

HB

147 -

FILE

1

<TARGET><BILL>HB 147</BILL><SUBJECT>HB 147 - FILE
1</SUBJECT><COMM>HJUD29</COMM></TARGET>

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: HB 147
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB147-DEC-EHL-03-27-15
Title: ANIMALS: PROTECTION/RELEASE/CUSTODY
Sponsor: VAZQUEZ
Requester: House Judiciary Committee

Department: Department of Environmental Conservation
Appropriation: Environmental Health
Allocation: Laboratory Services
OMB Component Number: 2065

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2016 Request	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: <u>Elaine Busse Floyd, Director</u>	Phone: <u>(907)269-7644</u>
Division: <u>Environmental Health</u>	Date: <u>03/27/2015 09:00 AM</u>
Approved By: <u>Alice Edwards, Deputy Commissioner</u>	Date: <u>03/27/15</u>
Agency: <u>Department of Environmental Conservation</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. HB 147

Analysis

Analysis/Assumptions:

This bill amends the law to hold an owner of animals lawfully seized due to cruelty responsible for the costs associated with their care during a cruelty trial. It adds pets to protective orders in cases of domestic violence and permits a judge to consider the well-being of an animal when determining custody in a divorce or dissolution.

The Department has the authority under AS 03.55.100(c) to adopt regulations regarding the minimum standards of care for animals. As written, this bill does not require the Department of Environmental Conservation to take any actions that would result in increased fiscal costs.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: HB 147
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB147-DPS-SITS-03-20-15
Title: ANIMALS: PROTECTION/RELEASE/CUSTODY
Sponsor: VAZQUEZ
Requester: House Judiciary

Department: Department of Public Safety
Appropriation: Statewide Support
Allocation: Statewide Information Technology Services
OMB Component Number: 3050

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services	2.9							
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	2.9	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

1004 Gen Fund	2.9							
Total	2.9	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: <u>Gary Lee</u>	Phone: <u>(907)269-5092</u>
Division: <u>Statewide Services</u>	Date: <u>03/20/2015 11:30 AM</u>
Approved By: <u>Gary Folger, Commissioner</u>	Date: <u>03/27/15</u>
Agency: <u>Public Safety</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. HB 147

Analysis

Section 8 of the proposed bill would add two new items to the list in AS 18.65.520(a) of information a peace officer must provide to the victim of domestic violence. The list from the statute is also included in the Alaska Public Safety Information Network record of the domestic violence protective order. Enactment of the bill would require re-programming APSIN with the correct new information. The work would be accomplished by contractor services estimated as 24 hours of labor at a rate of \$120 per hour.

AS 18.65.520(a) requires the peace officer to provide the list of information in writing. The Department of Public Safety prepared and makes available a preprinted pamphlet of the required information for the peace officer to hand out to the victim. The pamphlet would be made obsolete by the new requirements of this bill, and new pamphlets would be required. The current pamphlet was printed using federal funding from the "Services Training Officers and Prosecutors" (STOP) grant. It is presumed that similar grant funding would be expended for a renewed pamphlet.

Main Office
130 Seward St #214
Juneau, Alaska 99801
Phone: (907) 586-3650
Fax: (907) 463-4493
www.andvsa.org



Pro Bono Office
PO Box 6631
Sitka, Alaska 99835
Phone: (907) 747-7545
Fax: (907) 747-7547
www.facebook.com/andvsa

March 27, 2015

Honorable Liz Vazquez
Alaska House of Representatives
State Capitol, Room 428
Juneau, AK 99801

Dear Representative Vazquez,

Thank you for meeting with us and hearing our concerns on HB 149 – Pets in Protective Orders. As you know, we are a membership based statewide coalition representing the direct service domestic violence and sexual assault programs in communities throughout Alaska. On their behalf, we sincerely appreciate your desire to provide the greatest possible provisions to support victims and their safety.

As I indicated to you at our meeting earlier this week, whenever we review proposed legislation we consider two key aspects: is this something that will increase or compromise victim safety and is this something that is necessary. We have had the opportunity to discuss HB 147 with our legislative and policy committee that reviews and analyzes all proposed legislation. Our committee consists of representative shelter programs throughout the state that work with victims daily to secure their safety. After considering the legislation, the Legislative Research Services report “Awarding Custody of Pets in Divorce Proceedings” and the Summary “Protecting Domestic Violence Victims by Protecting Their Pets”, the committee unanimously found that the legislation is not necessary and the consequences to victim safety that would result from this legislation are not worth the risk.

As we indicated to you, the current system which already allows this legal remedy to victims and protection for their pets has served victims well for decades. HB 147 would not, in our opinion, “protect domestic violence victims” but rather would create a confusing process that in reality gives abusers another tool to exert power and control over victims by requiring victims to be continually engaged with abusers regarding the rights of the pets involved. This is already a very real, daily occurrence that occurs in child visitation and custody cases and causes our programs great concern.

Our concerns are illustrated in the case cited by the Legislative Research Report, *Juelfs v. Gough* regarding treating pets as “living property” and applying family law principles rather than property principles in divorce proceedings. The facts of this case highlights the devolving relationship between the couple over custody and visitation rights of their dog “Coho” and how the couple used the court system to

Member Programs

Anchorage AWAIC, STAR Barrow AWIC Bethel TWC Cordova CFRC Dillingham SAFE Fairbanks IAC Homer SPHH
Juneau AWARE Kenai LeeShore Center Ketchikan WISH Kodiak KWRCC Kotzebue MFCC Nome BSWG
Seward SeaView Community Services Sitka SAFV Unalaska USAFV Valdez AVV

petition for changes in custody and visitation more as a means of emotionally manipulating each other – add domestic violence into the mix, and this situation becomes potentially lethal.

Another concern that was brought to our attention is we have been asked by our programs to testify at any hearings on this legislation and make clear on the record for any victim that may be listening to the hearing that this legislation is not necessary for victim pets to be protected and that there is a remedy available *today* for any victim who is in an abusive relationship and afraid to leave for fear of their pets. One program indicated that they have already received a call from a victim who after reading a recent article questioning whether their current protective order protecting their pets was still valid. The confusion that this legislation is creating is of great concern to us.

Finally, we are concerned that the constituents you refer to that are contacting their legislators indicating that this legislation is needed to protect them and their pets are not being made aware of the current ability to do so or the resources available to assist them. We think that there has been a lot of confusion and misunderstanding about the current state of the law in this area and, again, feel the obligation to make clear that anyone seeking help should call their local domestic violence program, visit the court system website which contains both the necessary forms and instructions and explains that pets can be protected and law enforcement can assist them in removing the pets from the residence. They can also visit or call the Family Self-Help Center located within the Court System for assistance with filling out these forms and receive accurate information about the remedies currently available.

We again respectfully ask that you not move this legislation forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Peggy Brown", written in a cursive style.

Peggy A. Brown, Executive Director

cc: Representative Max Gruenberg



MUNICIPALITY OF ANCHORAGE

Animal Control Advisory Board

March 19, 2015

Representatives Liz Vazquez and Max Gruenberg
Alaska Capitol, Room 110
Juneau, AK 99801-1182

RE: Support for House Bill 147

Dear Representatives Vazquez and Gruenberg,

Attached is Animal Control Advisory Board Resolution 2015-04 supporting House Bill 147. This resolution was passed unanimously by the Animal Control Advisory Board.

The board appreciates your dedication to the protection of people and pets in Alaska and your leadership on this significant legislation.

Sincerely,



Allegra Hamer, Chair

ATTCH: ACAB Resolution 2015-04



**MUNICIPALITY OF ANCHORAGE
ANIMAL CONTROL ADVISORY BOARD
RESOLUTION NO. 2015-04**

WHEREAS the Animal Control Advisory Board has considered House Bill 147 as it relates to the cost of care in animal cruelty and neglect cases, the inclusion of animals in protective orders in domestic violence cases, and providing for the custody of animals in divorce cases; and

WHEREAS one of the greatest obstacles for enforcing animal cruelty laws is the cost of caring for abused and neglected animals for long periods of time while cases are prosecuted, especially in situations where dozens of animals are seized for their protection; and

WHEREAS cost of animal care laws assist in remedying that obstacle by holding offenders responsible for the financial burden of caring for their pets through posting of a court ordered bond; and

WHEREAS cost of animal care laws also allow for the adoption and re-homing of seized animals if an owner fails to post a bond to provide care for their animals; and

WHEREAS a number of studies show the link between animal and human violence and that pet abuse is a predictor of domestic violence; and

WHEREAS abusers manipulate and control human victims through threatened or actual violence against family pets causing victims to stay in unsafe situations to protect their animals; and

WHEREAS including animals in protection orders is an important way to remove an obstacle that prevents victims from seeking safety and insure the welfare and protection of all victims of family violence, human and animal; and

WHEREAS because pets play a significant role in our lives and become part of our family units, they should not be treated as personal property in divorce cases; and

WHEREAS the courts should consider the best interest of the pet in making custody determinations in cases of divorce; and

WHEREAS the Municipality of Anchorage Animal Control Advisory Board has supported strengthening of animal cruelty and care legislation in Alaska for several years; and

NOW THEREFORE, the Municipal Animal Control Advisory Board hereby resolves:

That House Bill 147 be enacted by the legislature as it protects people and animals in Alaska.

PASSED and Approved by the Animal Control Advisory Board this 20th day of March, 2015.

Chair, Animal Control Advisory Board



Gastineau Humane Society

Dedicated to the promotion of animal welfare and prevention of animal cruelty and suffering

March 24th, 2015

Rep. Max Gruenberg, Rep. Liz Vazquez

Dear Honorable Representatives;

As the executive director of the Gastineau Humane Society, I am writing in support of house bill 147, which would strengthen the protection of domestic animals in our state, as well as provide a means for care of animals during often lengthy court proceeding.

Alaska has long been near the top of the list for lax laws related to animal care and protection. In the last few years we have been making progress recognizing the importance of companion animals in our state. We have increased the classification of violent crimes against animals from misdemeanors to felonies, and have finally criminalized sexual contact with animals. We are headed in the right direction, but with plenty more to do.

This bill, if enacted, would offer some protections of animals in domestic violence situations. Recent studies show that nearly half of the victims who stay in violent households do so because they are afraid for their animals. Over seventy percent of domestic violence victims report that their abuser also targeted their animal. This bill allows for courts to grant custody of an animal, as well as provide for a victim's animal in protective orders.

Over the last few years there has been a number of high profile animal hoarding cases requiring long term care of as many as 160 dogs. Many animal shelters around the state are operated by not-for-profit entities. The cost of housing and caring for animals while awaiting the outcome of a cruelty or hoarding cases can be substantial and this burden should not fall on the animal shelter. This bill would ease this burden and allow the animals care to be bonded by the owner, or the animal adopted to a new family.

This measure is scheduled to be heard by Committee on Monday, March 30th. I would be happy to testify in support in person or telephonically.

Thank You,
Sincerely,

Matt Musslewhite
Executive Director, Gastineau Humane Society.

7705 Glacier Highway • Juneau • Alaska 99801 • (907) 789-0260 • www.ghspets.org

Board of Directors

President: Marina Lindsey • Vice President: Megan Rider

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MUNICIPALITY OF ANCHORAGE



Animal Care and Control Center

907-343-8118

Mayor Dan Sullivan

March 23, 2015

Representatives Liz Vazquez and Max Gruenberg
Alaska Capitol, Room 110
Juneau, Alaska 99801-1182

Regarding: Support House Bill No. 147

Dear Representatives Vazquez and Gruenberg,

Anchorage Animal Care and Control (AACC) is pleased to express our support of House Bill No. 147, as authored by you both and co-sponsored by Representatives LeDoux, Lynn, Drummond, Edgmon, Guttenberg, Josephson, Ortiz, Tarr, and Tuck. This House Bill is valuable to us and similar organizations whose missions are to protect and improve the lives of animals. It holds those who commit cruelty against animals, at the very least, monetarily responsible for the animal(s) they are accused of harming.

