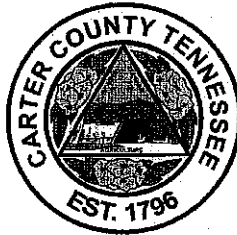


801 E. Elk Avenue, Suite 201
Elizabethton, TN 37643



Telephone: 423-542-1801
Fax: 423-542-9279
E-mail: mayor@cartercountyttn.gov

LEON HUMPHREY
COUNTY MAYOR

July 25, 2017

Elizabethton / Carter County Animal Shelter
Shelter Manager and Staff
135 Sycamore Shoals Drive
Elizabethton, TN 37643

FILED

July 25, 2017
MARY GOUGE
COUNTY CLERK

D.C.

Patsy H. Lewis

RE: Carter County Government - Animal Shelter Department
Policies, Procedures and Internal Controls

Shelter Manager, Transition Team and Advisory Board,

The attached letter dated July 11, 2017 is an update to the Shelter Office's copy of the Standard Operating Procedures (SOPs) and Reference Manuals Binder II Section 2. Please add to the Clerk's Filed Copy and the Shelter's Copy of the Binder Sets. This letter from the County Attorney was supposed to have been included in the original Binder Sets. However, the County Attorney was unable to provide the information by June 27, 2017 due to schedule availability.

Binder II

Section 1: Federal, State and Local Laws

Section 2: Specific ECCAS Questions and Relevant Laws

Section 3: Compiled & Edited Tennessee Laws Pertaining to Animals

Section 4: TN State Records Retention Requirements for Counties

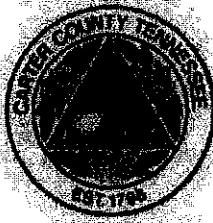
Thank you for all the hard work you do each day for the animals in Carter County Government's care at the ECCAS.

Sincerely,

A handwritten signature in cursive script that reads "Leon Humphrey".

Leon Humphrey

cc: Christa Byrd – Carter County Finance Director
Michael Kennedy – Carter County Deputy Finance Director
Ray Lyons – Carter County Financial Management Committee Chair
Sonja Culler – Carter County Budget Committee Chair
Dexter Lunceford – Carter County Sheriff
Joshua Hardin – Carter County Attorney



Joshua A. Hardin
Carter County Attorney

3883 Highway 19E
 Elizabethton, TN 37643
(423) 542-0200
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July 11, 2017

Susan Robinson
801 E. Elk Avenue
Elizabethton, TN 37643

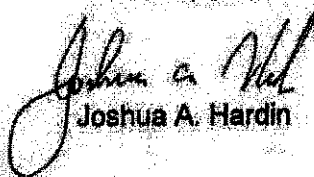
RE: Theft Statutes pertaining to Animal Shelter

Dear Susan:

I send this correspondence in response to your email requesting local, state and federal laws pertaining to the theft and/or unlawful sale or transport of cats and dogs. I believe you are correct that cats and dogs are generally treated as personal property with regard to potential penalties for theft. I am unaware of any local (i.e. City or County) theft laws or regulations, therefore the general theft statutes of Tennessee apply. I have attached those statutes. The punishment or fine is contingent upon the level of misdemeanor or felony the crime is classified as, which is simply graded on the value of the property in question. Tennessee has consolidated its theft statutes such that the actual theft is treated the same as the possession, transport or sale of the stolen property.

Also, there are dozens of classifications of theft punishable under federal law, however, I do not believe there to be any general federal statute for theft which would in any way relate to the animal shelter. If there is some specific situation you are attempting to address I can research further. I have included the Tennessee state statutes on animal cruelty as improperly transporting animals was part of your question and is a form of animal cruelty pursuant to the statutes. Should you have any further questions please do not hesitate to contact me. As always,

Sincerely yours


Joshua A. Hardin

JAH/ana
Enclosures: As stated

West's Tennessee Code Annotated
Title 39. Criminal Offenses
Chapter 12. General Offenses
Part 1. Inchoate Offenses (Refs & Annos)

T. C. A. § 39-12-103

§ 39-12-103. Conspiracy

Currentness

(a) The offense of conspiracy is committed if two (2) or more people, each having the culpable mental state required for the offense that is the object of the conspiracy, and each acting for the purpose of promoting or facilitating commission of an offense, agree that one (1) or more of them will engage in conduct that constitutes the offense.

