

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

## INTRODUCTION

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

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

## Overview of Statutory Provisions

1. **Exemptions** Mo. Rev. Stat. § 578.007 (1983)
2. **Neglect and Abandonment** Mo. Rev. Stat. §578.009 (2013)
3. **Animal Abuse** Mo. Rev. Stat. §578.012; 578.014 (1983)
4. **Dangerous Animal Provisions** Mo Rev. Stat. §578.022; 578.023; 578.024 (2009)
5. **Animal Fighting Provisions** Mo. Rev. Stat. §578.025; 578.027 (1984)
6. **Miscellaneous Provisions** Mo. Rev. Stat. §578.028; 578.029; 578.030; 578.050 (2009)
7. **Animal Fighting, Baiting, and Wrestling Provisions** Mo. Rev. Stat. §578.173; 578.176 (2017)
8. **Service Animals** Mo. Rev. Stat. § 209.202 (2005)
9. **Missouri Consolidated Dog Laws** Mo. Rev. Stat. §273.033 (2009)
10. **Missouri Sentencing Guidelines** Mo. Rev. Stat. §558.011 (2003)
11. **Bestiality Provision** Mo. Rev. Stat. §566.111 (2002)

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<sup>1</sup> Joseph Muller and Danielle Caputo produced this document as an undertaking of the George Washington University Law School's Animal Welfare Project, and worked under the guidance of the Project's founder and faculty director, Professor Joan Schaffner.

## 1. Exemptions

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

The provisions of sections 578.005 to 578.023 shall not apply to:

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

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

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

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

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

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

11. Field trials, training and hunting practices as accepted by the Professional Houndsmen of Missouri.

## Applicable Case Law

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

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

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

## 2. Neglect and Abandonment

### **578.009. Animal neglect or abandonment—penalties—costs and expenses**

1. A person is guilty of animal<sup>6</sup> neglect when he has custody or ownership or both of an animal and fails to provide adequate care<sup>7</sup> or adequate control<sup>8</sup>, which results in substantial harm to the animal.
2. A person is guilty of abandonment when he has knowingly abandoned an animal in any place without making provisions for its adequate care.
3. Animal neglect and abandonment is a class C misdemeanor upon first conviction and for each offense, punishable by imprisonment or a fine not to exceed five hundred dollars, or both, and a class B misdemeanor punishable by imprisonment or a fine not to exceed one thousand dollars, or both upon the second and all subsequent convictions. All fines and penalties for a first conviction of animal neglect or abandonment may be waived by the court provided that the person found guilty of animal neglect or abandonment shows that adequate, permanent remedies for the neglect or abandonment have been made. Reasonable costs incurred for the care and maintenance of neglected or abandoned animals may not be waived. This section shall not apply to the provisions of section 578.007.

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<sup>6</sup> 578.005(3) “Animal”, every living vertebrate except a human being;

<sup>7</sup> §578.005 “adequate care,” normal and prudent attention to the needs of an animal, including wholesome food, clean water, shelter and health care as necessary to maintain good health in a specific species of animal”

<sup>8</sup> §578.005(2) “adequate control,” to reasonably restrain or govern an animal so that the animal does not injure itself, any person, any other animal, or property”

4. In addition to any other penalty imposed by this section, the court may order a person found guilty of animal neglect or abandonment to pay all reasonable costs and expenses necessary for:
  - (1) The care and maintenance of neglected or abandoned animals within the person's custody or ownership;
  - (2) The disposal of any dead or diseased animals within the person's custody or ownership;
  - (3) The reduction of resulting organic debris affecting the immediate area of the neglect or abandonment; and
  - (4) The avoidance or minimization of any public health risks created by the neglect or abandonment of the animals.

### **Applicable Case Law**

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

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

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

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

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

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

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

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

**Facts:** Defendant filed a writ of mandamus challenging the authority of two Humane Societies to

dispose of 120 emaciated horses seized from Zobel’s property.