Pets are legally acknowledged to be property, despite emotional attachment to same. Their inability to speak for or represent themselves while their legal owner is being processed for a crime of cruelty means that their overall ownership defaults to the very person charged with being cruel to them.

Anchorage Animal Care and Control takes animals into protective custody and provides necessary veterinary care, housing, feed, and environmental enrichment in cases where the owner is the party accused of abuse. Providing long term care to multiple animals can be a significant drain on monetary and staffing resources. This bill would reduce the costly expenditure incurred by us and other agencies in these cases. In many situations, the judicial process spans long periods of time for a variety of reasons. As stated before, our organization has no other recourse but to absorb the cost of the animal's care in the interim.

The following data paints a vivid picture of the aforementioned expenses:

- In 2009, AACC took in 70 cats, 8 dogs and 1 bird from one animal cruelty investigation. Court ordered restitution for medical and veterinary care was placed at over \$10,000 and boarding costs over \$66,000. Many of these animals were housed at our facility for over 350 days pending the outcome of the court case.
- In 2011, AACC held 22 cats for over 50 days pending the outcome of an animal cruelty charge. Costs for medical/veterinary care and boarding were assessed at over \$17,000.
- In 2012, AACC took custody of 39 dogs and 46 birds from one animal cruelty investigation. Our expenditures for medical/veterinary care and boarding costs were over

\$39,000. Some of these animals were at our facility over 150 days pending the outcome of the animal cruelty case.

- In 2014, AACC spent more than \$10,000 on medical/veterinary care for animals involved in animal cruelty investigations.

As of now, the defendant in these cruelty cases bears no burden financially to support the care of the animal(s) they are accused of harming. Additionally, it is difficult to ascertain the emotional cost to the animals, who are the real victims. Although many shelters do their best to provide a clean, humane and emotionally nurturing environment, nothing can replace a "real home". Prolonged court proceedings, as documented in the above referenced cases, only enable the accused to continue to harm the innocent.

Another tenet of House Bill No. 147 that is equally important to our organization is the provision that would add pets to protective orders in domestic violence cases. The Anchorage Animal Care and Control Center recognizes the relationship between domestic violence and animal cruelty.

The causal link between abuse of human beings and abuse of animals is substantial and well-documented. The most notable documentation of this correlation is *Understanding The Link Between Violence to Animals and People* by Allie Phillips, J.D. [distributed by the American Society for the Prevention of Cruelty to Animals (ASPCA) and the National District Attorneys Association]. In this publication, the correlation is clarified as such:

- Animal abuse presents a risk of child abuse.
- Animal violence may predict future violence.
- Animal abuse is used to threaten human victims.
- Animal abuse is used to prevent families from leaving the abusive home.
- The co-occurrence of multiple forms of violence increases future violence.

In summation, Anchorage Animal Care and Control Center endorses House Bill No. 147 because it is a significant step in providing care, support, and justice to animals and agencies involved in animal cruelty investigations. Thank you very much for your leadership on House Bill No. 147.

Sincerely,



Myra Wilson, DVM
Manager, Anchorage Animal Care and Control

Cc: Catherine Simpson
Nicolli Bailey

MUNICIPALITY OF ANCHORAGE



Department of Health and Human Services

907-343-6718

Mayor Dan Sullivan

March 19, 2015

Representatives Max Gruenberg and Liz Vazquez
Alaska Capitol, Room 110
Juneau, AK 99801-1182

RE: Support for House Bill 147

Dear Representatives Gruenberg and Vazquez,

The Department of Health and Human Services (DHHS) is responsible for Animal Care and Control in the Municipality of Anchorage. These services are essential to the promotion of responsible pet ownership and the protection of public health, safety and welfare of residents and animals in our community.


One of DHHS priorities is addressing cases of animal cruelty and neglect. Such cases, however, can place a significant burden on Animal Care and Control when large numbers of animals are seized for their protection and held for months or years during judicial processes. Thus, we support legislation that shifts this burden from government agencies to animal owners charged with committing crimes of animal cruelty through 1) requiring bond posting to cover the costs of caring for animals while the criminal case is resolved; and 2) providing for immediate forfeiture of the animals if the person fails to post the bond allowing for swift possible adoption rather than holding animals for extended periods of time.

Another DHHS priority is preventing Domestic Violence and Sexual Assault. With our partners in the Alaska Domestic Violence and Sexual Assault Intervention Project (ADVSAIP), offender bail conditions are tracked in a database accessible to police officers throughout the Alaska and are enforced through compliance checks and warrant services. Financial assistance is also provided to victims for their protection and stability. Under ADVSAIP, offenders are held accountable and victim safety is increased.

There is an established correlation between domestic violence and animal abuse. In domestic violence cases, abusers often threaten or harm pets to control, intimidate and exact revenge on their victims. Many victims delay or never leave abusive situations because of concerns over their pets' safety. Passing legislation to include animals in orders of protection in domestic violence cases is an important step in protecting both pets and people.

We support House Bill 147 as it strengthens current laws to accomplish the above priorities. Thank you for your leadership on this important legislation.

Sincerely,


Melinda Freemon, Director



PO Box 240981
Anchorage, AK 99524

March 20, 2015

Representative Max Gruenberg
Alaska Capitol, Room 110
Juneau, Alaska 99801

Re: HB 147

Dear Representative Gruenberg,

I am writing in support of HB 147 on behalf of the Board of Directors of Friends of Pets.

For the past 25 years Friends of Pets has been active in the animal welfare community in Alaska and have worked as an organization to educate the community on the link of violence to animals and related impact to children and women. We hosted two First Strike workshops, inviting representatives from law enforcement, child welfare, animal welfare, domestic violence and the judicial system to explore the issues and potential interventions. As a result of these workshops and enhanced understanding tangible changes were made.

We have seen first hand the cruelty inflicted on animals in our community and state. Our state incidents of rape, domestic violence, substance, chemical and child abuse are nothing to be proud of and animals are often the first targets of abuse. Pets are often used as leverage to get a woman to stay in a violent home. For the past 10 years Friends of Pets has partnered with AWAIC in Anchorage to house pets belonging to women escaping domestic violence. Having pets part of protective orders assists to identify the importance of the pet in the family dynamic.

Pets are considered property and in divorce proceedings can suffer as they are used as emotional pawns between parties in dispute. Many pet owners have the emotional attachment to a pet as they would a human child and having judicial support to help make determination of the pets best interest could assist parties to think beyond their emotion of the moment.

Celebrating 25 Years of Making a Difference
1989 - 2014

We have also rescued pets with horrendous injuries due to abuse and violence. We are strong supporters of requiring the "owner" of these pets to be held accountable for the costs of recovery. One dog we rescued after suffering from a beating during a drunken rage cost Friends of Pets over \$3000.00 in rehabilitation costs.

Friends of Pets applaud all those choosing to move this bill forward. Protecting the most vulnerable among us can only enhance our collective care of each other as a society.

If we can be of additional help please don't hesitate to call.

Thank you!

Sincerely,

Michele Girault
Board President
Friends of Pets



PENINSULA SPAY / NEUTER FUND

March 20, 2015

Representatives Liz Vazquez and Max Gruenberg
Alaska Capital
Juneau, Alaska 99801-1182

Regarding: Support House Bill No. 147, Animal Welfare

The Peninsula Spay/Neuter Fund is pleased to express our support for House Bill 147, relating to the investigation of cruelty to animals, costs associated with lawfully seized animals, protective orders and permitting a judge to consider the well-being of animals when determining custody in a divorce or dissolution.

The Peninsula Spay/Neuter Fund was founded to help reduce the number of homeless, abandoned and neglected animals. It is a widespread problem and we are just one part of the solution. There are many rescue groups/caring people who see an animal in an inhumane situation and attempt to work with an owner to improve the living conditions of the animal. If this is not possible or unsuccessful and the conditions are such that the animal could be legally seized and put in the care of a custodian, the end result is often the animal being returned right back to an inhumane situation. The costs and legal fees associated with the temporary care of the animal is born by those willing to step up against inhumane treatment, trying to prevent it from continuing and recurring.

In the case of victims of abuse, it is not uncommon or surprising that victims will not leave their situation if it means leaving their animal behind. An animal becomes part of the family, security and emotional support. Strengthening laws regarding an animal in a domestic situation increases the likelihood a person will seek help. Our local crisis center accepts animals because they know this is often a determining factor in someone taking that difficult step to seek help.

Because an animal becomes part of a family and put in a situation through no fault of their own, it is our responsibility as a society to determine the best situation for that animal. How our animals are treated is a mirror of how our society views and cares for those with the least ability to determine their fate.

The Peninsula Spay/Neuter Fund supports House Bill 147 because it improves the community as a whole and especially the lives of those most vulnerable.

Sincerely,

Judy Fandrei

Judy Fandrei
Founder, Peninsula Spay/Neuter Fund
Bridges Community Resource Network, Inc.
P.O. Box 1612
Soldotna, Alaska 99669
907-690-2723



Mojo's Hope
2440 E Tudor Rd. PMB 896
Anchorage, AK 99507
www.mojoshope.org
907-230-6394
mojoshope@gmail.com

3/20/15

Representative Liz Vasquez
State Capitol
120 Fourth Street
Juneau AK, 99801-1182

Dear Representative Liz Vasquez,

I am writing as an individual animal advocate in the Anchorage community and as the co-founder of Mojo's Hope, a 501c3 organization for Animals for Special Needs, in support of the proposed Animal Welfare Bill No. 147.

After being in animal welfare for over 20 years, I have observed the gamut of care in a variety of settings, ranging from wildlife centers, multi-animal facilities, shelter environments and foster settings. In these settings I have observed the struggles organizations/municipalities face due to financial strain, large volume of animals coming in with significant special needs and the challenges all endure during the crisis. I have also observed the high quality of care the animals received despite these challenges. As a local non-profit, we rely solely on donations to maintain our mission.

The implementation of this bill will prevent future animals from continual suffering as their care/needs will be met immediately when they are taken out of their present state, including but not limited to cruelty trial, protective custody and/or custody issues. While also placing accountability on the part of the owners, building a community of responsible pet ownership.

Providing quality care and safety to the animals that come from these types of situations will benefit the animals in the long run, the people whose care they are in and their future environments. House Bill No. 147 will help out on a statewide level, a municipality level and also amongst the varied reputable charitable organizations in our community.

Please feel free to contact me for further involvement with these proposed changes.

I greatly appreciate your leadership on the proposal of House Bill No. 147.

Respectfully,

Shannon Basner
Co-Founder/Volunteer
Mojo's Hope
907-230-6394
Paw Prints, Howls and Purrs
paw by paw, step by step, one soul at a time

www.facebook.com/MojosHope

<https://www.facebook.com/pages/Straw-for-Dogs/326853836684>

<https://www.facebook.com/pages/Paw-Prints-Howls-and-Purrs/314465461920372>

<https://www.facebook.com/AlaskasKaaats>

Catherine Simpson

From: Driver Safety <driversafetywestla@sbcglobal.net>
Sent: Friday, March 27, 2015 12:14 PM
To: Rep. Liz Vazquez
Subject: Best wishes on April 19,2015/ Animal Protection Legislation.

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Representative Vasquez:

Legislation protecting pets in divorce case domestic violence and other violent behaviors was long overdue. Congratulations and hopes that this very small step spills over all over the U.S.A. I am determined to take your message to our state elected representatives immediately following passage on April 19, 2015. Continue to sign-up lawmakers in support and you will be assured success. We are extremely supportive of this measure because our organization provides diversion programs and counseling to those convicted of domestic violence, animal neglect and animal cruelty, in addition to substance abuse, etc. We work very closely with the California Superior Courts under approval of our program by local law enforcement.

We have seen some of the worse cases you can possibly imagine during 35 years of operation, including but not limited to maiming, torture and killing innocent family pets.

Perhaps you could in the not too distant future travel to Los Angeles and speak to our legislators, family law judges and law enforcement

God bless your fine work on behalf of those that cannot speak for themselves.

