxwell v. Territory, 85 P.116 (Ariz. Terr. 1906) (interpreting Pen.Code, § 972):

Holding: The larceny of a steer is grand larceny irrespective of the steer's value.

Territory v. Marinez: 44 P. 1089 (Ariz. Terr. 1896) (Pen.Code 1887, § 765):

Holding: Where it was alleged that defendant stole one kind of animal, it was an error to prove theft of another.

§ 3-1309. Proof of branding with brand of accused as tending to show conversion by accused

Upon a trial for a violation of the livestock laws of the state, the prosecution may prove, as tending to show a conversion by the accused, that the animals in question were branded into a brand or were marked into a mark claimed by the accused to be his brand or mark, although neither the brand nor the mark is recorded.

Sunland Dairy LLC. v. Milky Way Dairy LLC., No. CV 2015-014128, 2018 WL 8058179 (Ariz. Super. Jan. 04, 2018)

Holding: § 3-1309 allows evidence of an unrecorded mark or brand to serve as evidence of conversion.

§ 3-1311. Dogs killing or chasing livestock; liability of owner; classification

A. If any person discovers a dog killing, wounding or chasing livestock, or discovers a dog under circumstances which show conclusively that it has recently killed or chased livestock, he may pursue and kill the dog.

B. The owner of a dog is liable for damages caused by the dog chasing livestock. In the case of a dog killing or wounding livestock, the owner of the dog is liable for damages to the owner of the livestock equal to three times the value of the livestock killed or wounded.

C. An owner of a dog who intentionally or recklessly allows or causes the dog to:

1. Wound or kill livestock owned by another person is guilty of a class 1 misdemeanor.
2. Chase livestock owned by another person, causing injury to the livestock, is guilty of a class 3 misdemeanor.

No Applicable Case Law

3-1312. Transporting equine in a cruel manner; violation; classification; definitions

A. A person shall not transport or cause or allow to be transported to a slaughtering establishment any equine in or on any vehicle with more than one level or tier.

B. The animal cargo space of vehicles used for the transportation of equines to slaughtering establishments must:

1. Be designed, constructed and maintained in a manner that at all times protects the health and well-being of any equine being transported.
2. Segregate any aggressive equine from the other equines in or on the vehicle.
3. Have sufficient interior height to allow each equine to stand with its head extended to the fullest normal postural height.
4. Be equipped with doors and ramps of sufficient size to provide for safe loading and unloading of any equine.

C. Before the transportation of any equine to a slaughtering establishment, the owner or shipper must:

1. For a period of not less than six consecutive hours immediately before any equine is loaded on the vehicle, provide each equine appropriate food, potable water and the opportunity to rest.
2. Load each equine on the vehicle so that:
 - (a) Each equine has enough floor space to ensure that no equine is crowded in a way likely to cause injury or discomfort.
 - (b) Any aggressive equine cannot come into contact with any other equine in or on the vehicle.

D. During transit to the slaughtering establishment, the owner or shipper must:

1. Drive in a manner to avoid causing injury to the equines.
2. Observe the equines as frequently as circumstances allow, but not less than once every six hours, to check the physical condition of the equines and ensure that all requirements of this section are being followed. The owner or shipper must obtain veterinary assistance as soon as practical for any equine in obvious physical distress. Any equine that becomes nonambulatory during transit must be euthanized as soon as practical.
3. Offload from the vehicle any equine that has been in or on the vehicle for twenty-eight consecutive hours and provide the equine appropriate food, potable water and the opportunity to rest for at least five consecutive hours.
4. Transport all equines to a slaughtering establishment as expeditiously and carefully as possible in a manner that does not cause unnecessary discomfort, stress, physical harm or trauma. Electric prods shall not be used on equines for any purpose while transporting the equines to a slaughtering establishment, including while loading or unloading the vehicle, except when human safety is threatened.

E. Transporting one equine in violation of this section is a class 3 misdemeanor. A subsequent violation under this subsection is a class 2 misdemeanor.

F. Transporting two or more equine in violation of this section is a class 2 misdemeanor. A subsequent violation under this subsection is a class 1 misdemeanor.

G. For the purposes of this section:

1. "Slaughtering establishment" has the same meaning prescribed in section 3-2001.

2. "Vehicle" has the same meaning prescribed in section 28-101.

No Applicable Case Law

§ 28-912. Vehicles transporting equine; violation; classification; definitions

A. A vehicle used to transport any equine to a slaughtering establishment may have no more than one level or tier in the compartment containing the equine.

B. The animal cargo space of vehicles used for the transportation of equines to slaughtering establishments must:

1. Be designed, constructed and maintained in a manner that at all times protects the health and well-being of any equine being transported.

2. Segregate any aggressive equine from the other equines in or on the vehicle.

3. Have sufficient interior height to allow each equine to stand with its head extended to the fullest normal postural height.

4. Be equipped with doors and ramps of sufficient size to provide for safe loading and unloading of any equine.

C. Before the transportation of any equine to a slaughtering establishment, the owner or shipper must:

1. For a period of not less than six consecutive hours immediately before any equine is loaded in or on the vehicle, provide each equine appropriate food, potable water and the opportunity to rest.

2. Load each equine on the vehicle so that:

(a) Each equine has enough floor space to ensure that no equine is crowded in a way likely to cause injury or discomfort.

(b) Any aggressive equine cannot come into contact with any other equine on the vehicle.

D. During transit to the slaughtering establishment, the owner or shipper must:

1. Drive in a manner to avoid causing injury to the equines.

2. Observe the equines as frequently as circumstances allow, but not less than once every six hours, to check the physical condition of the equines and ensure that all requirements of this section are being followed. The owner or shipper must obtain veterinary assistance as soon as practical for any equine in obvious physical distress. Any equine that becomes nonambulatory during transit must be euthanized as soon as practical.

3. Offload from the vehicle any equine that has been in or on the vehicle for twenty-eight consecutive hours and provide the equine appropriate food, potable water and the opportunity to rest for at least five consecutive hours.

4. Transport all equines to a slaughtering establishment as expeditiously and carefully as possible in a manner that does not cause unnecessary discomfort, stress, physical harm or trauma. Electric prods shall not be used for any purpose on equines while transporting equines to a slaughtering establishment, including while loading or unloading the vehicle, except when human safety is threatened.

E. Transporting one equine in violation of this section is a class 3 misdemeanor. A subsequent violation under this subsection is a class 2 misdemeanor.

F. Transporting two or more equine in violation of this section is a class 2 misdemeanor. A subsequent violation under this subsection is a class 1 misdemeanor.

G. For the purposes of this section:

1. "Equine" has the same meaning prescribed in § 3-1201.

2. "Slaughtering establishment" has the same meaning prescribed in § 3-2001.

No Applicable Case Law.

4. Animal Fighting

13-2910.01. Animal fighting; classification

A. A person commits animal fighting by knowingly:

1. Owning, possessing, keeping or training any animal if the person knows or has reason to know that the animal will engage in an exhibition of fighting with another animal.
2. For amusement or gain, causing any animal to fight with another animal, or causing any animals to injure each other.
3. Permitting any act in violation of paragraph 1 or 2 to be done on any premises under the person's charge or control.

B. This section does not:

1. Prohibit or restrict activities permitted by or pursuant to title 3.

2. Apply to animals that are trained to protect livestock from predation and that engage in actions to protect livestock.

C. Animal fighting is a class 5 felony.

No applicable case law.

13-2910.02. Presence at animal fight; classification

Any person who is knowingly present at any place or building where preparations are being made for an exhibition of the fighting of animals, or who is present at such exhibition, is guilty of a class 6 felony.