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

### 3. **Animal Abuse**

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

1. A person is guilty of animal abuse when a person:
  - (1) Intentionally or purposely kills an animal in any manner not allowed by or expressly exempted from the provisions of sections 578.005 to 578.023 and 273.030, RSMo<sup>9</sup>;
  - (2) Purposely or intentionally causes injury or suffering to an animal; or
  - (3) Having ownership or custody of an animal knowingly fails to provide adequate care or adequate control.<sup>10</sup>
2. Animal abuse is a class A misdemeanor, unless the defendant has previously plead guilty to or has been found guilty of animal abuse or the suffering involved in subdivision (2) of subsection 1 of this section is the result of torture or mutilation, or both, consciously inflicted while the animal was alive, in which case it is a class D felony.

#### **Applicable Case Law**

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

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

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

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<sup>9</sup> **Section 273.030 provides that dogs may be killed** when in the act of killing, wounding or chasing sheep in any portion of this state, or under such circumstances as to satisfactorily show that such dog or dogs has or have been recently engaged in killing or chasing sheep or other domestic animal or animals, such person is authorized to immediately pursue and kill such dog or dogs; provided, however, that such dog or dogs shall not be killed in any enclosure belonging to or being in lawful possession of the owner of such dog or dogs.

<sup>10</sup> See footnotes supra for definitions of the terms adequate care and adequate control.

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

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

**Holding:** Criminal intent is an essential element of the offense of cruelty to animals. Criminal intent could be inferred from Defendant’s act of intentionally impounding and confining animals, and failing to supply them with sufficient food.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**No Applicable Case Law**

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

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

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

**No Applicable Case Law**

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

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

**No Applicable Case Law**

##### **578.24. Subsequent dog bite without provocation--owner guilty of felony--appeal**

1. If a dog that has previously bitten a person or a domestic animal without provocation bites any person on a subsequent occasion, the owner or possessor is guilty of a class B misdemeanor unless such attack:
  - (1) Results in serious injury to any person, in which case, the owner or possessor is guilty of a class A misdemeanor; or
  - (2) Results in serious injury to any person and any previous attack also resulted in serious injury to any person, in which case, the owner or possessor is guilty of a class D felony; or
  - (3) Results in the death of any person, in which case, the owner or possessor shall be guilty of a class C felony.
2. In addition to the penalty included in subsection 1 of this section, if any dog that has previously bitten a person or a domestic animal without provocation bites any person on a



subsequent occasion or if a dog that has not previously bitten a person attacks and causes serious injury to or the death of any human, the dog shall be seized immediately by an animal control authority or by the county sheriff. The dog shall be impounded and held for ten business days after the owner or possessor is given written notification and thereafter destroyed.

3. The owner or possessor of the dog that has been impounded may file a written appeal to the circuit court to contest the impoundment and destruction of such dog. The owner or possessor shall provide notice of the filing of the appeal to the animal control authority or county sheriff who seized the dog. If the owner or possessor files such an appeal and provides proper notice, the dog shall remain impounded and shall not be destroyed while such appeal is pending and until the court issues an order for the destruction of the dog. The court shall hold a disposition hearing within thirty days of the filing of the appeal to determine whether such dog shall be humanely destroyed. The court may order the owner or possessor of the dog to pay the costs associated with the animal's keeping and care during the pending appeal.
4. Notwithstanding any provision of sections 273.033 and 273.036, RSMo, section 578.022 and this section to the contrary, if a dog attacks or bites a person who is engaged in or attempting to engage in a criminal activity at the time of the attack, the owner or possessor is not guilty of any crime specified under this section or section 273.036, RSMo, and is not civilly liable under this section or section 273.036, RSMo, nor shall such dog be destroyed as provided in subsection 2 of this section, nor shall such person engaged in or attempting to engage in a criminal activity at the time of the attack be entitled to the defenses set forth in section 273.033, RSMo. For purposes of this section “criminal activity” shall not include the act of trespass upon private property under section 569.150, RSMo, as long as the trespasser does not otherwise engage in, attempt to engage in, or have intent to engage in other criminal activity nor shall it include any trespass upon private property by a person under the age of twelve under section 569.140, RSMo.