The great Mahatma Gandhi said it best:

" The moral progress of a nation and its greatness should be judged by the way it treats its animals"

Warm personal regards
Arnold Abrams
Program Director
Family Harmony/Los Angeles/ California/ (310) 479-8353

Catherine Simpson

From: Sally Clampitt <rsclampitt@gci.net>
Sent: Wednesday, March 18, 2015 10:27 AM
To: Catherine Simpson; Nicoli Bailey
Subject: Support for HB 147, Animal Cruelty Complaints

To:

Representative Liz Vasquez

Representative Max Gruenberg

Dear Representative Vasquez and Representative Gruenberg:

I am pleased to express our support for HB 147, "An Act relating to the investigation of animals complaints...." This legislation will go a long way toward filling loopholes in current legislation, and providing humane protection to animals during the complaint/investigation process.

Thank you very much for your hard work to create and introduce HB 147.

Respectfully,

Sally Clampitt

President

Alaska Rural Veterinary Outreach, Inc.

9138 Arlon St., #A3-584

Anchorage, AK 99507

www.akrvo.org ~ info@akrvo.org

Toll-free – 855-259-2786

Anchorage local – 907-349-2786

Catherine Simpson

From: Sherry Ramsey
Sent: Tuesday, March 31, 2015 6:14 AM
To: Nicoli Bailey
Subject: FW: DV bill

Dear Nicoli,

I have reviewed the bill and the letter of opposition from the ANDVSA. As I noted previously, I have worked on these bills around the country and also worked with DV victims as a prosecutor and then in private practice. I think this bill serves to protect DV victims as well as their animals in emergency situations. That is why so many states have passed these laws around the country and why we usually have DV groups supporting and often spearheading these bills. However, I certainly respect the ANDVSA and the great work they do and I understand they have a unique perspective from working in Alaska with DV victims.

Here are some thoughts on some of these issues raised. Animals are sometimes a disputed point in a divorce proceeding as with every other bit of property, which is the point of the case in their letter. The "confusion" that the ANDVA letter notes would be clarified by this bill and is the precise reason we need the law. In my opinion, the idea that this would allow for an abuser to exert power over a victim is less likely to happen after she is awarded possession of an animal because of this law, rather than before she gets possession when the abuser can use the animal to manipulate or punish the victim for leaving. I have seen this happen many times.

Of course what the letter suggests *could* happen, but it could also happen with the children, the house or anything else that the court awards to the victim, if the abuser wants to cause trouble. But courts are much less likely to entertain this kind of request within a DV hearing as compared to a divorce proceeding. And the more common way for an abuser to exert power over a victim in my experience, is by threatening or torturing the animal to get her to return home or punish her for leaving. Going to court to attempt to get visitation of an animal is *much* less likely to be an issue, in my humble opinion. This argument would suggest that all the other provisions within the DV laws should be removed for fear that they could result as a means to expert power over a victim. I believe that making the law clear on this issue is a better way to ensure every jurisdiction is doing the same thing to protect the victims and their animals and to ensure that judges understand this issue, which would prevent the very concern raised in the ANDVSA letter. And because establishing ownership of an animal is often one of the main problems that victims encounter when attempting to obtain possession of an animal during these dangerous situations, the language of this bill is so important.

Lastly, while I have been reviewing your bill in Alaska, I am also reviewing and supporting a recent bill in California. In CA, this kind of DV law has been in effect since 2007 and now they are introducing a bill to expand this exact protection to all other protection orders for juveniles and elders and other civil protection orders. Without having spoken to the sponsor of this bill I would have to assume this law has worked well for DV victims and so they have decided it should be expanded. Here is their existing law and a synopsis of the new CA bill just as an FYI.

CA law currently:

(b) On a showing of good cause, the court may include in a protective order a grant to the petitioner of the exclusive care, possession, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the

respondent. The court may order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

New bill:

AB 494 will extend protections to animals of protected parties in restraining orders issued in juvenile dependency cases (Welfare & Institutions Code section 213.5(b)), civil harassment cases (Civil Procedure section 527.6(b)(6)), and Elder Abuse cases (Welfare & Institutions Code section 15657.03). This bill will bring all types of restraining orders in alignment with the protections provided pursuant to the Domestic Violence Prevention Act.

Thank you and Representatives Vazquez and Gruenberg for sponsoring this important bill and feel free to contact me if I can be of any further help.

Best,

Sherry

Sherry Ramsey, Esq.

Director of Animal Cruelty Prosecutions

State Affairs

The Humane Society of the United States

200 West 57th Street

Suite 705

New York, NY 10019

212-246-2632

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Catherine Simpson

From: Joan Dewey
Sent: Tuesday, March 31, 2015 10:48 AM
To: Catherine Simpson
Cc: Nicoli Bailey
Subject: Re: HB 147 "Pet Bill"

Catherine and Nicoli: Thank you for including Bethel Friends of Canines and Bethel residents in the update for proposed changes to HB147. Would it be possible for you to convey our support and appreciation of the HB 147 AKA "The Pet Bill" sponsors(Representative Vazquez and Representative Gruenberg and to let them know by reading the following testimony:

We in the YK Delta of Alaska, animal rescue and community health services acknowledge the high disproportionate rate of domestic violence occurrences and the need for added safety and welfare mechanisms within the animal protection laws of Alaska for victims of domestic violence. We are well aware of the relationship between animal abuse and neglect, child abuse and neglect and domestic violence. We recognize that animals as beloved family members are frequently caught in the crossfire and/or used to manipulate, dominate and control domestic violence situations. As community members in Alaska are in support of additional service and rights components added to the animal care laws of Alaska to help assure families can protect all of their family members when forced to leave their homes.

We will do our best in Bethel to work in conjunction with TWC/Tundra Women's Coalition and assist with pet relocation or boarding whenever possible. We applaud these measures in the proposed HB 147 to bring safety and health to families and to reduce the added trauma that comes from having to choose to leave animals in unsafe situations.

*Joan Dewey, Bethel Resident
Bethel Friends of Canines*

cc: Bethel Friends of Canines Board

Tima C. Priess , MA, LMFT, CTS

Pleiades Counseling Inc.

543 Third Avenue, Suite 201

Fairbanks, AK 99701

ph & fax (907) 452-8438

Mail to: P.O. Box 213, Ester, AK 99725



RE: House Bill 147

As a Fairbanks psychotherapist specializing in PTSD and traumatic stress since 1991 and as the owner of 5 rescue animals, I am in support of HB 147. I have worked for many years with clients who have experienced trauma including active duty service members, veterans and their families, and survivors of sexual assault, domestic violence, accidents, and traumatic loss.

Over the years, I have witnessed the intense therapeutic bond between humans and pets, military working dogs and other service animals. And, I have helped clients deal with the loss or violent death of animals, and their fears of imminent loss of these important family members. Children who witness animal abuse often carry the scars of that trauma into adulthood and are more likely to continue violent behaviors as adults.

The American Humane Association's study of women seeking temporary "safe haven" shelter showed that 71 percent of those having companion animals reported that their "batterers had injured, maimed, killed, or threatened family pets for revenge or to psychologically control" victims. Many victims make choices to stay in a dangerous situation rather than leave their animals in that same situation.

Clients express concern about the safety and well-being of their pets and their fears of not being able to care for them or to get them away from abusive family members. I've heard stories of adults who remember all too vividly and painfully the death, abandonment or disappearance of treasured animal companions as children. .

Some of my work with trauma clients includes integrating positive, calming, and close memories of animals in ways that increase positive affect and reinforce emotional stability while recalling traumatic memories. In many cases, animals are the most important oasis of safety that people experience.

This bill places value on the "wellbeing of animals". The inclusion of this term changes the game plan from seeing animals as property that can be disposed of to creatures to be cared for. This is crucial because of the links between animal cruelty and other violent crimes. And because, the term implies awareness and compassion which can be developed and enhanced when adults and children are taught to care for and place value on animals.

Sincerely,

Tima C Priess, LMFT, cert in EMDR

ALASKA STATE LEGISLATURE

REPRESENTATIVE LIZ VAZQUEZ
Co-Chair: House Special Committee on Energy

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SECTIONAL FOR HB 147

An Act relating to the investigation of cruelty to animals complaints; relating to the seizure of animals; relating to the destruction of animals; relating to a bond or security posted for the costs of care for an animal; relating to the inclusion of an animal in a protective order and the crimes and arrests for violating that protective order; and relating to ownership upon divorce.

Sections 1-5, 16 (Cost of Care)

Amends animal statutes to require owners of animals lawfully seized for neglect or cruelty to pay their cost of care through bond or other security. This will shift the burden from governmental agencies, or independent shelters, and rescue agencies to the animals' owners – saving tax dollars and animals' lives. The bill also allows the adoption and rehoming of seized animals if the owners surrender them or fail to pay the costs of care ordered or post court-ordered bond. The sections also require notice of a seizure and impending hearing to be posted at the location from which the animal was seized. In addition, the bill specifies that the district court, rather than the superior court, may hear most cases related to the seizure of animals.

Sections 6-15 (Domestic Violence)

Amends domestic violence statutes to allow courts to allow for the inclusion of animals, including for their temporary care, in domestic violence protective orders.

Sections 17-21 (Divorce and Dissolution)

Amends divorce and marriage dissolution statutes to require consideration of animals' well-being when adjudicating their ownership or joint ownership.

ALASKA STATE LEGISLATURE

REPRESENTATIVE LIZ VAZQUEZ
Co-Chair: House Special Committee on Energy

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SPONSOR STATEMENT FOR HB 147

“An Act relating to the investigation of cruelty to animals complaints; relating to the seizure of animals; relating to the destruction of animals; relating to a bond or security posted for the costs of care for an animal; relating to the inclusion of an animal in a protective order and the crimes and arrests for violating that protective order; and relating to ownership upon divorce.”

This bill, House Bill 147, accomplishes three things: it holds an owner responsible for the reasonable third-party costs of caring for animals lawfully seized due to cruelty or neglect; it provides statutory protection for animals in protective orders, permits granting exclusive temporary custody of the animal to the victim; and permits consideration of the well-being of animals when deciding their ownership in divorce and dissolution proceedings.

1. Cost of Care

Amends animal statutes to require owners of animals lawfully seized for neglect or cruelty to pay their cost of care through bond or other security. This will shift the burden from governmental agencies, or independent shelters, and rescue agencies to the animals’ owners – saving tax dollars and animals’ lives. The bill also allows the adoption and rehoming of seized animals if the owners surrender them or fail to pay the costs of care ordered or post court-ordered bond.

2. Domestic Violence

Amends domestic violence statutes to allow courts to allow for the inclusion of animals, including for their temporary care, in domestic violence protective orders.

3. Divorce and Dissolution

Amends divorce and marriage dissolution statutes to require consideration of animals’ well-being when adjudicating their ownership or joint ownership.

AMERICAN BAR ASSOCIATION

ADOPTED BY THE HOUSE OF DELEGATES

FEBRUARY 14, 2011

RESOLUTION

RESOLVED, That the American Bar Association urges federal, state, territorial, and local legislative bodies and governmental agencies to enact laws and implement policies to ensure the humane treatment and disposition of seized animals in a timely manner that:

1. Establish effective evidence collection and identification of each animal at the scene of the seizure;
2. Provide prompt and continuing veterinary attention for each animal as warranted by each animal's medical condition;
3. Establish a protocol for humane and appropriate confinement for the animals;
4. Provide that the person who has ownership or control of the animals at the time of the seizure must, consistent with due process requirements, post a reasonable bond or security or, in the alternative, promptly surrender the animals to the custody of the lawful authorities;
5. Utilize a timely process to determine the disposition of the animals and provide for prompt transfer to an appropriate rescue organization or adoptive home with humane euthanization occurring only if an animal's medical or behavioral condition warrants such action or it is determined, after reasonable time and effort have been expended, that no appropriate placement for an animal exists;
6. Provide that the localities and/or organizations caring for the animals be granted restitution for the costs incurred for the care of the animals not covered by a reasonable bond or security by any person who does not promptly surrender such animals.