No Applicable Case Law.

13-2910.03. Cockfighting; classification

A. A person commits cockfighting by knowingly:

1. Owning, possessing, keeping or training any cock with the intent that such cock engage in an exhibition of fighting with another cock.
2. For amusement or gain, causing any cock to fight with another cock or causing any cocks to injure each other.
3. Permitting any act in violation of paragraph 1 or 2 to be done on any premises under his charge or control.

B. Cockfighting is a class 5 felony.

C. For purposes of this section and section 13-2910.04, cock means any male chicken, including game fowl except wildlife as defined in Arizona Revised Statutes section 17-101.

Applicable Case Law:

Harris v. State, 11 P.3d 403 (Ariz. Ct. App. 2000), opinion ordered depublished, review

denied. *2000 Ariz. App. Unpub. LEXIS 5

Statute prohibiting cockfighting did not risk unreasonably subjective enforcement. The statute was not unconstitutionally vague in violation of due process because state needed to produce evidence of a defendant's intent, in order to establish the defendant broke the law by knowingly owning, possessing, keeping or training any cock with the intent that the animal would engage in an exhibition fighting match with another cock. There is no constitutional right in Arizona to engage in cockfighting.

However, an organization (Citizens Against Cockfighting) that opposed cockfighting was not entitled to intervene, as a matter of right, in a challenge against the statute, where the state could defend the constitutionality of anti-cockfighting statute.

13-2910.04. Presence at cockfight; classification

Any person who is knowingly present at any place or building where preparations are being made for an exhibition of the fighting of cocks, or is present at such exhibition, is guilty of a class 1 misdemeanor.

Applicable Case Law:

Harris v. State, 11 P.3d 403 (Ariz. Ct. App. 2000), opinion ordered depublished, review denied. *2000 Ariz. App. Unpub. LEXIS 5

Finding that statute was not unconstitutional for vagueness because its mens rea requirement included the word “knowingly.”

13-2910.05. Exempt activities

Activity involving the possession, training, exhibition or use of an animal in the otherwise lawful pursuits of hunting, ranching, farming, rodeos, shows and security services shall be exempt from the provisions of sections 13-2910.01, 13-2910.02, 13-2910.03 and 13-2910.04.

No applicable case law

13-2910.06. Defense to cruelty to animals and bird fighting

It is a defense to sections 13-2910, 13-2910.01, 13-2910.02, 13-2910.03 and 13-2910.04 that the activity charged involves the possession, training, exhibition or use of a bird or animal in the otherwise lawful sports of falconry, animal hunting, rodeos, ranching or the training or use of hunting dogs.

No applicable case law.

5. Applicable Animal Control Laws

11-1013. Establishment of county pounds; impounding and disposing of dogs and cats; reclaiming impounded dogs and cats; pound fees

A. The board of supervisors in each county may provide or authorize a county pound or pounds or enter into a cooperative agreement with a city, a veterinarian or an Arizona incorporated humane society for the establishment and operation of a county pound.

B. Any stray dog shall be impounded. All dogs and cats impounded shall be given proper care and maintenance.

C. Each stray dog or any cat impounded and not eligible for a sterilization program shall be kept and maintained at the county pound for a minimum of seventy-two hours or one hundred twenty hours for an animal that is impounded with a microchip or wearing a license or any other discernible form of owner identification, unless claimed or surrendered by its owner. Any person may purchase a dog or cat on expiration of the impoundment period, if the person pays all pound fees established by the county board of supervisors and complies with the licensing and vaccinating provisions of this article. If the dog or cat is to be used for medical research, a license or vaccination is not required. Any impounded cat that is eligible for a sterilization program and that will be returned to the vicinity where the cat was originally captured may be exempted from the mandatory holding period required by this subsection. For the purposes of this subsection, “eligible” means a cat that is living outdoors, lacks discernible identification, is of sound health and possesses its claws.

D. Any impounded licensed dog or any cat may be reclaimed by its owner or the owner's agent provided that the person reclaiming the dog or cat furnishes proof of the person's right to do so and pays all pound fees established by the board of supervisors. Any person purchasing a dog or cat shall pay all pound fees established by the board of supervisors.

E. If the dog or cat is not reclaimed within the impoundment period, the county enforcement agent shall take possession of and may place the dog or cat for sale or may dispose of the dog or cat in a humane manner. The county enforcement agent may destroy impounded sick or injured dogs or cats if destruction is necessary to prevent the dog or cat from suffering or to prevent the spread of disease.

Exemptions

Cities, towns, and counties which enact local ordinances imposing license fees, requiring vaccinations, or regulating dogs running at large which are at least as stringent as the provisions of statutes establishing a statewide program for the prevention and control of rabies, and pertaining to the same subject matter will be exempt from statutes and may deal with the impoundment and sale of stray animals at their discretion. Op.Atty.Gen. No. I84-078, 1984 WL 61290.

No Applicable Case Law

11-1014. Biting animals; reporting; handling and destruction; exception

A. An unvaccinated dog or cat that bites any person shall be confined and quarantined in a county pound or, on request of and at the expense of the owner, at a veterinary hospital for a period of not less than ten days. The quarantine period shall start on the day of the bite incident. If the day of the bite is not known, the quarantine period shall start on the first day of impoundment. A dog properly vaccinated pursuant to this article that bites any person may be confined and quarantined at the home of the owner or wherever the dog is harbored and maintained with the consent of and in a manner prescribed by the county enforcement agent.

B. A dog or cat that is impounded as the result of biting any person shall not be released from the pound to its owner unless one of the following applies:

1. The dog has a current dog license pursuant to section 11-1008 at the time the dog entered the pound.
2. The dog or cat has been previously spayed or neutered before impound or has been spayed or neutered and implanted with a microchip before release from the pound.
3. There is no veterinary facility capable of performing surgical sterilization within a twenty mile radius of the pound.
4. A veterinarian determines that a medical contraindication for surgery exists that reasonably requires postponement of the surgery until the surgery can be performed in a safe and humane manner.
5. The bite occurred in the premises of the owner and the victim is a member of the same household.

6. The owner pays a fifty dollar recovery fee, in addition to any fees or costs otherwise required pursuant to this article.

C. Any domestic animal, other than a dog, a cat or a caged or pet rodent or rabbit, that bites any person shall be confined and quarantined in a county pound or, on the request and at the expense of the owner, at a veterinary hospital for a period of not less than fourteen days. Livestock shall be confined and quarantined for the fourteen-day period in a manner regulated by the Arizona department of agriculture. Caged or pet rodents or rabbits shall not be quarantined or laboratory tested.

D. With the exception of a wild rodent or rabbit, any wild animal that bites any person or directly exposes any person to its saliva may be killed and submitted to the county enforcement agent or the agent's deputies for transport to an appropriate diagnostic laboratory. A wild rodent or rabbit may be submitted for laboratory testing if the animal has bitten a person and either the animal's health or behavior indicates that the animal may have rabies or the bite occurred in an area that contains a rabies epizootic, as determined by the department of health services.

E. If an animal bites any person, the incident shall be reported to the county enforcement agent immediately by any person having direct knowledge.

F. The county enforcement agent may destroy any animal confined and quarantined pursuant to this section before the termination of the minimum confinement period for laboratory examination for rabies if:

1. The animal shows clear clinical signs of rabies.
2. The animal's owner consents to its destruction.

G. Any animal subject to licensing under this article found without a tag identifying its owner shall be deemed unowned.

H. The county enforcement agent shall destroy a vicious animal by order of a justice of the peace or a city magistrate. A justice of the peace or city magistrate may issue an order to destroy a vicious animal after notice to the owner, if any, and the person who was bitten, and a hearing. The justice of the peace or city magistrate may impose additional procedures and processes to protect all parties in the interest of justice, and any decision by the justice of the peace or magistrate may be appealed to the superior court.