### **No Applicable Case Law**

## **5. Animal Fighting Provisions**

### **578.25. Dogs, fighting, training to fight or injuring for amusement or gain, penalty--spectator, penalty**

1. Any person who:
  - (1) Owns, possesses, keeps, or trains any dog, with the intent that such dog shall be

engaged in an exhibition of fighting with another dog;

- (2) For amusement or gain, causes any dog to fight with another dog, or causes any dogs to injure each other; or
  - (3) Permits any act as described in subdivision (1) or (2) of this subsection to be done on any premises under his charge or control, or aids or abets any such act is guilty of a class D felony.
2. Any person who is knowingly present, as a spectator, at any place, building, or structure where preparations are being made for an exhibition of the fighting of dogs, with the intent to be present at such preparations, or is knowingly present at such exhibition or at any other fighting or injuring as described in subdivision (2) of subsection 1 of this section, with the intent to be present at such exhibition, fighting, or injuring is guilty of a class A misdemeanor.
  3. Nothing in this section shall be construed to prohibit:
    - (1) The use of dogs in the management of livestock by the owner of such livestock or his employees or agents or other persons in lawful custody of such livestock;
    - (2) The use of dogs in hunting; or
    - (3) The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law.

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

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

1. No person shall tie or attach or fasten any live animal to any machine or device propelled by any power for the purpose of causing such animal to be pursued by a dog or dogs.
2. Any person violating this section is guilty of a class A misdemeanor.

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

### **6. Miscellaneous Provisions**

#### **578.28. Removal of electronic or radio transmitting collar from dog without owner's permission**

Any person who removes an electronic or radio transmitting collar from a dog without the permission of the owner of the dog with the intent to prevent or hinder the owner from locating

the dog, is guilty of a class A misdemeanor. Upon a plea or finding of guilt, the court shall order that the defendant pay as restitution the actual value of any dog lost or killed as a result of such removal. The court may also order restitution to the owner for any lost breeding revenues.

### **No Applicable Case Law**

### **578.29. Knowingly releasing an animal; exceptions; misdemeanor**

1. A person commits the crime of knowingly releasing an animal if that person, acting without the consent of the owner or custodian of an animal, intentionally releases any animal that is lawfully confined for the purpose of companionship or protection of persons or property or for recreation, exhibition or educational purposes.
2. As used in this section “animal” means every living creature, domesticated or wild, but not including Homo sapiens.
3. The provisions of this section shall not apply to a public servant acting in the course of such servant's official duties.
4. Intentionally releasing an animal is a class B misdemeanor except that the second or any subsequent offense is a class D felony.

### **No Applicable Case Law**

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

Any person who shall keep or use, or in any way be connected with or interested in the management of, or shall receive money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, cock or other creature, except dogs, and any person who shall encourage, aid or assist or be present thereat, or who shall permit or suffer any place belonging to him or under his control to be so kept or used, shall, on conviction thereof, be guilty of a class A misdemeanor.

### **Applicable Case Law**

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

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

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

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

### 578.173. Baiting or fighting animals--penalty

1. Any person<sup>11</sup> who commits any of the following acts is guilty of a class D felony:
  - (1) Baiting<sup>12</sup> or fighting animals<sup>13</sup>;
  - (2) Permitting baiting or animal fighting to be done on any premises under his charge or control;
  - (3) Promoting, conducting, or staging a baiting or fight between two or more animals;
  - (4) Advertising a baiting or fight between two or more animals;
  - (5) Collecting any admission fee for a baiting or fight between two or more animals.
2. Any person who commits any of the following acts is guilty of a class A misdemeanor:
  - (1) Knowingly attending the baiting or fighting of animals;
  - (2) Knowingly selling, offering for sale, shipping, or transporting any animal which has been bred or trained to bait or fight another animal;
  - (3) Owning or possessing any of the cockfighting implements, commonly known as gaffs and slashers, or any other sharp implement designed to be attached to the leg of a gamecock;
  - (4) Manufacturing, selling, bartering or exchanging any of the cockfighting implements, commonly known as gaffs and slashers, or any other sharp implement designed to be attached to the leg of a gamecock.

### Applicable Case Law

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<sup>11</sup> **MO ST 578.170(4) “Person,”** any individual, partnership, firm, joint stock company, corporation, association, other business unit, society, trust, estate or other legal entity, or any public or private institution.