(b) If a person guilty of conspiracy, as defined in subsection (a), knows that another with whom the person conspires to commit an offense has conspired with one (1) or more other people to commit the same offense, the person is guilty of conspiring with the other person or persons, whether or not their identity is known, to commit the offense.

(c) If a person conspires to commit a number of offenses, the person is guilty of only one (1) conspiracy, so long as the multiple offenses are the object of the same agreement or continuous conspiratorial relationship.

(d) No person may be convicted of conspiracy to commit an offense, unless an overt act in pursuance of the conspiracy is alleged and proved to have been done by the person or by another with whom the person conspired.

(e)(1) Conspiracy is a continuing course of conduct that terminates when the objectives of the conspiracy are completed or the agreement that they be completed is abandoned by the person and by those with whom the person conspired. The objectives of the conspiracy include, but are not limited to, escape from the crime, distribution of the proceeds of the crime, and measures, other than silence, for concealing the crime or obstructing justice in relation to it.

(2) Abandonment of a conspiracy is presumed if neither the person nor anyone with whom the person conspired does any overt act in pursuance of the conspiracy during the applicable period of limitation.

(3) If an individual abandons the agreement, the conspiracy is terminated as to that person only if and when the person, advises those with whom the person conspired of the abandonment, or the person informs law enforcement authorities of the existence of the conspiracy and of the person's participation in the conspiracy.

(f) It is no defense that the offense that was the object of the conspiracy was not committed.

(g) Nothing in this section is intended to modify the evidentiary rules allowing statements of co-conspirators in furtherance of a conspiracy.

Credits

1989 Pub.Acts, c. 591, § 1.

T. C. A. § 39-12-103, TN ST § 39-12-103

Current with laws from the 2017 First Reg. Sess., eff. through June 30, 2017. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text.

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West's Tennessee Code Annotated
Title 39. Criminal Offenses
Chapter 14. Offenses Against Property (Refs & Annos)
Part 2. Animals (Refs & Annos)

T. C. A. § 39-14-202

§ 39-14-202. Cruelty to animals

Effective: July 1, 2010

Currentness

(a) A person commits an offense who intentionally or knowingly:

(1) Tortures, maims or grossly overworks an animal;

(2) Fails unreasonably to provide necessary food, water, care or shelter for an animal in the person's custody;

(3) Abandons unreasonably an animal in the person's custody;

(4) Transports or confines an animal in a cruel manner; or

(5) Inflicts burns, cuts, lacerations, or other injuries or pain, by any method, including blistering compounds, to the legs or hooves of horses in order to make them sore for any purpose including, but not limited to, competition in horse shows and similar events.

(b) A person commits an offense who knowingly ties, tethers, or restrains a dog in a manner that results in the dog suffering bodily injury as defined in § 39-11-106.

(c) It is a defense to prosecution under this section that the person was engaged in accepted veterinary practices, medical treatment by the owner or with the owner's consent, or bona fide experimentation for scientific research.

(d) Whenever any person is taken into custody by any officer for violation of subdivision (a)(4), the officer may take charge of the vehicle or conveyance, and its contents, used by the person to transport the animal. The officer shall deposit these items in a safe place for custody. Any necessary expense incurred for taking charge of and sustaining the same shall be a lien thereon, to be paid before the same can lawfully be recovered; or the expenses, or any part thereof, remaining unpaid may be recovered by the person incurring the same of the owners of the animal in an action therefor.

(e) In addition to the penalty imposed in subsection (g), the court making the sentencing determination for a person convicted under this section shall order the person convicted to surrender custody and forfeit the animal or animals whose treatment was the basis of the conviction. Custody shall be given to a humane society incorporated under the laws

of this state. The court may prohibit the person convicted from having custody of other animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as necessary for the protection of the animals.

(f)(1) Nothing in this section shall be construed as prohibiting the owner of a farm animal or someone acting with the consent of the owner of that animal from engaging in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that animal.

(2) It is an offense for a person other than a law enforcement officer acting with probable cause to knowingly interfere with the performance of any agricultural practices permitted by subdivision (f)(1).