REPORT

Introduction

Recent seizures of animals have illustrated the challenges faced by authorities dealing with these cases. From high profile cases such as the allegations in the Michael Vick/Bad Newz Kennels case in 2007 and the July 2009 multi-state seizure by federal authorities of hundreds of dogs in the Midwest relating to dog fighting to hoarding and cruelty cases prosecuted by state and local authorities, the seizure of animals occurs on a daily basis. Potential defendants and the animals are benefited when there is an efficient process in place that provides for the humane treatment and disposition of seized animals.

Evidence Collection and Identification of Animals

This recommendation calls for effective evidence collection and identification of each animal at the scene of a seizure. In large-scale seizures multiple agencies and organizations may be involved in the collection of the animals. It can be a chaotic situation and the amount of evidence that must be collected can be overwhelming.¹ It is imperative for the protection of the integrity of any future criminal process and to sustain the applicable burden of proof that the evidence documenting the scene be preserved.² As with any case, the chain of custody of all evidence collected should be maintained.³ Evidence collection at a scene involving animals will mirror other potential crime scenes. For example, photographs and video should be taken at the scene to document the conditions the animals were found in and the animals themselves.⁴ Each animal should be examined to determine whether there is evidence on the animal and to document the animal's condition.⁵ As an example, the body of an animal (including the animal's teeth or nails) can be examined for DNA evidence.⁶ Any scars or injuries on the animal should be documented and the body condition of each animal should be determined.⁷

¹ MELINDA D. MERCK, DVM, VETERINARY FORENSICS: ANIMAL CRUELTY INVESTIGATIONS 21 (2007) (describing animal cruelty crime scenes). In the July 2009 multi-state raids for dog fighting there were twenty-nine crime scenes to process with over 200 animal specialists and volunteers to coordinate. Sara Shepard, *Forensic Veterinarians Help Take a Bite Out of Dogfighting*, GAZETTE-MAIL (Charleston, WV), Aug. 8, 2009, at 9A.

² It is important to note that even if initially the expectation is that any charges may be limited solely to the treatment of the animals, evidence of other crimes may be found at the scene.

³ MERCK, *supra* note 1, at 36.

⁴ MERCK, *supra* note 1, at 21 (describing the types of photographs and video that should be taken at the scene).

⁵ MERCK, *supra* note 1, at 20 (discussing the need to record initial observations as the status of the animal can change after arrival at a veterinary facility).

⁶ MERCK, *supra* note 1, at 66 (discussing the collection and uses of DNA evidence).

⁷ MERCK, *supra* note 1, at 40 (discussing body condition scoring and other aspects of the exam documenting the condition of an animal).

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In investigations involving animals, it is often useful to have a veterinarian assist investigators at the scene. The field of veterinary forensics is developing rapidly, and similar to other potential crime scenes, a veterinarian can determine the time of death of any recently deceased animals, or preserve evidence of any decomposing animals.⁸ The number of professionals that are trained in veterinary forensics is growing with programs such as the Veterinary Forensic Sciences Program at the University of Florida providing on-site as well as on-line training.⁹ Having specially trained personnel is ideal but much of the evidentiary process applicable to other crimes will carry over to crimes involving animals.

Each animal should be identified at the scene in a way that will carry through any future proceedings. Usually this is done through an identification number.¹⁰ The animal can be photographed with the identification number or can be fitted with an identification band (if doing so would not interfere with veterinary treatment or the care of the animal). To avoid confusion, it is best if there is consistent numbering of the animals collected at the scene and carried over upon intake if the animals are being sent to multiple facilities. While it may not be feasible to microchip each animal upon intake, if any animal is transferred outside of the initial intake facility, microchipping can ensure that there is no question that the animal is the one involved in the case.¹¹

Veterinary Attention

This recommendation calls for prompt and continuing veterinary attention for each animal as warranted by each animal's medical condition. As discussed above, ideally a veterinarian will be part of the team on site at the seizure and would participate in the collection of evidence. A veterinarian should also be part of the team to provide immediate veterinary care for any animal in distress on site. It is the responsibility of the authority with custody of the animals to preserve the evidence – which includes the animals themselves.¹² Preserving the evidence includes providing continuing veterinary care to the animal to ensure that the animal's health does not deteriorate while in the custody of the relevant authorities.

⁸ MERCK, *supra* note 1, at 19-30.

⁹ See also International Veterinary Forensic Sciences Association, www.ivfssa.org (last visited April 5, 2010) (describing the association and opportunities for training in veterinary forensics).

¹⁰ Rebecca J. Huss, *Lessons Learned: Acting as Guardian/Special Master in the Bad Newz Kennels Case*, 15 ANIMAL L. 69, 78 (2008) (discussing the use of kennel numbers for official correspondence and court documents and describing how the dogs in the case were provided with a “call name” to distinguish each dog as an individual during the time the dogs were being evaluated prior to final disposition).

¹¹ For example, sixteen dogs that were housed in foster homes before the final judicial order in the Bad Newz Kennels case were microchipped prior to each animal's release from the animal control facilities.

¹² MERCK, *supra* note 1, at 7

The medical condition of an animal can also impact an animal's behavior. Ensuring that animals are maintained in or restored to good health allows for a more accurate determination of an animal's behavioral status.

Humane and Appropriate Confinement

This recommendation calls for humane and appropriate confinement of the animals after the seizure. According to the National Animal Control Association Training Guide usually, after a seizure, the animals will be transported to the seizing officer's animal welfare agency. The animal welfare agency is responsible for the care and treatment of the animals.¹³

The most common places where animals from a mass animal seizure are housed initially include: (a) local and regional humane societies or SPCAs, (b) local and regional animal control and services agencies, (c) other private area animal shelters or rescue organizations, (d) veterinary clinics and hospitals, (e) local fairgrounds, (f) local equestrian centers and ranches, and (f) at the crime scene itself.

Timely transfer of the animals from shelters to foster homes as appropriate is beneficial for the animals. In the *Bad Newz Kennels* case sixteen of the dogs were transferred from shelters to foster homes after the civil forfeiture process was complete but prior to final disposition of the dogs. It was extremely positive for the dogs to be out of the shelter environment and in homes. The transfer reduced the burden on the Virginia shelters that had been caring for the dogs since the time of the seizure and reports from the foster homes provided valuable information for the guardian/special master who was making a recommendation on the disposition of the dogs.¹⁴

Posting of Bond or Security or Surrender of Animals

This recommendation calls for a more efficient and effective way to treat the property seized in these cases. Animals are by their nature different than guns, money, or property seized as a result of other crimes. Because the property in these cases is a living being, the authorities and the courts must treat them differently. In recent years a number of states, through their legislative processes, instituted bonds or mandatory surrender of the animals in these cases.¹⁵ These new bond provisions were created out of necessity because animals were literally waiting in shelters for one to two years for the trial process to end. The best of these laws ensure that an adequate bond is posted for a reasonable amount of time (nine months). Also, if the person charged does not agree to post the bond, then he or she is required to surrender the animal. In the event the person is found not guilty, they would be reimbursed for the value of the animal seized or the amount of

¹³ NATIONAL ANIMAL CONTROL ASSOCIATION TRAINING GUIDE 6 (John Mays ed. 2009).

¹⁴ Huss, *supra* note 10, at 78-79.

¹⁵ 510 ILL. COMP. STAT. 70/3.04-3.06 & 720 ILL COMP. STAT. 5/26 (2009); VA. CODE. ANN. 3.2-6571 & 3.2-6569 (2009).

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the posted bond.¹⁶ It is imperative that the prosecutors request a bond when the seizure hearing is held.¹⁷

Timely Process to Determine the Disposition of the Animals

This recommendation calls for a timely process to determine the disposition of the animals and for prompt transfer of the animals to an appropriate rescue organization or adoptive home. The judge has the ultimate disposition power. In a recent case U.S. District Judge David Lawson in Detroit granted the Humane Society of Kent County custody of eleven pit bulls seized in a dog-fighting bust, a ruling expected to make the animals eligible for adoption. The decision ended the Eastern District of Michigan's U.S. Attorney's Office bid to euthanize the dogs seized last summer after agents broke up a dog-fighting ring in eastern Michigan.¹⁸

The evaluation of a victim of cruelty is an organic process, one that changes over time. Animals vary widely in their resiliency or sensitivity to stressful or traumatic situations.¹⁹ Behavioral assessment of animals that have been victims of cruelty can serve several purposes. First, such an evaluation helps to provide an overall picture of the animal's health, with an emphasis on determining behavioral health rather than the presence of a specific behavior problem. Such an assessment can be helpful in evaluating the consistency of accounts explaining the animal's injuries. For example, an allegation that a dog was struck or kicked because she responded aggressively when gently petted would be called into question if the animal responded nonaggressively to handling by a variety of people.

Second, such an evaluation can help assess the likelihood that the animal will be able to recover behaviorally, as well as physically, from the effects of abuse. This may be necessary in cases where animals have been seized from an animal hoarder, puppy mill, or dog-fighting situation.

Every effort should be made to place the animals. Humane euthanasia should be a last resort only if the animal's physical or behavioral condition requires such action. If suitable housing for the animals is limited, a behavioral assessment may need to be part of the triage procedure for deciding which animals would benefit most from the limited resources available to rehabilitate and re-home them.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Paul Egan, *Judge Spares Dogs Rescued in Fight Probe*, DET. NEWS, Mar. 10, 2010, at A3.

¹⁹ LESLIE SINCLAIR, DVM et al., FORENSIC EVALUATION OF ANIMAL CRUELTY: A GUIDE FOR VETERINARY AND LAW ENFORCEMENT PROFESSIONALS 68 (2006). *See also* Robert Patrick, *Sweet Success After Dog Raid: Humane Society Expects to Save 60 Percent of Animals Seized in Area*, ST. LOUIS POST DISPATCH, Nov. 26, 2009, at A1 (discussing the results of the evaluation of the dogs seized as part of the July 2009 multi-state raids for dog fighting and the fact that the percentage of dogs expected to be saved is much higher than predicted).

Behavioral evaluations have been used in a myriad of cases including the Bad News Kennels case and the largest dog fighting bust in United States history that occurred in 2009. In the 2009 case teams of animal behavior experts from across the nation assessed more than 500 dogs seized from alleged dog-fighting operations in Missouri, Illinois, Oklahoma, Texas, Mississippi, Iowa, and Nebraska.²⁰

Restitution

This recommendation calls for effective compensation to the localities and/or organizations caring for the seized animals. In many animal cruelty and animal fighting busts the animals are in extremely poor condition at the time of the seizure. The animals must be given proper medical care to maintain them prior to resolution of the case. Many of these animals had never received adequate or any veterinary care. Thus, providing the proper care upon seizure becomes important and costly.²¹ In order for localities and/or organizations to recoup their costs for the daily care and veterinary expenses incurred while maintaining these neglected and abused animals, the prosecutor must ask for restitution at sentencing.²² The restitution should cover the daily expense of caring for the animal at the shelter or other location²³ and also any veterinary expense incurred in treating the animal's injuries.²⁴ If the person has posted a bond, the bond should be

²⁰ *More than 400 Pit Bulls Seized*, WICHITA EAGLE (Kan), July 23, 2009, available at 2009 WLNR 14250021 (discussing the evaluation of the dogs).