<sup>12</sup> **MO ST 578.170(2) “Baiting,”** to attack, provoke, or harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with other animals for the purpose of amusement, entertainment, wagering or gain;

<sup>13</sup> **MO ST 578.170(1) “Animal,”** every living vertebrate except a human being;

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

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

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

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

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

**578.176. Bear wrestling--penalty**

Any person who commits any of the following acts is guilty of a class A misdemeanor:

- (1) Bear wrestling<sup>14</sup>;
- (2) Permitting bear wrestling to be done on any premises under his charge or control;
- (3) Promoting, conducting, or staging bear wrestling;
- (4) Advertising bear wrestling;
- (5) Collecting any admission fee for bear wrestling;
- (6) Purchasing, selling, or possessing a bear which he knows will be used for bear wrestling;
- (7) Training a bear for bear wrestling;
- (8) Subjecting a bear to surgical alteration for bear wrestling.

**Applicable Case Law**

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

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<sup>14</sup> **MO ST 578.170(3)** “**Bear wrestling**,” a contest of fighting or physical altercation between one or more persons and a bear for the purpose of amusement, entertainment, wagering or gain;

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

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

## 8. SERVICE ANIMALS

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

1. Any person who knowingly, intentionally, or recklessly causes substantial physical injury to or the death of a service dog<sup>15</sup> is guilty of a class A misdemeanor. The provisions of this subsection shall not apply to the destruction of a service dog for humane purposes.
2. Any person who knowingly or intentionally fails to exercise sufficient control over an animal such person owns, keeps, harbors, or exercises control over to prevent the animal from causing the substantial physical injury to or death of a service dog, or the subsequent inability to function as a service dog as a result of the animal's attacking, chasing, or harassing the service dog is guilty of a class A misdemeanor.
3. Any person who harasses or chases a dog known to such person to be a service dog is guilty of a class B misdemeanor.
4. Any person who owns, keeps, harbors, or exercises control over an animal and who knowingly or intentionally fails to exercise sufficient control over the animal to prevent such animal from chasing or harassing a service dog while such dog is carrying out the dog's function as a service dog, to the extent that the animal temporarily interferes with the service dog's ability to carry out the dog's function is guilty of a class B misdemeanor.

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<sup>15</sup> **MO ST 209.200 (2) “Service dog”**, a dog that is being or has been specially trained to do work or perform tasks which benefit a particular person with a disability. Service dog includes:

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

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

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

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

5. An owner of a service dog or a person with a disability<sup>16</sup> who uses a service dog may file a cause of action to recover civil damages against any person who:
  - (1) Violates the provisions of subsection 1 or 2 of this section; or
  - (2) Steals a service dog resulting in the loss of the services of the service dog.
6. Any civil damages awarded under subsection 5 of this section shall be based on the following:
  - (1) The replacement value of an equally trained service dog, without any differentiation for the age or experience of the service dog;
  - (2) The cost and expenses incurred by the owner of a service dog or the person with a disability who used the service dog, including:
    - (a) The cost of temporary replacement services, whether provided by another service dog or by a person;
    - (b) The reasonable costs incurred in efforts to recover a stolen service dog; and
    - (c) Court costs and attorney's fees incurred in bringing a civil action under subsection 5 of this section.
7. An owner of a service dog or a person with a disability who uses a service dog may file a cause of action to recover civil damages against a person who:
  - (1) Violates the provisions of subsections 1 to 4 of this section resulting in injury from which the service dog recovers to an extent that the dog is able to function as a service dog for the person with a disability; or
  - (2) Steals a service dog and the service dog is recovered resulting in the service dog being able to function as a service dog for the person with a disability.
8. Any civil damages awarded under subsection 7 of this section shall be based on the following:
  - (1) Veterinary medical expenses;
  - (2) Retraining expenses;
  - (3) The cost of temporary replacement services, whether provided by another service

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<sup>16</sup> **MO ST 213.010 (4) “Disability”**, a physical or mental impairment which substantially limits one or more of a person's major life activities, being regarded as having such an impairment, or a record of having such an impairment, which with or without reasonable accommodation does not interfere with performing the job, utilizing the place of public accommodation, or occupying the dwelling in question...

dog or by a person;

(4) Reasonable costs incurred in the recovery of the service dog; and

(5) Court costs and attorney's fees incurred in bringing the civil action under subsection 7 of this section.