I. The owner of a vicious animal shall be responsible for any fees incurred by the enforcement agent for the impounding, sheltering and disposing of the vicious animal.

J. This section does not apply to a dog that is used by any federal, state, county, city or town law enforcement agency and that bites any person if the bite occurs while the dog is under proper law enforcement supervision and the care of a licensed veterinarian, except that the law enforcement agency shall notify the county enforcement agent if the dog exhibits any abnormal behavior and make the dog available for examination at any reasonable time.

No Applicable Case Law

11-1014.01. Aggressive dogs; reasonable care requirements; violation; classification; definitions

A. A person who owns or who is responsible for the care of an aggressive dog shall take reasonable care to:

1. Prohibit the dog from escaping to the outside of a residence or an enclosed area, yard or structure.
2. Control the dog in a manner that prevents the dog from biting or attacking a person or domestic animal at all times while the dog is off the owner's or responsible person's property.

B. This section does not apply to any of the following:

1. A dog that is owned by a governmental agency and that is being used in military or police work.
2. A service animal as defined in section 11-1024.
3. A dog that is involved in an otherwise lawful act of hunting, ranching, farming or other agricultural purpose.

C. A violation of subsection A, paragraph 2 of this section is a class 1 misdemeanor. A violation of subsection A, paragraph 1 of this section is a class 3 misdemeanor.

D. For the purposes of this section:

1. "Aggressive dog" means any dog that has bitten a person or domestic animal without provocation or that has a known history of attacking persons or domestic animals without provocation.
2. "Reasonable care" means the degree of care that a person of ordinary prudence would exercise in the same or similar circumstances.

No Applicable Case Law

13-4281. Animal seizure; notification; forfeiture; bond; hearing; exceptions

A. A peace officer, county enforcement agent or animal control officer who lawfully seizes an animal pursuant to section 13-2910 shall affix a notice of seizure in a conspicuous place where the animal was found or personally deliver the notice of seizure to the owner or keeper of the animal, if known or ascertainable after reasonable investigation. The officer or agent shall file proof of service with the court. If it is determined that the suffering of the animal does not require humane destruction, the notice shall include the following:

1. The name, business address and telephone number of the person providing the notice.
2. A description of the seized animal.

3. The authority and purpose for the seizure, including the time, place and circumstance under which the animal was seized.
4. A statement that in order to receive a postseizure hearing the owner or person authorized to keep the animal, or the owner or person's agent, shall request the hearing by signing and returning to the court an enclosed declaration of ownership or right to keep the animal within ten days, including weekends and holidays, after the date of the notice.
5. A statement that the owner is responsible for the cost of care for an animal that was properly seized and that the owner is required to post a bond in the amount of twenty-five dollars per animal with the court to defray the cost of care.
6. A warning that if the owner fails to post a bond within ten days after the seizure, the animal will be deemed abandoned and become the property of the seizing agency.

B. On receipt of a declaration of ownership and postseizure hearing request, the justice of the peace or city magistrate shall set a hearing date within fifteen business days. At the hearing, the seizing agency shall have the burden of establishing by a preponderance of evidence that the animal was subjected to cruel mistreatment, cruel neglect or abandonment in violation of section 13-2910 or will suffer needlessly if humane destruction is delayed. On this finding, the court may terminate the owner's rights in the animal and transfer the rights to the seizing agency or a designated animal care agency and shall forfeit the bond to pay the expenses incurred for the housing, care and treatment of the animal. If at the conclusion of the hearing the animal is not forfeited under this section, the court shall order the bond exonerated and returned to the owner.

C. If the owner or person authorized to keep the animal fails to post bond as prescribed by subsection A, paragraph 5 of this section, fails to request a hearing or fails to attend a scheduled hearing, the animal is deemed abandoned and all rights of the owner in the animal are transferred to the seizing agency.

D. This section does not apply to any of the following:

1. Activities permitted by or pursuant to title 3.
2. The seizure of an equine pursuant to section 3-1721.
3. A city, town or county that adopts or has adopted an ordinance or resolution providing for bonding and forfeiture of an animal that has suffered cruel mistreatment or cruel neglect if the ordinance or resolution imposes requirements that are equal or more stringent than this section.

No Applicable Case Law

3-1721. Petition of seizure; notice of seizure; lien for expenses; forced sale; disposition of proceeds; nonliability of state; neglect or cruel treatment of equine; civil penalty; legal representation

A. Any person or peace officer who believes that an equine is in poor physical condition because of neglect or cruel treatment may petition on affidavit a justice of the peace of the precinct or a city magistrate of the city in which the equine is found for an order authorizing the department to take

possession of and provide care for the equine for a fifteen-day period. The order shall not be issued unless the affidavit provides that the livestock custody trust fund established by section 3-1377 has a balance that permits the department to provide such care or that the department can demonstrate that the expenses have been contracted for pursuant to subsection E of this section. The clerk of the court or justice of the peace, as the case may be, after filing and docketing the petition, shall enter a brief statement of the petition on the docket and set a time for a hearing that is not less than five and not more than fifteen days after the petition is filed. The order shall state the time and place of the hearing.

B. On receiving the order the department shall take possession of the equine. The department shall serve the order on the owner of the equine, if known, at least twenty-four hours before the hearing, either by personal service on the owner or by leaving a copy of the order with a person of suitable discretion at the owner's residence or place of business. If the owner is not known, the department shall give notice by posting a copy of the order on the day of the seizure in a conspicuous place at the location where the equine was seized and in at least two public places in the county where the equine was seized. The order shall be served by a livestock officer, constable or sheriff of the county.

C. If, at the hearing, it is determined that the equine at the time of taking possession was not in poor physical condition because of neglect or cruel treatment, the owner may immediately reclaim the equine and shall not be liable for payment of any expense incurred in the handling, feeding and care of the equine. Unless malice is proved, no action taken by an employee of the department or by a peace officer pursuant to this article shall be subject to civil or criminal liability.

D. On failure of the owner to be awarded immediate, expense-free possession of the equine pursuant to subsection C of this section, the department shall either sell the equine at public auction or, if the equine's condition makes its sale impractical, dispose of the equine in the most humane manner possible. The department shall deposit the proceeds of the sale in the livestock custody trust fund established by section 3-1377 for distribution in the following priority:

1. The department shall be reimbursed for auction, handling, feeding and caring expenses.
2. Any monies derived from the sale in excess of the expenses to be paid pursuant to paragraph 1 shall be paid to the owner of the equine. After thirty days if the owner has not claimed the money, this money shall revert to the livestock custody trust fund established by section 3-1377.

E. The director may contract with any person or group to handle, feed and care for any equine taken into custody pursuant to this section. The state shall not be liable for injury or death of any person or equine or damage to property caused by the performance of the contract.

F. Notwithstanding any provision of this article to the contrary, the county attorney of the county in which the equine was seized, at any time prior to the expiration of fifteen days after the seizure of the equine, may take charge of and keep the equine at the expense of the county when the county attorney considers it to be of evidentiary value in any criminal prosecution relating to the condition of the equine.

G. In addition to violating section 13-2910, a person who subjects an equine to neglect or cruel treatment is subject to a civil penalty of not more than seven hundred fifty dollars for each violation. All civil penalties assessed pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

H. The county attorney of the county, or the city attorney of the city, in which the livestock is seized may represent the livestock officer and the interests of this state in proceedings under this section.