²¹ Ian Urbina, *Animal Abuse as Clue to Additional Cruelties*, NEW YORK TIMES, Mar. 18, 2010, at A16 (reporting that the estimated cost of rescuing and caring for 170 dogs from a hoarder's home in Franklin County, Ohio was \$1.2 million); see also *Shelter Seeks Help with Rescued Ribera Dogs*, SANTA FE NEW MEXICAN, June 7, 2009, available at 2009 WLNR 10959246 (reporting that the estimated costs for caring for forty-two dogs rescued from an alleged hoarder would likely exceed \$40,000); Dawn Gagnon, *Animal Care Tops \$50,000*, BANGOR DAILY NEWS, Oct. 3, 2007, at 6 (reporting on the costs of caring for twenty dogs removed from their owner); Anne Paine, *Some Neglected Tennessee Horses Find Greener Pastures*, THE TENNESSEAN (Nashville, TN), Dec. 22, 2009, available at 2009 WLNR 25727798 (reporting the cost of care of eighty rescued horses at \$250,000); Keren Rives, *Man Pleads Guilty to Dog Fighting: Sentences to Two-Year Probation*, TIMES-NEWS (Burlington, NC), Mar. 11, 2010, available at 2010 WLNR 5177388 (reporting on order to pay restitution in the amount of \$16,000 for the costs incurred by the city of Burlington, although the estimated costs incurred to date was \$41,548).

²² VA. CODE ANN. 3.2-6570 (2009).

²³ Christine Clarridge, *600 Rescued Dogs and 80% are Pregnant*, THE SEATTLE TIMES, Jan. 24, 2009, available at 2009 WLNR 1422209 (illustrating that the cost associated with seizures can skyrocket for local shelters charged with caring for the seized animals).

²⁴ Abby Simons, *Shih Tzu Rescue Seeks Public's Help with Dogs*, STAR TRIB. (Minneapolis, MN), Nov. 14, 2009, at 02B (discussing the cost of veterinary care for eight dogs, still remaining at Minneapolis Animal Care and Control, who were seized from an individual charged with misdemeanor animal cruelty).

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ordered to be used in providing the restitution. If the bond does not cover the amount of the restitution, the prosecutor should ask the court to order that full restitution be paid.²⁵

Conclusion

The Tort Trial and Insurance Practice Section urges adoption of this recommendation calling for all federal, state, territorial, and local legislative bodies and governmental agencies to adopt laws and policies to ensure the humane treatment and timely disposition of seized animals.

Respectfully submitted,
Jennifer Busby, Chair
Tort Trial and Insurance Practice Section
February 2011

²⁵ Carol L. Smith, *Puppy Mill Owner Surrenders Dogs*, BANDERA CO. COURIER (Texas), Dec. 17, 2009, available at http://www.bccourier.com/Archives/News_detail.php?recordID=091217N3 (last visited Apr. 14, 2010) (illustrating that courts may order the total amount of restitution in these cases).

GENERAL INFORMATION FORM

Submitting Entity: Tort Trial and Insurance Practice Section

Submitted By: Jennifer Busby, Chair

1. Summary of Resolution.

This Resolution is intended to address issues arising from the seizure of animals.

2. Approval by Submitting Entity.

Approved by the Council of the Tort Trial and Insurance Practice Section on May 14, 2010.

3. Has This or a Similar Resolution Been Submitted to the House or Board Previously?

No.

4. What Existing Association Policies are Relevant to This Resolution and How Would They Be Affected By Its Adoption?

Not applicable.

5. What Urgency Exists Which Requires Action at This Meeting of the House?

Animals are being seized each day by governmental authorities. This recommendation provides guidance for the governmental agencies involved to provide a fair, efficient and effective process for dealing with these cases.

6. Status of Legislation. (If applicable.) Not applicable.

7. Cost to the Association. (Both Direct and Indirect Costs)

None.

8. Disclosure of Interest. (If applicable.)

Not applicable.

9. Referral.

This Report and Recommendation will be referred to the Chairs and Staff Directors of all ABA Sections and Divisions.

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10. Contact Persons. (Prior to the Meeting)

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11. Contact Person. (Who Will Present the Report to the House.)

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EXECUTIVE SUMMARY

1. Summary of the Resolution

This Resolution calls for federal, state, territorial, and local legislative bodies and governmental agencies to adopt laws and policies to ensure the humane treatment and efficient disposition of seized animals.

2. Summary of the Issue that the Resolution Addresses

The Resolution is intended to address problems that arise when animals are seized as a result of civil actions or criminal prosecutions. Many jurisdictions do not have procedures and protocols in place in advance of the seizure of the animals which can lead to inefficiencies in the prosecution of these cases and harm to the animals. The animals seized in these cases may be in the temporary custody of the governmental authority for a lengthy period of time prior to the final determination of their legal status.

3. Please Explain How the Proposed Policy Position Will Address the Issue

This resolution sets forth actions that should be taken by governmental entities that will allow them to more efficiently and humanely deal with the seizure of animals.

4. Summary of Minority Views or Opposition Which Have been Identified

No minority or opposing view has been identified.

JUVENILE & FAMILY JUSTICE

SPRING 2010

TODAY

A PUBLICATION OF THE NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES



**Protecting Domestic
Violence Victims by
Protecting Their Pets**

By Sherry Ramsey, Mary Lou Randour,
Nancy Blaney and Maya Gupta

**ALSO:
Collaboration is Key
to Improving Responses to
Crossover Youth**

By Judge Patricia Escher

**NCJFCJ Recognizes
2009 Donors**



Protecting Domestic Violence Victims by Protecting Their Pets

By Sherry Ramsey, Mary Lou Randour, Nancy Blaney, and Maya Gupta

Put yourself in Betty's shoes: She knows that she and her children are in real danger from the increasingly violent behavior of her partner, Rick. She has tried a number of strategies and knows that she must leave soon with her children. Betty has information about the local domestic violence shelter, but there is a problem, or rather, two problems—the family's two beloved mutts, Sally and Ralph. Sally and Ralph have been the one constant in her children's lives; their attachment is not only strong but also a source of comfort and stability to the children. Rick has already threatened the dogs, and even lashed out at Ralph with quick kicks to his ribcage. Betty and her children will be protected physically if they leave, but unless they find a way to place their family pets in a safe situation, they will suffer even greater emotional anguish.

Betty's story is not unusual. Studies show that up to 48% of domestic violence victims report that they delayed leaving a dangerous situation because they feared for their pets' safety and knew of no place to take them (Carlisle-Frank, Frank, & Nielsen 2004). This inability to leave places women, children, and pets at greater risk of exposure to emotional and physical trauma, and death.

“Victims of family violence are often left in a position of deciding whether to stay in an abusive and often dangerous situation, or to go but leave behind their beloved pets.”

Pets: Overlooked Victims of Family Violence

As America witnessed during the tragedy of Hurricane Katrina, many people will not leave their homes without their beloved pets even when their own lives are at stake.

So it is in domestic violence situations, and abusers know this: The threat, or actual use, of violence against family pets is part of the dynamic of family violence—a dynamic that includes not only the spouse and batterer, but also the children, elderly relatives, and the family pet(s).

These crimes are often violent and egregious acts of cruelty. One of this article’s authors has prosecuted a number of domestic abuse cases that included violence against pets, such as setting pets on fire, throwing them off balconies, and beating or killing them in front of children. Victims of family violence are often left in a position of deciding whether to stay in an abusive and often dangerous situation, or to go but leave behind their beloved pets. Victims know that leaving them behind puts their pets at even greater risk of abuse once the victim is gone. Animals are often used by the abuser to punish or manipulate, as well as to take revenge against the victim. Considering that more than 64 million households in the United States include one or more companion animals, being cruel to animals is a common way to punish and control a victim of domestic violence. (Randour & Davidson, 2008). Likewise, attachments to pets on the parts of both victim and the children in a violent family are considerable, and traumatic suffering can result when pets are abused or killed.

In the past twenty years, a growing body of research has firmly established a significant link between domestic violence, child abuse, and animal abuse.

- Multiple studies have found that as many as 71% of battered women reported that their pets had been threatened, harmed, and or killed by their partners (Ascione, Weber, & Wood, 1997; Flynn, 2000; Loring & Bolden-Hines, 2004).
- A national survey of battered women’s shelters determined that 85% of shelters indicated that women seeking shelter at safe houses talked about incidents of pet abuse (Ascione et al., 1997).
- Pet abuse was identified as one of the four significant predictors for intimate partner violence in a recent “gold standard” study conducted by Dr. Jacquelyn Campbell and colleagues. This study, conducted from 1994 to 2000 in 11 large U.S. cities, used a random sample of 3,737 women, as well as a control case sample of 845 women (Walton-Moss, Manganello, Frye, & Campbell, 2003).
- Severe physical violence perpetrated by the batterer was a significant predictor of pet abuse (Ascione et al., 2007).
- 48% of battered women delay leaving a dangerous situation out of concern for their pet’s safety (Faver & Strand, 2003).
- Women have been coerced into committing illegal acts by the batterer because of threats made to their pets (Loring & Bolden-Hines, 2004)
- Children exposed to domestic violence are at greater risk of psychological maladjustment, including a higher risk of becoming perpetrators or victims. Pet abuse is an early indicator of such

maladjustment. Children exposed to domestic violence were at significantly increased risk for behavior problems, including animal abuse (Baldry, 2003).

Household pets are not the only victims; farm animals and horses can be subject to abuse. One abuse victim noted that when she made her husband angry, he would beat her beloved horses. These are not isolated cases but rather are typical of how abusers use animals to control victims or seek revenge.

Legislatures Respond to the Need to Protect Pets

After seeing so many people stay behind during Hurricane Katrina to safeguard their pets, many states responded by developing emergency plans that include pets to ensure that people will evacuate their homes when called upon to do so. The federal government acted as well. In 2006, Congress passed and President George W. Bush signed into law the Pets Evacuation and Transportation Standards Act. This law requires that local and state emergency plans cover pets and service animals in order to qualify for grants from FEMA. It also provides assistance with creating appropriate shelters.

Similarly, in violent homes throughout the country, domestic violence victims risk their lives every day staying in dangerous situations in order to protect a beloved companion animal. As was the response to Katrina, it is appropriate that the law and the courts make it easier for these victims to protect themselves by recognizing the need to protect their pets.

Complicating the issue is the fact that animals are considered property in all 50 states. If an abuser refuses to relinquish a pet and the pet is not listed on a temporary restraining order (TRO), police and even courts are often reluctant to get involved in what is usually considered a marital property dispute. As a result, abusers have been known to threaten to harm or kill a pet if a victim does not return to the home, or dismiss criminal charges or restraining orders against an abuser. In one such case, a woman suddenly left a domestic violence shelter after she received pictures of her husband cutting her dog’s ears off with garden shears. Another woman was forced to watch as her husband shot and killed her dog in front of her young son.

Existing State Laws Governing Temporary Restraining Orders that include Pets

Many states have recognized that including pets in TROs is an important component in protecting domestic violence victims. In 2006, Maine enacted the first statute that specifically allowed judges to include pets in protection orders issued against domestic abusers. New York and Vermont followed suit later that year. Currently, at least 13 states have passed laws to ensure that victims can include their pets in restraining orders. Numerous other states have bills pending or are considering such laws.

In addition to these 13 states, some states have passed laws that take into account animal abuse in domestic violence situations. For example, a Florida law provides that the intentional injury or killing of a pet can be one factor used to petition a court for an injunction for protection against domestic violence, and also a factor

State Pet Protective Order Laws

August 2009

State	Citation	Year Enacted
California	Family Code § 6320	2007
Colorado	C.R.S.A § 18-6-803.5	2007
Connecticut	C.G.S.A § 46b-15	2007
Hawaii	H.R.S § 586-4	2009
Illinois	725 ILCS 5/112A-14	2007
Louisiana	R.S. 46:2135	2008
Maine	19-A MRSA §4007	2006
Nevada	NRS §§ 33.018 and 33.030	2007
New York	Family Court Act, § 842	2008
North Carolina	G.S. § 50B-3	2009
Tennessee	T.C.A. § 36-3-606	2007
Washington	RCW §§ 26.50.060 and 26.50.110	2009
Vermont	15 V.S.A. § 1103	2006

that should be considered in determining whether a petitioner has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence. (*Fla. Stat. § 741.30(3)(b) and 741.30(6)(b)(4)*)

Indiana law includes animal cruelty, when combined with a crime against a family or household member, as an act of domestic violence. (*Burns Ind. Code Ann. § 31-9-2-29.5 (14)*) Further, beating, torturing, mutilating, or killing a vertebrate animal with the intent to threaten a family member is also considered an act of domestic violence. (*Burns Ind. Code Ann. § 31-9-2-42 (4)*)

In Pennsylvania, the law finds that killing or threatening to kill a pet constitutes abuse that can constitute grounds for granting a temporary order that requires the defendant to relinquish all firearms to the sheriff. (*23 Pa.C.S. § 6107 (b)(3)(ii)(E)(III)*)

Although neither Pennsylvania, Indiana, nor Florida has specific laws to allow pets' inclusion on restraining orders, their enactment of the above legislation shows they recognize the implications of animal cruelty in domestic violence.

