

**§4016. Violation**

**1. Penalty.** A person who violates this chapter commits a civil violation.

A. The court shall adjudge a civil fine of not less than \$500 nor more than \$5,000 for the first violation, none of which may be suspended, and a civil fine of not less than \$1,000 nor more than \$10,000 for a 2nd or subsequent violation of section 4011, none of which may be suspended. [PL 2019, c. 437, §5 (AMD).]

B. The court may order a person adjudicated as having violated the laws against cruelty to animals to pay the costs of the care, housing and veterinary medical treatment for the animal. [PL 2001, c. 425, §4 (NEW).]

C. The court, as part of the judgment, may prohibit a person adjudicated as having violated the laws against cruelty to animals from owning, possessing or having on the defendant's premises an animal for a period of time up to and including permanent relinquishment. [PL 2001, c. 425, §4 (NEW).]

D. The court, as part of the judgment, may order that the defendant submit to and complete a psychological evaluation for in camera review by the court. [PL 2001, c. 425, §4 (NEW).]  
[PL 2019, c. 437, §5 (AMD).]

**1-A. Separate advocate.** In any proceeding brought under this section, the court may order, upon its own initiative or upon request of a party or counsel for a party, that a separate advocate be appointed to represent the interests of justice. A decision of the court denying a request to appoint a separate advocate to represent the interests of justice is not subject to appeal. An advocate appointed under this subsection must be appointed from a list provided to the court by the Maine State Bar Association pursuant to paragraph B.

A. The advocate may:

- (1) Monitor the proceeding;
- (2) Consult any individual with information that could aid the judge or fact finder and review records relating to the condition of the animal and the defendant's actions, including, but not limited to, records from animal control officers, veterinarians and law enforcement officers;
- (3) Attend hearings; and
- (4) Present information or recommendations to the court pertinent to determinations that relate to the interests of justice, as long as the information and recommendations are based solely on the duties undertaken pursuant to this subsection. [PL 2019, c. 547, §1 (NEW).]

B. The Maine State Bar Association shall maintain a list of attorneys with knowledge of animal issues and the legal system and a list of law schools that have students with an interest in animal issues and the legal system. Attorneys and law students serve on a voluntary basis as advocates under this subsection. [PL 2019, c. 547, §1 (NEW).]

[PL 2019, c. 547, §1 (NEW).]

**2. Criminal or civil prosecution.** A person may be arrested or detained for the crime of cruelty to animals under Title 17, chapter 42, subchapter III in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State may elect to charge a defendant with either the crime of cruelty to animals under Title 17, chapter 42, subchapter III or the civil violation of cruelty to animals under this chapter. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the

State. The election and determination required by this subsection are not subject to judicial review. The factors involved in the election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under Title 17, chapter 42, subchapter III or adjudication under this chapter.

[PL 2001, c. 425, §4 (NEW).]

**3. Affirmative defenses.** It is an affirmative defense to alleged violations of this chapter that the animal was kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the department.

[PL 2007, c. 702, §17 (NEW).]

#### SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1993, c. 81, §1 (AMD). PL 1997, c. 170, §1 (AMD). PL 1999, c. 254, §14 (AMD). PL 1999, c. 597, §2 (AMD). PL 2001, c. 425, §4 (RPR). PL 2007, c. 702, §17 (AMD). PL 2019, c. 437, §5 (AMD). PL 2019, c. 547, §1 (AMD).

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