(3) An offense under subdivision (f)(2) is a Class B misdemeanor.

(g)(1) Cruelty to animals is a Class A misdemeanor.

(2) A second or subsequent conviction for cruelty to animals is a Class E felony.

(3) Violation of any prohibition or restriction imposed by the sentencing court pursuant to subsection (e) is a Class A misdemeanor.

Credits

1989 Pub.Acts, c. 591, § 1; 1991 Pub.Acts, c. 223, § 1; 1992 Pub.Acts, c. 840, § 1; 1997 Pub.Acts, c. 90, § 4, eff. July 1, 1997; 2004 Pub.Acts, c. 940, § 6, eff. June 15, 2004; 2007 Pub.Acts, c. 535, § 1, eff. July 1, 2007; 2010 Pub.Acts, c. 816, § 1, eff. July 1, 2010.

T. C. A. § 39-14-202, TN ST § 39-14-202

Current with laws from the 2017 First Reg. Sess., eff. through June 30, 2017. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text.

West's Tennessee Code Annotated
Title 39. Criminal Offenses
Chapter 14. Offenses Against Property (Refs & Annos)
Part 2. Animals (Refs & Annos)

T. C. A. § 39-14-208

§ 39-14-208. Injury to and value of guide dogs

Currentness

A person who intentionally or knowingly unlawfully injures the guide dog of another and, thereby, permanently deprives the owner of the use of the guide dog's services commits theft of that animal and shall be punished under § 39-14-105. In determining the value of the guide dog for purposes of § 39-14-105, the court shall consider the value of the guide dog as both the cost of the dog as well as the cost of any specialized training the guide dog received.

Credits

2004 Pub.Acts, c. 957, § 2, eff. June 15, 2004.

T. C. A. § 39-14-208, TN ST § 39-14-208

Current with laws from the 2017 First Reg. Sess., eff. through June 30, 2017. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text.

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West's Tennessee Code Annotated
Title 39. Criminal Offenses
Chapter 14. Offenses Against Property (Refs & Annos)
Part 1. Theft (Refs & Annos)

T. C. A. § 39-14-105

§ 39-14-105. Theft of property or services

Effective: January 1, 2017

Currentness

(a) Theft of property or services is:

- (1) A Class A misdemeanor if the value of the property or services obtained is one thousand dollars (\$1,000) or less;
- (2) A Class E felony if the value of the property or services obtained is more than one thousand dollars (\$1,000) but less than two thousand five hundred dollars (\$2,500);
- (3) A Class D felony if the value of the property or services obtained is two thousand five hundred dollars (\$2,500) or more but less than ten thousand dollars (\$10,000);
- (4) A Class C felony if the value of the property or services obtained is ten thousand dollars (\$10,000) or more but less than sixty thousand dollars (\$60,000);
- (5) A Class B felony if the value of the property or services obtained is sixty thousand dollars (\$60,000) or more but less than two hundred fifty thousand dollars (\$250,000); and
- (6) A Class A felony if the value of the property or services obtained is two hundred fifty thousand dollars (\$250,000) or more.

(b)(1) In a prosecution for theft of property, theft of services, and any offense for which the punishment is determined pursuant to this section, the state may charge multiple criminal acts committed against one (1) or more victims as a single count if the criminal acts arise from a common scheme, purpose, intent or enterprise.

(2) The monetary value of property from multiple criminal acts which are charged in a single count of theft of property shall be aggregated to establish value under this section.

(c) Venue in a prosecution for any offense punishable pursuant to this section shall be in the county where one (1) or more elements of the offense occurred, or in the county where an act of solicitation, inducement, offer, acceptance, delivery, storage, or financial transaction occurred involving the property, service or article of the victim.

Credits

1989 Pub.Acts, c. 591, § 1; 2012 Pub.Acts, c. 1080, § 1, eff. July 1, 2012; 2016 Pub.Acts, c. 906, § 5.

T. C. A. § 39-14-105, TN ST § 39-14-105

Current with laws from the 2017 First Reg. Sess., eff. through June 30, 2017. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text.