Colorado, which does allow pets to be included on TROs, further defines domestic violence as follows:

"Domestic violence" also includes any other crime against a person, or against property, including an animal, or any municipal ordinance violation against a person, or against property, including an animal. (C. R. S. A. § 18-6-800.3)

Most states that have express provisions that allow for pets to be included in TROs have merely added sections to the TRO that allow for possession and custody of an animal to the victim. A typical provision such as Louisiana's law states:

(7) Granting to the petitioner the exclusive care, possession, or control of any pets belonging to or under the care of the petitioner or minor children

residing in the residence or household of either party, and directing the defendant to refrain from harassing, interfering with, abusing or injuring any pet, without legal justification, known to be owned, possessed, leased, kept, or held by either party or a minor child residing in the residence or household of either party. (LSA-R.S. 46:2135)

As previously mentioned, at least 13 states have laws that specifically allow for inclusion of pets in TROs. Some provisions are more specific and some are more general in nature. For example, California law states:

§ 6320. Ex parte order enjoining contact; companion animals

(b) On a showing of good cause, the court may include in a protective order a grant to the petitioner of the exclusive care, possession, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent. The court may order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

Under Connecticut law:

The court, in its discretion, may make such orders as it deems appropriate for the protection of any animal owned or kept by the applicant including, but not limited to, an order enjoining the respondent from injuring or threatening to injure such animal. If an applicant alleges an immediate and present physical danger to the applicant, the court may issue an ex parte order granting such relief as it deems appropriate. (CT ST § 46b-15)

Likewise in Illinois, the provision under the domestic violence order of protection states:

(11.5) Protection of animals. Grant the petitioner the exclusive care, custody, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent and order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, harming, or otherwise disposing of the animal. (IL ST CH 725 § 5/112A-14)

Certainly, all of these laws are meant to protect the victims of domestic violence by recognizing that animal abuse is often used to hurt the victim. They are also meant to protect animals in these dangerous and volatile situations. Therefore, the disposition of pets can be an important

consideration for family court judges when considering or granting a TRO.

When There Are No Specific Provisions in the Law

Although it is preferable for states to enact laws specifically allowing the inclusion of pets in TROs, it is arguably permissible in the absence of such provisions. Having the specific provision within the TRO allows for the victim to be presented with the option at the time of the request. However, in lieu of such a provision, most state TROs contain language that allows for disposition of specific property. Further, most states include language that allows for additional orders left to the court's discretion. Accordingly, the court can also order that the pets be included in the TRO's protection, as

Continued on page 20

"It wasn't just the cats and dogs, it was the sheep and the chickens. I was terrified for their welfare. I knew if I were to leave, he wouldn't hesitate to kill them. He had done it before."

— Susan Walsh, 50, whose testimony before the Maine legislature was instrumental in helping to enact the first state law that included animals in domestic violence protective order (*The New York Times*, Apr. 1, 2006).

Safe Havens for Pets



The vast majority of domestic violence shelters do not allow pets. As a result, “safe havens for pets” programs, which provide emergency care for pets while their owners stay at a domestic violence shelter or other temporary housing where pets are not allowed, are extremely important in efforts to keep victims and their pets safe. The actual number, location, and types of services offered by these programs are unknown, which is why the Safe Havens Mapping Project, described below, was initiated.

The manner in which safe haven programs are organized depends on what makes sense locally, and they have generally developed “organically” from the grassroots level. Some programs are partnerships between a domestic violence agency and a humane society; others, such as Ahimsa House in Atlanta, Ga., are not associated with a particular shelter or agency.

In some instances, a domestic violence program may enlist the aid of local veterinarians or boarding facilities, as in the case of Harbor House in Orlando, Fla. Elsewhere, animal shelters provide kennel space for the pets of domestic violence victims. A third option, placing animals in volunteer “foster homes,” often offers a longer length of stay than is available or cost-effective at animal care facilities, while also providing a family environment that avoids the risk of animals developing mental/behavioral problems from being kenneled for long periods. However, safeguards should be put in place when using foster homes, such as careful screening and training, emergency protocols, and ideally a no-contact policy between clients and foster homes (in Ahimsa House’s program, for example, they do not even know one another’s identity or location).

How do I find a Safe Haven for Pets program in my area?

Information about safe haven programs can be found at the Ahimsa House Web site, and in the National Coalition Against Domestic Violence (NCADV) National Directory of Domestic Violence Programs. Unfortunately, at this time the NCADV directory is not available online, and the Ahimsa House directory is not yet national in scope. The American Humane Association is also supporting the development of on-site facilities at domestic violence shelters that allow victims to bring their pets with them. This alternative, while limited, presents another choice for those communities investigating the formation of a safe haven program. American Humane maintains a list of shelters that accept pets;

however, since shelters may have restrictions on the type and number of pets allowed, please contact them for more information (see below).

In order to provide a comprehensive, national resource for safe havens for pets programs, the Safe Havens Mapping Project was initiated in 2009. When complete, the Project will provide information online, identifying service areas and contact information for havens programs around the country.

The Safe Havens Mapping Project

The Animal Welfare Institute and the Humane Society of the United States initiated the Safe Havens Mapping Project in order to offer victims of domestic violence and their representatives rapid and easy access to information about safe haven programs. Additionally, for existing programs, improved access to information about fellow programs statewide/nationwide will facilitate communication, collaboration, and coordination of care. Finally, identifying and mapping service areas of existing programs will assist in identifying geographic areas lacking safe haven coverage where development of new programs should be encouraged. This information is being compiled into a searchable national database housed on the Web site of Ahimsa House (www.ahimsahouse.org/directory).

Staff and volunteers of these organizations have been contacting the domestic violence programs listed in the NCADV directory to confirm, update, and expand upon the information it provides regarding the availability of housing, or assistance with finding safe placement, for the companion animals of women attempting to escape a violent partner. In addition to finding out whether services are provided on-site, off-site, or via referral, we elicit additional details about the services, e.g., whether foster homes are utilized. In one case, we learned that small mammals, such as hamsters, may be kept in one’s room at the shelter. We also ask whether a stay at the shelter is required, and whether questions about pets are asked of callers to the hotline or during intake.

Once the Safe Havens Mapping Project is online, it will provide a national resource to domestic violence agencies, law enforcement, prosecutors, and social services. With this additional resource, greater protection can be extended to protect families and the animals that live with them.

For more information on Safe Havens for Pets programs:

Ahimsa House: www.ahimsahouse.org; Ahimsa House safe havens listserv: <http://lists.lists.ahimsahouse.org/mailman/listinfo/safehavens>

American Humane Association, Pets and Women’s Shelters (PAWS) Programs: <http://www.americanhumane.org/human-animal-bond/programs/pets-and-womens-shelters/>

Ascione, F. R. (2000). Safe havens for pets: Guidelines for programs sheltering pets for women who are battered. Available at: http://www.vachss.com/guest_dispatches/safe_havens.html

The Humane Society of the United States (2004). Starting safe havens for animals program. Available at: http://files.hsus.org/web-files/PDF/2004_SafeHavens_Guide.pdf

Continued from page 18

with the temporary care of the children, or possession of homes or vehicles. Thus, in the same way as certain property is given to the victim pending a final disposition, so can animals be turned over exclusively to a victim pending the Final Restraining Order hearing. Judges have often used such language to include pets in TROs prior to specific provisions in the law that spell out this consideration.

In rare cases, concerns have been raised in situations when an individual has used the system to obtain possession of pets inappropriately or out of spite—not unlike what occasionally happens in certain child custody disputes. Although these may be rare circumstances, the court can ensure that the pets are safe and fairly awarded by ordering that the pets must remain in the custody of the petitioner and not be removed or euthanized pending a final disposition of the animals. This is comparable to initial Separation Orders, which can prohibit the parties from moving any family members or assets until the final settlement.

Including Pets in Temporary Restraining Orders

Allowing pets to be included in restraining orders removes one obstacle that may prevent a victim from leaving an abusive situation. Including pets in an initial TRO is often essential to protecting the animal as well as ensuring that the victim can leave without fear of abuse to her animal family member.

In addition, including pets on a TRO can authorize law enforcement to assist the victim in retrieving pets left behind at the residence during flight. Absent this protection, victims may attempt to return to the residence alone to retrieve or care for pets, placing themselves in danger of encountering the abuser. In a recent situation known to one author, a victim staying at a domestic violence shelter returned to the residence each day at a time when she predicted the abuser would be absent—bringing her children with her—to feed the dogs and allow them to relieve themselves. After a few days, the victim became too fearful to attempt the journey. Soon thereafter, she left the shelter due to concern about the dogs, which were her children's beloved pets. While this case clearly illustrates a failure of the domestic violence shelter to recognize and address the safety risks inherent in the situation, it is also an example of how including the dogs in a TRO (which this victim did not have) might have produced a different outcome.

Animal abuse is a recognized indicator of future violence and is a common and violent crime in domestic violence situations. Understanding how to address animal abuse can protect both animals and victims of domestic violence. In the same way that domestic violence was once thought of as a minor offense, with education, stronger laws, and judicial attention to these issues, including animals in TROs can advance the protection of animals as well as protect victims and children from additional trauma and violence.

ABOUT THE AUTHORS:

Sherry Ramsey, a licensed attorney in New York and New Jersey, is Manager of Animal Cruelty Prosecutions at the Humane Society of the United States.

Dr. Mary Lou Randour, Director of Professional Outreach for the Humane Society of the United States, is a psychologist who has focused on research, policy, and practice related to the link between animal cruelty and other crimes, especially interpersonal violence.

Nancy Blaney is Senior Policy Analyst at the Animal Welfare Institute. She has over 25 years of experience advocating on behalf of animals at the state and federal level.

Dr. Maya Gupta, a psychologist with interests in the link between animal cruelty and interpersonal violence, is President and CEO of Ahimsa House.

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DOJ interested in animal cruelty crimes

The U.S. Department of Justice sent a strong signal of its interest in the problem of animal cruelty and interpersonal violence when its Bureau of Justice Assistance (BJA) awarded the Association of Prosecuting Attorneys nearly \$500,000 to provide training and other assistance to prosecutors in handling animal abuse and animal fighting cases.

This project provides on-site and webinar training; Web-based resources, including a brief bank; and ongoing technical assistance and access to expertise to encourage and enhance the vigorous prosecution of these crimes and address their link to domestic abuse, child abuse, and other forms of violence.

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COST OF ANIMAL CARE LEGISLATION

Good for Animals, Good for Shelters, Good for Taxpayers

When abused and neglected animals are rescued by law enforcement, sometimes they are held for months—or even years—while cruelty charges are prosecuted. That's a significant cost to animal shelters, taxpayers and animals.



Cost of Animal Care Laws

- Establish a process so that anyone who has had his or her animals lawfully seized due to cruelty may be required to pay for the animals' care or relinquish ownership.
- Prevent local and state agencies from incurring debilitating costs in animal cruelty cases, saving tax dollars and animal lives.
- Give relief to animal shelters so they can help more abused, neglected and homeless animals find new homes.



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MEMORANDUM

March 2, 2015

SUBJECT: Cruelty to Animals Cases in District Court
(Work Order No. 29-LS0302\P)

TO: Representative Max Gruenberg

FROM: Emily Nauman 
Legislative Counsel

Please find the above-mentioned work order enclosed. Please consider the following two items.