I. On receipt the department shall deposit all monies, except civil penalties, collected pursuant to this section or received as a money donation from any public or private group, society, association or individual in the livestock custody trust fund established by section 3-1377. The monies in the fund shall be used to reimburse the department for expenses incurred in the handling, feeding, care and auctioning of equines seized pursuant to this section.

No Applicable Case Law

6. Sentencing

§ 13-702. First time felony offenders; sentencing; definition

A. Unless a specific sentence is otherwise provided, the term of imprisonment for a first felony offense shall be the presumptive sentence determined pursuant to subsection D of this section. Except for those felonies involving a dangerous offense or if a specific sentence is otherwise provided, the court may increase or reduce the presumptive sentence within the ranges set by subsection D of this section. Any reduction or increase shall be based on the aggravating and mitigating circumstances listed in § 13-701, subsections D and E and shall be within the ranges prescribed in subsection D of this section.

B. If a person is convicted of a felony without having previously been convicted of any felony and if at least two of the aggravating factors listed in § 13-701, subsection D apply, the court may increase the maximum term of imprisonment otherwise authorized for that offense to an aggravated term. If a person is convicted of a felony without having previously been convicted of any felony and if the court finds at least two mitigating factors listed in § 13-701, subsection E apply, the court may decrease the minimum term of imprisonment otherwise authorized for that offense to a mitigated term.

C. The aggravated or mitigated term imposed pursuant to subsection D of this section may be imposed only if at least two of the aggravating circumstances are found beyond a reasonable doubt to be true by the trier of fact or are admitted by the defendant, except that an aggravating circumstance under § 13-701, subsection D, paragraph 11 shall be found to be true by the court, or in mitigation of the crime are found to be true by the court, on any evidence or information introduced or submitted to the court or the trier of fact before sentencing or any evidence presented at trial, and factual findings and reasons in support of these findings are set forth on the record at the time of sentencing.

D. The term of imprisonment for a presumptive, minimum, maximum, mitigated or aggravated sentence shall be within the range prescribed under this subsection. The terms are as follows:

 Felony	<u>Mitigated</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	<u>Aggravated</u>
Class 2	3 years	4 years	5 years	10 years	12.5 years
Class 3	2 years	2.5 years	3.5 years	7 years	8.75 years
Class 4	1 year	1.5 years	2.5 years	3 years	3.75 years
Class 5	.5 years	.75 years	1.5 years	2 years	2.5 years
Class 6	.33 years	.5 years	1 year	1.5 years	2 years

E. The court shall inform all of the parties before sentencing occurs of its intent to increase or decrease a sentence to the aggravated or mitigated sentence pursuant this section. If the court fails to inform the parties, a party waives its right to be informed unless the party timely objects at the time of sentencing.

F. For the purposes of this section, “trier of fact” means a jury, unless the defendant and the state waive a jury in which case the trier of fact means the court.

No Applicable Case Law Regarding Animal Cruelty.

§ 13-703. Repetitive offenders; sentencing

A. If a person is convicted of multiple felony offenses that were not committed on the same occasion but that either are consolidated for trial purposes or are not historical prior felony convictions, the person shall be sentenced as a first time felony offender pursuant to § 13-702 for the first offense, as a category one repetitive offender for the second offense, and as a category two repetitive offender for the third and subsequent offenses.

B. Except as provided in § 13-704 or 13-705, a person shall be sentenced as a category two repetitive offender if the person is at least eighteen years of age or has been tried as an adult and stands convicted of a felony and has one historical prior felony conviction.

C. Except as provided in § 13-704 or 13-705, a person shall be sentenced as a category three repetitive offender if the person is at least eighteen years of age or has been tried as an adult and stands convicted of a felony and has two or more historical prior felony convictions.

D. The presumptive term set by this section may be aggravated or mitigated within the range under this section pursuant to § 13-701, subsections C, D and E.

E. If a person is sentenced as a category one repetitive offender pursuant to subsection A of this section and if at least two aggravating circumstances listed in § 13-701, subsection D apply or at least two mitigating circumstances listed in § 13-701, subsection E apply, the court may impose a mitigated or aggravated sentence pursuant to subsection H of this section.

F. If a person is sentenced as a category two repetitive offender pursuant to subsection A or B of this section and if at least two aggravating circumstances listed in § 13-701, subsection D apply or at least two

mitigating circumstances listed in § 13-701, subsection E apply, the court may impose a mitigated or aggravated sentence pursuant to subsection I of this section.

G. If a person is sentenced as a category three repetitive offender pursuant to subsection C of this section and at least two aggravating circumstances listed in § 13-701, subsection D or at least two mitigating circumstances listed in § 13-701, subsection E apply, the court may impose a mitigated or aggravated sentence pursuant to subsection J of this section.

H. A category one repetitive offender shall be sentenced within the following ranges:

<u>Felony</u>	<u>Mitigated</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	<u>Aggravated</u>
Class 2	3 years	4 years	5 years	10 years	12.5 years
Class 3	2 years	2.5 years	3.5 years	7 years	8.75 years
Class 4	1 year	1.5 years	2.5 years	3 years	3.75 years
Class 5	.5 years	.75 years	1.5 years	2 years	2.5 years
Class 6	.25 years	.5 years	1 year	1.5 years	2 years

I. A category two repetitive offender shall be sentenced within the following ranges:

<u>Felony</u>	<u>Mitigated</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	<u>Aggravated</u>
Class 2	4.5 years	6 years	9.25 years	18.5 years	23 years
Class 3	3.25 years	4.5 years	6.5 years	13 years	16.25 years
Class 4	2.25 years	3 years	4.5 years	6 years	7.5 years
Class 5	1 year	1.5 years	2.25 years	3 years	3.75 years
Class 6	.75 years	1 year	1.75 years	2.25 years	2.75 years

J. A category three repetitive offender shall be sentenced within the following ranges:

<u>Felony</u>	<u>Mitigated</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	<u>Aggravated</u>
Class 2	10.5 years	14 years	15.75 years	28 years	35 years
Class 3	7.5 years	10 years	11.25 years	20 years	25 years
Class 4	6 years	8 years	10 years	12 years	15 years
Class 5	3 years	4 years	5 years	6 years	7.5 years
Class 6	2.25 years	3 years	3.75 years	4.5 years	5.75 years

K. The aggravated or mitigated term imposed pursuant to subsection H, I or J of this section may be imposed only if at least two of the aggravating circumstances are found beyond a reasonable doubt to be true by the trier of fact or are admitted by the defendant, except that an aggravating circumstance under § 13-701, subsection D, paragraph 11 shall be found to be true by the court, or in mitigation of the crime are found to be true by the court, on any evidence or information introduced or submitted to the court or the trier of fact before sentencing or any evidence presented at trial, and factual findings and reasons in support of these findings are set forth on the record at the time of sentencing.

L. Convictions for two or more offenses committed on the same occasion shall be counted as only one conviction for the purposes of subsections B and C of this section.

M. A person who has been convicted in any court outside the jurisdiction of this state of an offense that was punishable by that jurisdiction as a felony is subject to this section. A person who has been convicted as an adult of an offense punishable as a felony under the provisions of any prior code in this state or the jurisdiction in which the offense was committed is subject to this section. A person who has been convicted of a felony weapons possession violation in any court outside the jurisdiction of this state that would not be punishable as a felony under the laws of this state is not subject to this section.