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West's Tennessee Code Annotated
Title 39. Criminal Offenses
Chapter 14. Offenses Against Property (Refs & Annos)
Part 1. Theft (Refs & Annos)

T. C. A. § 39-14-103

§ 39-14-103. Theft of property

Effective: May 27, 2011

Currentness

(a) A person commits theft of property if, with intent to deprive the owner of property, the person knowingly obtains or exercises control over the property without the owner's effective consent.

(b)(1) As a condition of pretrial diversion, judicial diversion, probation or parole for a violation of subsection (a) when the violation occurs as set out in subdivision (b)(2), the person may be required to perform debris removal, clean-up, restoration, or other necessary physical labor at a location within the area affected by the disaster or emergency that is in the county where the offense occurred.

(2) The condition of pretrial diversion, judicial diversion, probation or parole containing the requirement set out in subdivision (b)(1) may be used if the violation of subsection (a) occurs:

(A) During or within thirty (30) days following the occurrence of a tornado, flood, fire, or other disaster or emergency, as defined in § 58-2-101;

(B) Within the area affected by the disaster or emergency; and

(C) When, as a result of the disaster or emergency, the owner of the property taken, or the person charged with custody of the property, is unable to adequately guard, secure or protect the property from theft.

(3) Subdivision (b)(2) shall apply regardless of whether a state of emergency has been declared by a county, the governor, or the president of the United States at the time of or subsequent to the theft.

(4) Any period of physical labor required pursuant to subdivision (b)(1) shall not exceed the maximum sentence authorized pursuant to § 39-14-105.

Credits

1989 Pub.Acts, c. 591, § 1; 2011 Pub.Acts, c. 322, § 1, eff. May 27, 2011.

T. C. A. § 39-14-103, TN ST § 39-14-103

Current with laws from the 2017 First Reg. Sess., eff. through June 30, 2017. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text.

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West's Tennessee Code Annotated
Title 39. Criminal Offenses
Chapter 14. Offenses Against Property (Refs & Annos)
Part 2. Animals (Refs & Annos)

T. C. A. § 39-14-212

§ 39-14-212. Aggravated cruelty to animals; definitions; penalties

Effective: July 10, 2014

Currentness

(a) A person commits aggravated cruelty to animals when, with aggravated cruelty and with no justifiable purpose, the person intentionally kills or intentionally causes serious physical injury to a companion animal.

(b) For purposes of this section:

(1) "Aggravated cruelty" means conduct which is done or carried out in a depraved and sadistic manner and which tortures or maims an animal, including the failure to provide food and water to a companion animal resulting in a substantial risk of death or death;

(2) "Companion animal" means any non-livestock animal as defined in § 39-14-201;

(3) "Elderly" means any person sixty-five (65) years of age or older; and

(4) "Minor" means any person under eighteen (18) years of age.

(c) Subsection (a) is not to be construed to prohibit or interfere with the following endeavors:

(1) Dispatching an animal in any manner absent of aggravated cruelty;

(2) Engaging in lawful hunting, trapping, or fishing activities, including activities commonly associated with the hunting of small game as defined in § 70-1-101(a)(34);

(3) Dispatching rabid or diseased animals;

(4) Dispatching animals posing a clear and immediate threat to human safety;

(5) Performing or conducting bona fide scientific tests, experiments or investigations within or for a bona fide research laboratory, facility or institution;

that the juvenile be evaluated to determine the need for psychiatric or psychological treatment. If the court determines that psychiatric or psychological treatment is appropriate for that juvenile, then the court may order that treatment.

(k) This section does not preclude the court from entering any other order of disposition allowed under this chapter.

(l) The provisions of this section are not to be construed to change, modify, or amend any provision of title 70, involving fish and wildlife;

(m) The provisions of this section do not apply to activities or conduct that are prohibited by § 39-14-203;

(n) The provisions of this section do not apply to equine animals or to animals defined as livestock by the provisions of § 39-14-201;

Credits

2002 Pub.Acts, c. 858, §§ 1, 2; 2004 Pub.Acts, c. 920, § 1, eff. July 1, 2004; 2004 Pub.Acts, c. 940, § 5, eff. June 15, 2004; 2004 Pub.Acts, c. 957, § 4, eff. June 15, 2004.

T. C. A. § 39-14-212, TN ST § 39-14-212

Current with laws from the 2017 First Reg. Sess., eff. through June 30, 2017. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text.