First, you requested that cases involving cruelty to, or seizure, destruction, or adoption of an animal under AS 03.55.100 - 03.55.190 be heard in district court. I added "cases involving cruelty to or seizure, destruction, or adoption of animals under AS 03.55.100 - 03.55.190" to AS 22.15.030(a), giving the district court jurisdiction over such cases. I did not add the references to district court in AS 03.55.100 - 03.55.190. Under the scheme in this draft, the superior and district courts have concurrent jurisdiction. An action with concurrent jurisdiction may not be filed with the superior court, except as provided by the rule of the Supreme Court. I believe this accomplishes your intent. As you may be aware, some criminal cruelty to animals cases, under AS 11.61.140, are required to be held in superior court because they are charged and classified as felonies. This model may also allow the superior court to hear a case or issue a warrant in the event of an emergency.

Second, as you are aware, the definition provided for "animal" in your bill at AS 18.65.590 and AS 18.66.990 differs from the existing definition of "animal" at AS 03.55.190(1) and AS 11.81.900(3).¹ This may cause confusion if a court interprets the two definitions differently. Also please note that "vertebrate" is listed primarily as an adjective in the dictionary. The dictionary does state that "vertebrate" may be used as a noun, however it is listed as its third and least common usage. The word "vertebrate" is not used as a noun in the Alaska statutes.

If I may be of further assistance, please advise.

ELN:Ind
15-157 Ind

Enclosure

¹ In those sections, "animal" is defined as "a vertebrate living creature not a human being, but does not include fish."

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MEMORANDUM

March 10, 2015

SUBJECT: Definition of Animal (Work Order No. 29-LS0302\G)
TO: Representative Max Gruenberg
FROM: Emily Nauman 
Legislative Counsel

Please find the above-mentioned bill enclosed. In addition to a new bill draft providing for the ownership of a pet upon a dissolution, you asked for an accompanying memo listing everywhere "animal" is defined in statute.

"Animal" is defined in statute in four places:

AS 03.05.100(2) states "animal" means "an animal other than a human being and includes a mammal, insect, bird, fish, and reptile, whether wild or domestic, and whether living or dead."

AS 03.55.190 states "animal has the meaning given in AS 11.81.900." See AS 11.81.900 below.

AS 08.98.250(2) states "animal" means "any animal other than a human being including mammals, birds, fish, and reptiles, wild or domestic, living or dead."

AS 11.61.145(c) states "animal" means "a vertebrate living creature not a human being, but does not include fish."

AS 11.81.900(b)(3) states "animal" means "a vertebrate living creature not a human being, but does not include fish."

You also asked whether I thought the definition of "animal" should be included in AS 01.10.060. Given that the definition of "animal" varies across several statutes, I do not believe "animal" should be included in the definitions applying to all statutes.¹

¹ The term "animal" is also used throughout AS 16 but in connection or in relation to definitions of "fish," "game," "big game animal," and other similar terms. A general definition for the Alaska Statutes would probably cause confusion in applying these statutes.

Representative Max Gruenberg
March 10, 2015
Page 2

If I may be of further assistance, please advise.

ELN:ind
15-198.ind

Enclosure

41 P.3d 593
Supreme Court of Alaska.

Julie A. (Gough) JUELFS, Appellant,
v.

Stephen J. GOUGH, Appellee.

No. S-9931. | Feb. 15, 2002. |
Rehearing Denied March 13, 2002.

Divorced wife moved for review of dissolution agreement, alleging former husband failed to allow her to spend time with parties' dog as allotted by agreement. The Superior Court, Fourth Judicial District, Fairbanks, [Ralph R. Beistline](#) and [Charles R. Pengilly, JJ.](#), modified dissolution agreement and granted former husband sole custody of the dog. Divorced wife appealed. The Supreme Court, [Carpeneti, J.](#), held that: (1) authority existed to modify agreement and award former husband sole custody of the dog; (2) divorced wife's request to change judge was untimely; and (3) divorced wife was not entitled to attorney fees as a pro se litigant.

Affirmed.

Attorneys and Law Firms

*594 Julie A. Juelfs, pro se, North Pole.

[Cory R. Borgeson](#), [Borgeson & Burns](#), Fairbanks, for Appellee.

Before: [FABE](#), Chief Justice, [MATTHEWS](#), [EASTAUGH](#), and [CARPENETI](#), Justices.

OPINION

[CARPENETI](#), Justice.

I. INTRODUCTION

Arguing that "a pet is not just a thing but occupies a special place somewhere in between a person and a piece of personal property,"¹ Julie A. Juelfs (formerly Goug) appeals a superior court ruling modifying her and her former husband Stephen J. Gough's dissolution agreement to grant sole custody of their dog Coho to Stephen. Julie also appeals the court's ruling denying her a change of judge and requests that Stephen's retirement benefits as well as attorney's fees be awarded to her. Because the decision to modify the

dissolution agreement to award Stephen full custody of Coho was within the superior court's discretion, the decision to deny the motion for a change of judge was not in error, and Julie's requests for the retirement account and attorney's fees are unwarranted, we affirm the superior court decision in all respects.

II. FACTS AND PROCEEDINGS

On January 11, 1993, Superior Court Judge [Ralph R. Beistline](#) signed a decree of dissolution between Stephen J. Gough and Julie A. Gough. The matter had first been assigned to Judge Beistline on November 23, 1992. The decree provided for shared ownership of Stephen and Julie's dog Coho, a chocolate Labrador retriever. The agreement also provided that Stephen would retain \$8,253 paid into Stephen's retirement account during the marriage as well as the interest on that amount.

On March 28, 2000, Julie filed a motion requesting the dissolution agreement be reviewed *595 due to Stephen's alleged failure to allow Julie her allotted time with Coho. Stephen opposed the motion, alleging that two other dogs at Julie's residence threatened Coho's life. Furthermore, he alleged that, during one incident when the dogs were fighting, Julie's boyfriend separated the dogs by pulling Coho's leg, thus dislocating it at the elbow requiring Coho to be under "constant care and medication." In her reply, Julie additionally argued that, because she did not request part of Stephen's retirement fund as a part of the dissolution agreement, she should now be awarded the \$8,253 that accrued in it during the marriage and that the interest earned on it be "consideration" for her portion of medical bills Stephen paid on Coho's behalf.²

Judge Beistline issued his decision in the matter on April 20, 2000. In it, he awarded "legal and physical custody of Coho" to Stephen and allowed Julie "reasonable visitation rights as determined by" Stephen. The order also stated that Stephen would be responsible for all of Coho's medical bills.

Julie moved to review the order on May 22, 2000, claiming Stephen was not providing her with reasonable visitation. Stephen opposed the motion, arguing it was untimely and promising to provide the requisite visitation. Judge Beistline denied the motion, stating that the motion was both untimely and failed on its merits.

In September 2000, the parties sought reciprocal restraining orders against each other as the result of an altercation between them that occurred when Stephen sought to regain custody of Coho after Julie had taken the dog for a visit without Stephen's permission. Julie then filed a request for a hearing to review the custody settlement. On September 19, 2000, Judge Beistline ruled that although the court had remained hopeful that "some type of visitation could still occur between Ms. Gough and Coho" it has not worked. Therefore, the court found that Julie and Stephen should no longer have any contact whatsoever. The court also reaffirmed its previous ruling granting custody of Coho to Stephen stating, "Ms. Gough has no rights whatsoever to Coho and may not demand visitation or take the dog from Mr. Gough." The court then imposed a six-month restraining order prohibiting the parties from contacting each other except through counsel.

Julie filed a change of judge request form in September 2000. This request was denied as the "[c]ourt ha[d] already rendered its decision in the matter" making it "too late to change Judge."

In October 2000, Julie moved for a change in custody of Coho, requesting physical custody of Coho on weekends from Saturday at eight o'clock a.m. until Sunday at eight o'clock p.m. At the same time Julie also filed a request for reconsideration of her request for a change of judge. Judge Beistline responded to Julie's request as well as other concerns regarding Coho's custody on October 23, 2000. In his order he stated that it

is inappropriate [to] wait until after a judge makes a ruling to determine whether or not he or she likes the judge. Nevertheless, in an abundance of caution, the Court will refer this matter to another Superior Court judge to review the issue of whether another judge should be appointed to hear this matter.

Judge Beistline also reaffirmed his previous ruling that Stephen had full physical and legal custody of Coho and that he did not need to consult Julie prior to making any medical decisions.

The matter was then assigned to Superior Court Judge Charles R. Pengilly for review. Judge Pengilly found Julie's request for a new judge "properly rejected ... as untimely" and that

it was "apparent that Ms. Juelfs is simply unhappy with the outcome, which does not and cannot justify disqualification of the judge who decided the case."

Julie now appeals.

III. STANDARDS OF REVIEW

[1] [2] "We will not disturb a trial court's ruling on a Rule 60(b) motion unless an *596 abuse of discretion is demonstrated." ¹ An abuse of discretion occurs when we are "left with the definite and firm conviction on the whole record that the judge had made a mistake..." ⁴

[3] Only where a judge's refusal to disqualify himself or herself is patently unreasonable will we reverse. ⁵

IV. DISCUSSION

A. The Trial Court Did Not Abuse its Discretion in Modifying the Property Settlement.

Julie contends that Judge Beistline abused his discretion in modifying the property settlement. Stephen responds that Julie has failed to adequately brief the issue and that the court properly modified the settlement.

1. Julie has sufficiently briefed the issue.

[4] Stephen contends that, although Julie contests Judge Beistline's authority to modify the property settlement in her points of appeal, she fails to make the argument in her brief, thereby waiving the issue.

[5] Although cursory briefing of an issue is a sufficient reason to disregard a point on appeal, regardless of a party's *pro se* status, ⁶ Julie's briefing is adequate. She contests the superior court's ability to modify the property settlement. Although she does not explicitly make this argument, she does so implicitly and in a manner that we can easily review. Stephen accurately perceives her argument and responds to it. Accordingly, he is not prejudiced. ⁷ In these circumstances, we decline to find that the issue is waived on the basis of cursory briefing.

2. Property settlements incorporated into divorce decrees are final judgments.

[6] The custody of Coho is a part of the property settlement agreed upon between the parties and incorporated into the divorce decree. This fact, overlooked by both parties, is important because "[a] property division incorporated within a divorce decree is a final judgment and is modifiable to the same extent as any equitable decree of the court."⁸ Thus, the judgment that custody of Coho would be shared is final and can only be modified under Alaska Rule of Civil Procedure 60(b).⁹

3. Rule 60(b)¹⁰

Upon hearing Julie's motion to enforce the property settlement as to Coho, Judge Beistline *597 decided that Julie and Stephen should no longer share custody of the dog. He therefore awarded custody of Coho to Stephen. Because the modification does not fall under the parameters of Civil Rule 60(b)(1)-(5),¹¹ we consider whether the modification could be justified under Civil Rule 60(b)(6), the "catch-all" provision.¹²

[7] [8] [9] "A party can invoke subsection (6) only if none of the other five clauses apply and 'extraordinary circumstances' exist."¹³ "[I]n deciding Rule 60(b)(6) motions we give consideration to the following factors: the prejudice, if any, to the non-moving party if relief from judgment is granted, whether any intervening equities make the granting of relief inappropriate, and any other circumstances relevant to consideration of the equities of the case."¹⁴ We thus "balance the interest in the finality of judgments against the interest in granting relief from judgment when justice so requires."¹⁵ The last requirement of a motion under Rule 60(b) is that it be made within a "reasonable time."¹⁶

[10] Unlike Rule 60(b)(3) fraud, which can be brought by the court at any time,¹⁷ subsection (6) requires a motion be made by one of the parties. The rule states that "the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action."¹⁸ We construe Stephen's opposition to Julie's motion as such a request. In his opposition Stephen contends that the "joint sharing agreement of a dog warrants review by the Court." He goes on to state that it is "in the best interests of Coho that the property settlement agreement provide that Coho be awarded to Steve Gough solely." Such language is enough to warrant the trial court's action. Although there is an interest

in the finality of judgments, it is clear the judgment would never have been final under the circumstances that faced the court. The arrangement between Julie and Stephen assumed a state of facts, namely, cooperation between them, that proved not to exist, requiring judicial intervention. As Judge Beistline aptly noted, the arrangement between Julie and Stephen was not working: "[T]he parties were unable to share custody of Coho without severe contention."