N. The penalties prescribed by this section shall be substituted for the penalties otherwise authorized by law if an allegation of prior conviction is charged in the indictment or information and admitted or found by the court. The release provisions prescribed by this section shall not be substituted for any penalties required by the substantive offense or a provision of law that specifies a later release or completion of the sentence imposed before release. The court shall allow the allegation of a prior conviction at any time before the date the case is actually tried unless the allegation is filed fewer than twenty days before the case is actually tried and the court finds on the record that the person was in fact prejudiced by the untimely filing and states the reasons for these findings. If the allegation of a prior conviction is filed, the state must make available to the person a copy of any material or information obtained concerning the prior conviction. The charge of previous conviction shall not be read to the jury. For the purposes of this subsection, "substantive offense" means the felony offense that the trier of fact found beyond a reasonable doubt the person committed. Substantive offense does not include allegations that, if proven, would enhance the sentence of imprisonment or fine to which the person otherwise would be subject.

O. A person who is sentenced pursuant to this section is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis, except as specifically authorized by § 31-233, subsection A or B, until the sentence imposed by the court has been served, the person is eligible for release pursuant to § 41-1604.07 or the sentence is commuted.

P. The court shall inform all of the parties before sentencing occurs of its intent to impose an aggravated or mitigated sentence pursuant to subsection H, I or J of this section. If the court fails to inform the parties, a party waives its right to be informed unless the party timely objects at the time of sentencing.

Q. The court in imposing a sentence shall consider the evidence and opinions presented by the victim or the victim's immediate family at any aggravation or mitigation proceeding or in the presentence report.

No Applicable Animal Cruelty Case Law.

§ 13-707. Misdemeanors; sentencing

A. A sentence of imprisonment for a misdemeanor shall be for a definite term to be served other than a place within custody of the state department of corrections. The court shall fix the term of imprisonment within the following maximum limitations:

1. For a class 1 misdemeanor, six months.
2. For a class 2 misdemeanor, four months.
3. For a class 3 misdemeanor, thirty days.

B. A person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of any misdemeanor or petty offense, other than a traffic offense, and who has been convicted

of one or more of the same misdemeanors or petty offenses within two years next preceding the date of the present offense shall be sentenced for the next higher class of offense than that for which the person currently is convicted. Time spent incarcerated within the two years next preceding the date of the offense for which a person is currently being sentenced shall not be included in the two years required to be free of convictions.

C. If a person is convicted of a misdemeanor offense and the offense requires enhanced punishment because it is a second or subsequent offense, the court shall determine the existence of the previous conviction. The court shall allow the allegation of a prior conviction to be made in the same manner as the allegation prescribed by § 28-1387, subsection A.

D. A person who has been convicted in any court outside the jurisdiction of this state of an offense that if committed in this state would be punishable as a misdemeanor or petty offense is subject to this section. A person who has been convicted as an adult of an offense punishable as a misdemeanor or petty offense under the provisions of any prior code in this state is subject to this section.

E. The court may direct that a person who is sentenced pursuant to subsection A of this section shall not be released on any basis until the sentence imposed by the court has been served.

No Applicable Animal Cruelty Case Law

ARIZ. REV. STAT. ANN. § 13-801. Fines for felonies.

A. A sentence to pay a fine for a felony shall be a sentence to pay an amount fixed by the court not more than one hundred fifty thousand dollars.

B. A judgment that the defendant shall pay a fine, with or without the alternative of imprisonment, shall constitute a lien in like manner as a judgment for money rendered in a civil action.

C. This section does not apply to an enterprise.

No Applicable Animal Cruelty Case Law

§ 13-802. Fines for misdemeanors

A. A sentence to pay a fine for a class 1 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than two thousand five hundred dollars.

B. A sentence to pay a fine for a class 2 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than seven hundred fifty dollars.

C. A sentence to pay a fine for a class 3 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than five hundred dollars.

D. A sentence to pay a fine for a petty offense shall be a sentence to pay an amount, fixed by the court, of not more than three hundred dollars.

E. A judgment that the defendant shall pay a fine, with or without the alternative of imprisonment, shall constitute a lien in like manner as a judgment for money rendered in a civil action.

F. This section does not apply to an enterprise.

No Applicable Animal Cruelty Case Law

7. Seizure Provisions

§ 13-4281. Animal seizure; notification; forfeiture; bond; hearing; exceptions

A. A peace officer, county enforcement agent or animal control officer who lawfully seizes an animal pursuant to § 13-2910 shall affix a notice of seizure in a conspicuous place where the animal was found or personally deliver the notice of seizure to the owner or keeper of the animal, if known or ascertainable after reasonable investigation. The officer or agent shall file proof of service with the court. If it is determined that the suffering of the animal does not require humane destruction, the notice shall include the following:

1. The name, business address and telephone number of the person providing the notice.
2. A description of the seized animal.
3. The authority and purpose for the seizure, including the time, place and circumstance under which the animal was seized.
4. A statement that in order to receive a postseizure hearing the owner or person authorized to keep the animal, or the owner or person's agent, shall request the hearing by signing and returning to the court an enclosed declaration of ownership or right to keep the animal within ten days, including weekends and holidays, after the date of the notice.
5. A statement that the owner is responsible for the cost of care for an animal that was properly seized and that the owner is required to post a bond in the amount of twenty-five dollars per animal with the court to defray the cost of care.
6. A warning that if the owner fails to post a bond within ten days after the seizure, the animal will be deemed abandoned and become the property of the seizing agency.

B. On receipt of a declaration of ownership and postseizure hearing request, the justice of the peace or city magistrate shall set a hearing date within fifteen business days. At the hearing, the seizing agency shall have the burden of establishing by a preponderance of evidence that the animal was subjected to cruel mistreatment, cruel neglect or abandonment in violation of § 13-2910 or will suffer needlessly if humane destruction is delayed. On this finding, the court may terminate the owner's rights in the animal and transfer the rights to the seizing agency or a designated animal care agency and shall forfeit the bond to pay the expenses incurred for the housing, care and treatment of the animal. If at the conclusion of the hearing the animal is not forfeited under this section, the court shall order the bond exonerated and returned to the owner.

C. If the owner or person authorized to keep the animal fails to post bond as prescribed by subsection A, paragraph 5 of this section, fails to request a hearing or fails to attend a scheduled hearing, the animal is deemed abandoned and all rights of the owner in the animal are transferred to the seizing agency.

D. This section does not apply to any of the following:

1. Activities permitted by or pursuant to title 3.⁴
2. The seizure of an equine pursuant to § 3-1721.
3. A city, town or county that adopts or has adopted an ordinance or resolution providing for bonding and forfeiture of an animal that has suffered cruel mistreatment or cruel neglect if the ordinance or resolution imposes requirements that are equal or more stringent than this section.

No Applicable Case Law

ARIZ. REV. STAT. ANN. § 3-1721. Petition of seizure; notice of seizure; lien for expenses; forced sale; disposition of proceeds; nonliability of state; neglect or cruel treatment of equine; civil penalty; legal representation

A. Any person or peace officer who believes that an equine is in poor physical condition because of neglect or cruel treatment may petition on affidavit a justice of the peace of the precinct or a city magistrate of the city in which the equine is found for an order authorizing the department to take possession of and provide care for the equine for a fifteen-day period. The order shall not be issued unless the affidavit provides that the livestock custody trust fund established by § 3-1377 has a balance that permits the department to provide such care or that the department can demonstrate that the expenses have been contracted for pursuant to subsection E of this section. The clerk of the court or justice of the peace, as the case may be, after filing and docketing the petition, shall enter a brief statement of the petition on the docket and set a time for a hearing that is not less than five and not more than fifteen days after the petition is filed. The order shall state the time and place of the hearing.

