

§1032. Cruelty to birds

1. Cruelty to birds. A person is guilty of cruelty to birds if that person intentionally, knowingly or recklessly:

A. Keeps or uses any live pigeon, fowl or other bird for a target or to be shot at, either for amusement or as a test of skill in marksmanship. Violation of this paragraph is a Class D crime; [PL 2003, c. 452, Pt. I, §21 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

A-1. Violates paragraph A and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; [PL 2003, c. 452, Pt. I, §21 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. Shoots at any bird or is present as a party, umpire or judge at such shooting. Violation of this paragraph is a Class D crime; [PL 2003, c. 452, Pt. I, §21 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

B-1. Violates paragraph B and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; [PL 2003, c. 452, Pt. I, §21 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. Rents any building, shed, room, yard, field or premises or knowingly suffers the use of the building, shed, room, yard, field or premises for any of the purposes described in paragraphs A and B. Violation of this paragraph is a Class D crime; or [PL 2003, c. 452, Pt. I, §21 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

C-1. Violates paragraph C and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime. [PL 2003, c. 452, Pt. I, §21 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. I, §21 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

2. Penalty. The following apply to violations of this section.

A. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$100 for each violation of this section. [PL 2003, c. 452, Pt. I, §22 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence. [PL 2003, c. 452, Pt. I, §22 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
[PL 2003, c. 452, Pt. I, §22 (RPR); PL 2003, c. 452, Pt. X, §2 (AFF).]

3. Exception. Nothing in this section may be construed to prohibit the shooting of wild game in its wild state or the shooting of birds at field trials under the supervision of the Department of Inland Fisheries and Wildlife in accordance with Title 12, chapter 915, subchapter 13.
[PL 2003, c. 414, Pt. B, §32 (AMD); PL 2003, c. 614, §9 (AFF).]

4. Criminal or civil prosecution. A person may not be arrested or detained for cruelty to birds. The attorney for the State shall elect to charge a defendant with the crime of cruelty to birds under this section or the civil violation of cruelty to birds under Title 7, section 4012. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of birds involved, any prior convictions or adjudications of bird 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 is not subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of bird cruelty

and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4012.

[PL 1999, c. 481, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §4 (NEW). PL 1997, c. 690, §71 (AMD). PL 1999, c. 481, §2 (AMD). PL 2003, c. 414, §B32 (AMD). PL 2003, c. 414, §D7 (AFF). PL 2003, c. 452, §§I21,22 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2003, c. 614, §9 (AFF).

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