9. The provisions of this section shall not apply if a person with a disability, an owner, or a person having custody or supervision of a service dog commits criminal or civil trespass.

10. Nothing in this section shall be construed to preclude any other remedies available at law.

### **No Applicable Case Law**

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

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

1. In any action for damages or a criminal prosecution against any person for killing or injuring a dog<sup>17</sup>, a showing by a preponderance of the evidence that such person was in reasonable apprehension of imminent harmful contact by the dog or was acting to prevent such imminent harmful contact against another person by the dog shall constitute an absolute defense to criminal prosecution or civil liability for the killing or injuring of such animal.
2. If a person has, on at least two occasions, complained to the county sheriff or to the appropriate animal control authority in his or her jurisdiction that a dog, not on a leash, has trespassed on property that such person owns, rents, or leases or on any property that constitutes such person's residence, and when at least one of the prior two complaints was motivated by reasonable apprehension for such person's safety or the safety of another person or apprehension of substantial damage to livestock or property, then any subsequent trespass by such dog shall constitute prima facie evidence that such person was in reasonable apprehension of imminent harmful contact. The county sheriff or animal control authority to which any complaint under this section is made shall notify the owner of the alleged trespassing dog of such complaint. Failure by a county sheriff or animal control authority to notify a dog owner under this subsection shall not invalidate or be construed in any way to limit any other provision of this subsection.
3. The court shall award attorney's fees, court costs, and all reasonable expenses incurred by the defendant in defense of any criminal prosecution or in any civil action brought by a

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<sup>17</sup>**MO ST 273.010. Dog** defined: The word "dog", as used in sections 273.010 to 273.030, shall be held and construed to mean all animals of the canine species, both male and female.



plaintiff if the court finds that the defendant has an absolute defense as provided in subsection 1 of this section.

4. This section shall not be construed to provide an absolute defense to a person who is engaged in or attempting to engage in a criminal activity at the time of the apprehension of imminent harmful contact, or to a person for any damage or injury to any person or property other than the dog itself that may result from actions taken in an attempt to injure or kill such dog.

### **No Applicable Case Law**

## **10. Missouri Sentencing Guidelines**

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

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

1. The authorized terms of imprisonment, including both prison and conditional release terms, are:
  - (1) For a class A felony, a term of years not less than ten years and not to exceed thirty years, or life imprisonment;
  - (2) For a class B felony, a term of years not less than five years and not to exceed fifteen years;
  - (3) For a class C felony, a term of years not to exceed seven years;
  - (4) For a class D felony, a term of years not to exceed four years;
  - (5) For a class A misdemeanor, a term not to exceed one year;
  - (6) For a class B misdemeanor, a term not to exceed six months;
  - (7) For a class C misdemeanor, a term not to exceed fifteen days.
2. In cases of class C and D felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or other authorized penal institution, and the court shall fix the place of confinement. If the court imposes a sentence of imprisonment for a term longer than one year upon a person convicted of a class C or D felony, it shall commit the person to the custody of the department of corrections for a term of years not less than two years and not exceeding the maximum authorized terms provided in subdivisions (3) and (4) of subsection 1 of this section.
3. [§§558.011(3)-(5) omitted]

## **11. Bestiality Provision**

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

1. A person commits the crime of unlawful sex with an animal if that person engages in sexual conduct with an animal or engages in sexual conduct with an animal for commercial or recreational purposes.

2. Unlawful sex with an animal is a class A misdemeanor unless the defendant has previously been convicted under this section, in which case the crime is a class D felony.

3. In addition to any penalty imposed or as a condition of probation the court may:

(1) Prohibit the defendant from harboring animals or residing in any household where animals are present during the period of probation or if probation is not granted for a period of time not to exceed two years after the defendant's sentence is completed;

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

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

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

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

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

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

### **No Applicable Case Law**