B. On receiving the order the department shall take possession of the equine. The department shall serve the order on the owner of the equine, if known, at least twenty-four hours before the hearing, either by personal service on the owner or by leaving a copy of the order with a person of suitable discretion at the owner's residence or place of business. If the owner is not known, the department shall give notice by posting a copy of the order on the day of the seizure in a conspicuous place at the location where the equine was seized and in at least two public places in the county where the equine was seized. The order shall be served by a livestock officer, constable or sheriff of the county.

C. If, at the hearing, it is determined that the equine at the time of taking possession was not in poor physical condition because of neglect or cruel treatment, the owner may immediately reclaim the equine and shall not be liable for payment of any expense incurred in the handling, feeding and care of the equine. Unless malice is proved, no action taken by an employee of the department or by a peace officer pursuant to this article shall be subject to civil or criminal liability.

D. On failure of the owner to be awarded immediate, expense-free possession of the equine pursuant to subsection C of this section, the department shall either sell the equine at public auction or, if the equine's condition makes its sale impractical, dispose of the equine in the most humane manner possible. The department shall deposit the proceeds of the sale in the livestock custody trust fund established by § 3-1377 for distribution in the following priority:

1. The department shall be reimbursed for auction, handling, feeding and caring expenses.

⁴ Section 3-101 et seq.

2. Any monies derived from the sale in excess of the expenses to be paid pursuant to paragraph 1 shall be paid to the owner of the equine. After thirty days if the owner has not claimed the money, this money shall revert to the livestock custody trust fund established by § 3-1377.

E. The director may contract with any person or group to handle, feed and care for any equine taken into custody pursuant to this section. The state shall not be liable for injury or death of any person or equine or damage to property caused by the performance of the contract.

F. Notwithstanding any provision of this article to the contrary, the county attorney of the county in which the equine was seized, at any time prior to the expiration of fifteen days after the seizure of the equine, may take charge of and keep the equine at the expense of the county when the county attorney considers it to be of evidentiary value in any criminal prosecution relating to the condition of the equine.

G. In addition to violating § 13-2910, a person who subjects an equine to neglect or cruel treatment is subject to a civil penalty of not more than seven hundred fifty dollars for each violation. All civil penalties assessed pursuant to this subsection shall be deposited, pursuant to §§ 35-146 and 35-147, in the state general fund.

H. The county attorney of the county, or the city attorney of the city, in which the livestock is seized may represent the livestock officer and the interests of this state in proceedings under this section.

I. On receipt the department shall deposit all monies, except civil penalties, collected pursuant to this section or received as a money donation from any public or private group, society, association or individual in the livestock custody trust fund established by § 3-1377. The monies in the fund shall be used to reimburse the department for expenses incurred in the handling, feeding, care and auctioning of equines seized pursuant to this section.

8. Domestic Violence

§ 13-3602. Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction; definition

A. A person may file a verified petition, as in civil actions, with a magistrate, justice of the peace or superior court judge for an order of protection for the purpose of restraining a person from committing an act included in domestic violence. If the person is a minor, the parent, legal guardian or person who has legal custody of the minor shall file the petition unless the court determines otherwise. The petition shall name the parent, guardian or custodian as the plaintiff and the minor is a specifically designated person for the purposes of subsection G of this section. If a person is either temporarily or permanently unable to request an order, a third party may request an order of protection on behalf of the plaintiff. After the request, the judicial officer shall determine if the third party is an appropriate requesting party for the plaintiff. For the purposes of this section, notwithstanding the location of the plaintiff or defendant, any court in this state may issue or enforce an order of protection.

B. An order of protection shall not be granted:

1. Unless the party who requests the order files a written verified petition for an order.
2. Against a person who is less than twelve years of age unless the order is granted by the juvenile division of the superior court.
3. Against more than one defendant.

C. The petition shall state the:

1. Name of the plaintiff. The plaintiff's address and contact information shall be disclosed to the court for purposes of service and notification. The address and contact information shall not be listed on the petition. Whether or not the court issues an order of protection, the plaintiff's address and contact information shall be maintained in a separate document or automated database and is not subject to release or disclosure by the court or any form of public access except as ordered by the court.

2. Name and address, if known, of the defendant.

3. Specific statement, including dates, of the domestic violence alleged.

4. Relationship between the parties pursuant to § 13-3601, subsection A and whether there is pending between the parties an action for maternity or paternity, annulment, legal separation or dissolution of marriage.

5. Name of the court in which any prior or pending proceeding or order was sought or issued concerning the conduct that is sought to be restrained.

6. Desired relief.

D. A fee shall not be charged for filing a petition under this section or for service of process. Each court shall provide, without charge, forms for purposes of this section for assisting parties without counsel. The court shall make reasonable efforts to provide the appropriate information to both parties on emergency and counseling services that are available in the local area.

E. The court shall review the petition, any other pleadings on file and any evidence offered by the plaintiff, including any evidence of harassment by electronic contact or communication, to determine whether the orders requested should issue without further hearing. The court shall issue an order of protection under subsection G of this section if the court determines that there is reasonable cause to believe any of the following:

1. The defendant may commit an act of domestic violence.

2. The defendant has committed an act of domestic violence within the past year or within a longer period of time if the court finds that good cause exists to consider a longer period.

F. For the purposes of determining the period of time under subsection E, paragraph 2 of this section, any time that the defendant has been incarcerated or out of this state shall not be counted. If the court denies the requested relief, it may schedule a further hearing within ten days, with reasonable notice to the defendant.

G. If a court issues an order of protection, the court may do any of the following:

1. Enjoin the defendant from committing a violation of one or more of the offenses included in domestic violence.

2. Grant one party the use and exclusive possession of the parties' residence on a showing that there is reasonable cause to believe that physical harm may otherwise result. If the other party is accompanied by a law enforcement officer, the other party may return to the residence on one occasion to retrieve belongings. A law enforcement officer is not liable for any act or omission in the good faith exercise of the officer's duties under this paragraph. While the order of protection is in effect, if a party was granted the use and exclusive possession of the parties' residence and subsequently moves out of the house, the

party must file a notice in writing with the court within five days after moving out of the residence. After receiving the notification from the plaintiff, the court shall provide notice to the defendant that the plaintiff has moved out of the residence and of the defendant's right to request a hearing pursuant to subsection L of this section.

3. Restrain the defendant from contacting the plaintiff or other specifically designated persons and from coming near the residence, place of employment or school of the plaintiff or other specifically designated locations or persons on a showing that there is reasonable cause to believe that physical harm may otherwise result.

4. If the court finds that the defendant is a credible threat to the physical safety of the plaintiff or other specifically designated persons, prohibit the defendant from possessing or purchasing a firearm for the duration of the order. If the court prohibits the defendant from possessing a firearm, the court shall also order the defendant to transfer any firearm owned or possessed by the defendant immediately after service of the order to the appropriate law enforcement agency for the duration of the order. If the defendant does not immediately transfer the firearm, the defendant shall transfer the firearm within twenty-four hours after service of the order.

5. If the order was issued after notice and a hearing at which the defendant had an opportunity to participate, require the defendant to complete a domestic violence offender treatment program that is provided by a facility approved by the department of health services or a probation department or any other program deemed appropriate by the court.

6. Grant relief that is necessary for the protection of the alleged victim and other specifically designated persons and that is proper under the circumstances.

7. Grant the plaintiff the exclusive care, custody or control of any animal that is owned, possessed, leased, kept or held by the plaintiff, the defendant or a minor child residing in the residence or household of the plaintiff or the defendant, and order the defendant to stay away from the animal and forbid the defendant from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect in violation of § 13-2910 or otherwise disposing of the animal.

H. The court shall not grant a mutual order of protection. If opposing parties separately file verified petitions for an order of protection, the courts after consultation between the judges involved may consolidate the petitions of the opposing parties for hearing. This does not prohibit a court from issuing cross orders of protection.

I. After granting an order of protection, the court shall provide the order to a law enforcement agency or a constable as set forth in subsection J of this section for service or to an entity that is authorized in subsection K of this section to serve process. The agency or entity serving the order shall provide confirmation of service to the plaintiff as soon as practicable. If service of an order cannot be completed within fifteen days after the agency or entity receives the order, the agency or entity that is attempting service shall notify the plaintiff and continue to attempt service. This notification may be completed by a victim notification system, if available.

J. If the order of protection is provided to a law enforcement agency or a constable, service of an order of protection is as follows:

1. For each order of protection that is issued by a municipal court, if the defendant can be served within that city or town, the order shall be served by the law enforcement agency of that city or town. If the order

can be served in another city or town, the order shall be served by the law enforcement agency of that city or town. If the order cannot be served within a city or town, the order shall be served by the sheriff or constable of the county in which the defendant can be served.

2. For each order of protection that is issued by a justice of the peace, the order of protection shall be served by the sheriff or constable of the county in which the defendant can be served or by a municipal law enforcement agency.

3. For each order of protection that is issued by a superior court judge or commissioner, the order of protection shall be served by the sheriff or constable of the county where the defendant can be served.

K. In addition to persons authorized to serve process pursuant to rule 4(d) of the Arizona rules of civil procedure, a peace officer or a correctional officer as defined in § 41-1661 who is acting in the officer's official capacity may serve an order of protection that is issued pursuant to this section. Service of the order of protection has priority over other service of process that does not involve an immediate threat to the safety of a person.

L. At any time during the period during which the order is in effect, a party who is under an order of protection or who is restrained from contacting the other party is entitled to one hearing on written request. No fee may be charged for requesting a hearing. A hearing that is requested by a party who is under an order of protection or who is restrained from contacting the other party shall be held within ten days from the date requested unless the court finds good cause to continue the hearing. If exclusive use of the home is awarded, the hearing shall be held within five days from the date requested. The hearing shall be held at the earliest possible time. An ex parte order that is issued under this section shall state on its face that the defendant is entitled to a hearing on written request and shall include the name and address of the judicial office where the request may be filed. After the hearing, the court may modify, quash or continue the order. If exclusive use of the home is awarded to the party, the court, on written request of a party, may hold additional hearings at any time if there is a change in circumstances related to the primary residence.

M. The order shall include the following statement:

Warning

This is an official court order. If you disobey this order, you will be subject to arrest and prosecution for the crime of interfering with judicial proceedings and any other crime you may have committed in disobeying this order.

N. An order of protection that is not served on the defendant within one year after the date that the order is issued expires. An order is effective on the defendant on service of a copy of the order and petition. An order expires one year after service on the defendant. A modified order is effective on service and expires one year after service of the initial order and petition.

O. A supplemental information form that is used by the court or a law enforcement agency solely for the purposes of service of process on the defendant and that contains information provided by the plaintiff is confidential.

P. Each affidavit, declaration, acceptance or return of service shall be filed as soon as practicable but not later than seventy-two hours, excluding weekends and holidays, with the clerk of the issuing court or as otherwise required by court rule. This filing shall be completed in person, electronically or by fax. Within twenty-four hours after the affidavit, declaration, acceptance or return of service has been filed, excluding

weekends and holidays, the court from which the order or any modified order was issued shall register the order with the national crime information center. The supreme court shall maintain a central repository for orders of protection so that the existence and validity of the orders can be easily verified. The effectiveness of an order does not depend on its registration, and for enforcement purposes pursuant to § 13-2810, a copy of an order of the court, whether or not registered, is presumed to be a valid existing order of the court for a period of one year from the date of service of the order on the defendant.

Q. A peace officer, with or without a warrant, may arrest a person if the peace officer has probable cause to believe that the person has violated § 13-2810 by disobeying or resisting an order that is issued in any jurisdiction in this state pursuant to this section, whether or not such violation occurred in the presence of the officer. Criminal violations of an order issued pursuant to this section shall be referred to an appropriate law enforcement agency. The provisions for release under § 13-3883, subsection A, paragraph 4 and § 13-3903 do not apply to an arrest made pursuant to this section. For the purposes of this section, any court in this state has jurisdiction to enforce a valid order of protection that is issued in this state and that has been violated in any jurisdiction in this state.

R. A person who is arrested pursuant to subsection Q of this section may be released from custody in accordance with the Arizona rules of criminal procedure or any other applicable statute. An order for release, with or without an appearance bond, shall include pretrial release conditions that are necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide for any other additional conditions that the court deems appropriate, including participation in any counseling programs available to the defendant. The agency with custody of the defendant shall make reasonable efforts to contact the victim and other specifically designated persons in the order of protection, if known to the custodial agency, who requested notification immediately on release of the arrested person from custody.

S. The remedies provided in this section for enforcement of the orders of the court are in addition to any other civil and criminal remedies available. The superior court shall have exclusive jurisdiction to issue orders of protection in all cases if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. A municipal court or justice court shall not issue an order of protection if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. After issuance of an order of protection, if the municipal court or justice court determines that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties, the municipal court or justice court shall stop further proceedings in the action and forward all papers, together with a certified copy of docket entries or any other record in the action, to the superior court where they shall be docketed in the pending superior court action and shall proceed as though the petition for an order of protection had been originally brought in the superior court.

Notwithstanding any other law and unless prohibited by an order of the superior court, a municipal court or justice court may hold a hearing on all matters relating to its ex parte order of protection if the hearing was requested before receiving written notice of the pending superior court action. No order of protection shall be invalid or determined to be ineffective merely because it was issued by a lower court at a time when an action for maternity or paternity, annulment, legal separation or dissolution of marriage was pending in a higher court. After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney fees, if any. An order that is entered by a justice court or municipal court after a hearing pursuant to this section may be appealed to the superior court as provided in title 22, chapter 2, article 4,1 § 22-425, subsection B and the superior court rules of civil appellate procedure without regard to an amount in controversy. No fee may be

charged to either party for filing an appeal. For the purposes of this subsection, “pending” means, with respect to an action for annulment, legal separation or dissolution of marriage or for maternity or paternity, either that:

1. An action has been commenced but a final judgment, decree or order has not been entered.
2. A post-decree proceeding has been commenced but a judgment, decree or order finally determining the proceeding has not been entered.

T. A peace officer who makes an arrest pursuant to this section or § 13-3601 is not civilly or criminally liable for the arrest if the officer acts on probable cause and without malice.

U. A valid protection order that is related to domestic or family violence and that is issued by a court in another state, a court of a United States territory or a tribal court shall be accorded full faith and credit and shall be enforced as if it were issued in this state for as long as the order is effective in the issuing jurisdiction. For the purposes of this subsection:

1. A protection order includes any injunction or other order that is issued for the purpose of preventing violent or threatening acts or harassment against, contact or communication with or physical proximity to another person. A protection order includes temporary and final orders other than support or child custody orders that are issued by civil and criminal courts if the order is obtained by the filing of an independent action or is a pendente lite order in another proceeding. The civil order shall be issued in response to a complaint, petition or motion that was filed by or on behalf of a person seeking protection.

2. A protection order is valid if the issuing court had jurisdiction over the parties and the matter under the laws of the issuing state, a United States territory or an Indian tribe and the person against whom the order was issued had reasonable notice and an opportunity to be heard. If the order is issued ex parte, the notice and opportunity to be heard shall be provided within the time required by the laws of the issuing state, a United States territory or an Indian tribe and within a reasonable time after the order was issued.

3. A mutual protection order that is issued against both the party who filed a petition or a complaint or otherwise filed a written pleading for protection against abuse and the person against whom the filing was made is not entitled to full faith and credit if either:

- (a) The person against whom an initial order was sought has not filed a cross or counter petition or other written pleading seeking a protection order.

- (b) The issuing court failed to make specific findings supporting the entitlement of both parties to be granted a protection order.

4. A peace officer may presume the validity of and rely on a copy of a protection order that is issued by another state, a United States territory or an Indian tribe if the order was given to the officer by any source. A peace officer may also rely on the statement of any person who is protected by the order that the order remains in effect. A peace officer who acts in good faith reliance on a protection order is not civilly or criminally liable for enforcing the protection order pursuant to this section.

V. For the purposes of this section, “victim notification system” means an automated system that may provide plaintiffs and crime victims with an automated notification regarding the person's case.

No Applicable Animal Related Case Law.

9. Veterinarians:

§ 32-2239. Duty of veterinarian to report suspected abuse, cruelty, neglect or animal fighting; immunity

A. A veterinarian who reasonably suspects or believes that an animal has been a victim of abuse, cruelty or neglect or has been involved in animal fighting shall report that suspicion, or cause a report to be made, to law enforcement within forty-eight hours after treatment or examination. The report shall include the breed and description of the animal and the name and address of the owner or person who sought the examination or treatment. Veterinary records shall be provided to local law enforcement on request in furtherance of any criminal investigation for abuse, cruelty, neglect or animal fighting.

B. A veterinarian shall report, in writing, suspected cases of abuse of livestock to the associate director of the division of animal services in the Arizona department of agriculture pursuant to title 3, chapter 11, article 1.⁵ The report shall be made within forty-eight hours after treatment or examination and shall include the breed and description of the animal together with the name and address of the owner.

C. A veterinarian who files a report as provided in this section shall be immune from civil liability with respect to any report made in good faith.

No Applicable Case Law.

§ 32-2240. Reporting of unprofessional conduct; immunity

A. Any person may report to the board any information the person has that appears to show that a veterinarian is or may be medically incompetent or is or may be guilty of:

1. Unprofessional conduct.
2. Animal abuse.

B. A person who reports information to the board in good faith pursuant to this section is immune from civil liability.

No Applicable Case Law.

10. Pet Retailers

§ 44-1799.04. Animal care requirements; violation; classification

A. A pet dealer shall do the following:

1. Maintain facilities in which cats or dogs are housed in a sanitary condition.
2. Provide cats or dogs with potable water and adequate nutrition.
3. Provide adequate space that is appropriate to the age, size, weight, species and breed of cat or dog. For the purposes of this paragraph, "adequate space" means sufficient space for the cat or dog to experience normal body movements without having to make contact with the sides or top of the enclosure, including the ability to stand up, sit down, turn about freely and relax in a natural position.

⁵ Section 3-1201 et seq.

4. If cats or dogs are housed on wire flooring, provide a resting board, a floormat or another similar device that is maintained in a sanitary condition and that allows the cat or dog to rest off of the wire flooring.
 5. If a cat or dog is afflicted with a contagious disease, handle the cat or dog in a manner that is required by § 44-1799.01, subsection B.
 6. Promptly provide appropriate veterinary care when it is necessary.
- B. A pet dealer shall not offer for sale a cat or dog that is less than eight weeks old.
- C. A pet dealer who violates subsection A of this section is guilty of a class 1 misdemeanor.

No Applicable Case Law.

§ 44-1799.08. Civil penalties; enforcement actions

- A. Except as provided in subsection B or C of this section, a pet dealer who violates this article is subject to a civil penalty of not more than one thousand dollars per violation.
- B. In an action brought by a city, town or county to enforce an ordinance against a pet store or pet dealer who knowingly obtains a dog or cat for sale or resale in violation of § 44-1799.10, subsection A or B or who should have known the dog or cat was obtained for sale or resale in violation of § 44-1799.10, subsection A or B, the pet store or pet dealer is subject to the following penalties:
1. For a first violation, a civil penalty of not more than one thousand dollars per violation.
 2. For a second violation within a five-year period, a civil penalty of not more than two thousand five hundred dollars per violation.
 3. For a third or subsequent violation within a five-year period:
 - (a) A civil penalty of not more than five thousand dollars per violation.
 - (b) An order entered by the court enjoining the pet store or pet dealer from selling or offering for sale, for up to three years, a dog or cat obtained from any person other than a publicly operated pound or a private, charitable nonprofit humane society or from any animal adoption activity conducted by a pound or humane society.
- C. In an action brought to enforce § 44-1799.10, subsection A or B:
1. A violation is a subsequent violation if it occurs within a five-year period after a final judgment or order that the pet store or pet dealer knowingly violated § 44-1799.10, subsection A or B or should have known of the violation.
 2. In addition to any other defense that may be raised, a pet store or pet dealer is presumed to have acted in good faith and to have satisfied its obligation to ascertain whether a person meets the criteria described in § 44-1799.10, subsection A if, when placing an order to obtain a dog or cat for sale or resale, the pet store or pet dealer conducts a search for inspection reports of the breeder on the animal care information system search tool maintained by the United States department of agriculture.
 3. Each order placed by a pet store or pet dealer to obtain a dog or cat for sale or resale shall be considered a single act, regardless of the number of dogs or cats obtained in the order.

D. This section does not prohibit prosecution for criminal violations.

No Applicable Case Law.

11. Disturbing Animal Life Found in Any Cave or Cavern

§ 13-3702. Defacing or damaging petroglyphs, pictographs, caves or caverns; classification

A. A person commits defacing or damaging petroglyphs, pictographs, caves or caverns if such person knowingly, without the prior written permission of the owner:

1. Breaks, breaks off, cracks, carves upon, writes or otherwise marks upon or in any manner destroys, mutilates, injures, defaces, removes, displaces, mars or harms petroglyphs, pictographs or any natural material found in any cave or cavern; or
2. Kills, harms or disturbs plant or animal life found in any cave or cavern, except for safety reasons; or
3. Disturbs or alters the natural condition of such petroglyph, pictograph, cave or cavern or takes into a cave or cavern any aerosol or other type of container containing paints, dyes or other coloring agents; or
4. Breaks, forces, tampers with, removes or otherwise disturbs a lock, gate, door or other structure or obstruction designed to prevent entrance to a cave or cavern whether or not entrance is gained.

B. As used in this section, “natural material” means stalactites, stalagmites, helictites, anthodites, gypsum flowers or needles, flowstone, draperies, columns, tufa dams, clay or mud formations or concretions or other similar crystalline mineral formations found in any cave or cavern.

C. Defacing or damaging petroglyphs, pictographs, caves or caverns is a class 2 misdemeanor.

No Applicable Case Law

12. Unlawful Feeding of Wildlife

§ 13-2927. Unlawful feeding of wildlife; classification

A. A person commits unlawful feeding of wildlife by intentionally, knowingly or recklessly feeding, attracting or otherwise enticing wildlife into an area, except for:

1. Persons lawfully taking or holding wildlife pursuant to title 171 or pursuant to rules or orders of the Arizona game and fish commission.
2. Public employees or authorized agents acting within the scope of their authority for public safety or for wildlife management purposes.
3. Normal agricultural or livestock operational practices.
4. Tree squirrels or birds.

B. This section applies in a county with a population of more than two hundred eighty thousand persons.

C. Unlawful feeding of wildlife is a petty offense.

No Applicable Case Law.