*598 B. Judge Beistline Did Not Err in Denying Julie's Request for a Change of Judge.

[11] Julie claims Judge Beistline committed error by failing to properly address her request for a change of judge and by not consulting Standing Master MaryAlice Closuit, the special master who presided over the original dissolution proceeding. Stephen argues in response that Julie's request was correctly denied as untimely.

"Failure to file a timely notice precludes change of judge as a matter of right. Notice of change of judge is timely if filed before the commencement of trial and within five days after notice that the case has been assigned to a specific judge."¹⁹

Julie filed her request for a change of judge on September 22, 2000. Judge Beistline signed the decree of dissolution of marriage in this matter on January 11, 1993. Over seven years passed after Judge Beistline's assignment before Julie requested a change of judge. Rule 42(c)(3) precludes a change of judge as a matter of right in these circumstances.²⁰

Even so, Judge Beistline still referred the matter to another superior court judge for review. After review, the second judge concurred that the request was untimely. There is no basis to find Judge Beistline's decision patently unreasonable. As in *Lacher v. Lacher*, Julie's argument is "little more than an expression of [her] dissatisfaction with the superior court's ruling."²¹

C. Julie Is Not Entitled to Money from Stephen's Retirement Account Distributed in the Original Property Settlement.

[12] Julie claims that in light of the change Judge Beistline made to the original dissolution decree, she is entitled to \$10,967 (\$8,253 in Stephen's retirement account plus interest of \$2,714) that she claims should have been awarded to her at the time of the dissolution. Julie also requests interest on this amount from January 11, 1993. Stephen argues the issue

should not be considered because Julie failed to raise it before the superior court.

The money Julie requests was awarded to Stephen as a part of the property settlement and was incorporated into the dissolution decree. It is therefore a final judgment that can only be changed or modified through the use of Civil Rule 60(b).²²

Julie did not bring a Rule 60(b) motion, either explicitly or implicitly, in the superior court. She is not entitled to raise this issue for the first time on appeal.²³

D. Julie Is Not Entitled to an Award of Attorney's Fees.

[13] Julie requests "half the expenses paid to [Stephen's law firm] for [her] legal work in this matter." Stephen argues in response that this issue was not raised in the lower court and should therefore not be considered first by this court on appeal.

In *Alaska Federal Savings & Loan Ass'n of Juneau v. Bernhardt*,²⁴ we considered the question of whether *pro se*

litigants were entitled to attorney's fees.²⁵ After considering policy reasons for and against²⁶ such *599 awards we concluded the reasoning against allowing *pro se* litigants to recover fees was more persuasive.²⁷ We have recently affirmed this conclusion in *Shearer v. Mundt*.²⁸ Julie has provided no reason for us to depart from this approach. Accordingly, we deny Julie's request for fees.

V. CONCLUSION

[14] The superior court did not abuse its discretion in modifying the property settlement incorporated into Julie and Stephen's dissolution decree in awarding Coho to Stephen. The superior court did not err in denying Julie's untimely request for a change of judge. Finally, Julie is not entitled to any portion of Stephen's retirement account, which was previously distributed in the original settlement, or to an award of attorney's fees. We therefore AFFIRM the superior court's ruling in all respects.²⁹

BRYNER, Justice, not participating.

Footnotes

- 1 *Morgan v. Kraupa*, 167 Vt. 99, 702 A.2d 630, 633 (1997).
- 2 Julie, however, disputes that she owes this money, having never been consulted regarding any of Coho's treatment paid for by Stephen.
- 3 *Morris v. Morris*, 908 P.2d 425, 427 (Alaska 1995).
- 4 *Farrell v. Donie Labs.*, 650 P.2d 380, 384 (Alaska 1982) (quoting *Gravel v. Alaskan Village, Inc.*, 423 P.2d 273, 277 (Alaska 1967) (footnote omitted)).
- 5 *Long v. Long*, 816 P.2d 145, 156 (Alaska 1991).
- 6 *A.H. v. W.P.*, 896 P.2d 240, 243 (Alaska 1995).
- 7 See *Wilkerson v. State, Dep't of Health and Soc. Servs., Div. of Family and Youth*, 993 P.2d 1018, 1022 (Alaska 1999) (allowing cursory argumentation where argument's "essence" was easily discerned from the briefs).
- 8 *O'Link v. O'Link*, 632 P.2d 225, 228 (Alaska 1981).
- 9 *Lowe v. Lowe*, 817 P.2d 453, 456 (Alaska 1991) (noting that although AS 25.24.160(a) allows a court to adjudicate property rights, it "does not authorize a court to dispose of assets on a piecemeal basis where ... the parties' property rights have been purportedly adjudicated and incorporated into a final judgment." Thus, "relief may be granted only within the parameters of Civil Rule 60(b).").
- 10 Alaska R. Civ. P. 60(b) states:
On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order, or proceeding for the following reasons:
(1) mistake, inadvertence, surprise or excusable neglect;
(2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b);
(3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;
(4) the judgment is void;
(5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or
(6) any other reason justifying relief from the operation of the judgment.

The motion shall be made within a reasonable time, and for reasons (1), (2) and (3) not more than one year after the date of notice of the judgment or orders as defined in Civil Rule 58.1(c). A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order or proceeding, or to grant relief to a defendant not personally served, or to set aside a judgment for fraud upon the court. Writs of coram nobis, coram vobis and audita querela are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

11 Rule 60(b)(1) is usually applied to cover events occurring prior to entry of the judgment and not those that post-date it. See *McGee v. McGee*, 974 P.2d 983, 989 (Alaska 1999). The events at issue here occurred after Julie and Stephen's divorce decree was entered. Therefore, Rule 60(b)(1) is inapplicable. Subsections (b)(1) through (3) are also inapplicable because there is a one-year time limitation for motions brought under them that courts do not have the power to enlarge. See *O'Link*, 632 P.2d at 229. Subsections (3) through (5) are also inapplicable as neither party alleges facts that would bring this case under those subsections.

12 "Rule 60(b)(6) is, after all, a catch-all provision and 'should be liberally construed to enable courts to vacate judgments whenever such action is necessary to accomplish justice.'" (*Clauson v. Clauson*, 831 P.2d 1257, 1261 (Alaska 1992) (emphasis in original) (quoting *O'Link*, 632 P.2d at 230))

13 *Lacher v. Lacher*, 993 P.2d 413, 419 (Alaska 1999) (citing *O'Link*, 632 P.2d at 229).

14 *Norman v. Nichiro Gyogyo Kaisha, Ltd.*, 761 P.2d 713, 717 (Alaska 1988).

15 *Id.*

16 *Love v. Love*, 817 P.2d 453, 459 (Alaska 1991).

17 See, e.g., *Higgins v. Municipality of Anchorage*, 810 P.2d 149, 154 (Alaska 1991) (noting "Civil Rule 60, which provides for relief from judgment, specifically authorizes a court 'to set aside a judgment for fraud upon the court.'" (quoting Alaska R. Civ. P. 60(b)); *Livingston v. Livingston*, 572 P.2d 79 (Alaska 1977).

18 Alaska R. Civ. P. 60(b)(6).

19 Alaska R. Civ. P. 42(c)(3).

20 See, e.g., *Musser v. Johnson*, 914 P.2d 1241, 1243 (Alaska 1996) (finding six-month delay between assignment and request precluded change as a matter of right).

21 993 P.2d 413, 421 (Alaska 1999).

22 *Allen v. Allen*, 645 P.2d 774, 776 (Alaska 1982) (noting the "court has no inherent equitable power to modify property rights that are part of a final decree. Rather, the provisions of a decree adjudicating property rights are modifiable only to the extent that relief may be obtained from any other final judgment.").

23 *Pierce v. Pierce*, 949 P.2d 498, 501 (Alaska 1997) (holding that issue not raised in trial court was barred on appeal because of prejudice to opposing party).

24 794 P.2d 579 (Alaska 1990).

25 *Id.* at 581-82.

26 Reasons against awarding *pro se* litigants fees include:

(1) the difficulty in valuing the non-attorney's time spent performing legal services, i.e., the problem of overcompensating *pro se* litigants for "excessive hours [spent] thrashing about on uncomplicated matters," (2) the danger of encouraging frivolous filings by *pro se* litigants and creating a "cottage industry" for non-lawyers, (3) our view that the express language of Civil Rule 82 specifying "attorneys fees" is not easily susceptible to a construction allowing awards to non-attorneys, and (4) the argument that, in cases where a litigant incurs no actual fees, the award amounts to a penalty to the losing party and a windfall to the prevailing one.

Pratt & Whitney Canada, Inc. v. Sheehan, 852 P.2d 1173, 1181 n. 12 (Alaska 1993) (citing *Alaska Fed. Sav. & Loan Ass'n of Juneau*, 794 P.2d at 581).

27 *Alaska Fed. Sav. & Loan Ass'n of Juneau*, 794 P.2d at 581-82.

28 36 P.3d 1196 (Alaska 2001).

29 Julie's last contention is that she is entitled to reversal because when she approached Stephen's counsel, he stated he would not deal with her as a *pro se* litigant. Because she made no mention of the matter in the superior court, she may not raise it now for the first time on appeal. *Pierce*, 949 P.2d at 500-01.



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Research Brief

TO: Representative Max Gruenberg
FROM: Chuck Burnham, Legislative Analyst
DATE: January 7, 2015
RE: Custody Awards and Protective Orders for Pets
LRS Report 15.142

You asked about custody awards and protective orders for pets. Specifically, you wished to know the legal authority in Alaska that gives courts the power to award custody of pets in divorce proceedings. You further wanted to know which states provide for protective orders for pets in divorce or domestic violence proceedings.

Awarding Custody of Pets in Divorce Proceedings

Our research found no Alaska statute that governs the “custody” or ownership of pets in divorce proceedings.¹ Alaska courts have, however, traditionally considered pets to be property, as do nearly all other legal jurisdictions in the United States. For example, in a 1985 case in which a family sought damages from the Fairbanks-North Star Borough stemming from the municipality improperly euthanizing a dog, the Alaska Supreme Court affirmed the lower court’s denial, finding that

The superior court correctly held that the Richardsons’ subjective estimation of [the dog] Wizzard’s value as a pet was not a valid basis for compensation. Since dogs *have legal status as items of personal property*, courts generally limit the damage award in cases in which a dog has been wrongfully killed to the animal’s market value at the time of death [emphasis added].²

Because pets are considered property, their award in divorce proceedings is generally conducted in the same manner as other assets. Specifically, Alaska Rule of Civil Procedure 90.1 requires the creation of property division tables that list all assets and liabilities of divorcing parties, while Rule 26.1 delineates the processes for discovery and disclosure of property, including pets. All qualifying property is subject to award by the presiding judge and/or through dissolution agreements filed by the parties.

Despite the status of pets as property, in at least one divorce case Alaska courts have treated animal companions as something more. In *Juelfs v. Gough*, a divorcing couple, Julie and Stephen, submitted a dissolution agreement in 1992 to the Alaska Superior Court, 4th District, in which they agreed to share custody of their dog, Coho. In March, 2000, Julie filed a motion for dissolution of the agreement claiming Stephen had failed to allow sufficient visitation with the dog. Finding that the presence of other dogs in Julie’s home and other factors posed a risk to Coho, the Superior Court awarded “legal and physical custody” of Coho to Stephen and allowed “reasonable visitation rights” to Julie as determined by Stephen. The situation deteriorated, with both parties seeking restraining orders against the other, and Julie again petitioned the court for physical custody of the dog. When the lower court reaffirmed its decision, Julie appealed to the Alaska Supreme Court but failed to have the decision overturned.³ This case is unique in that the

¹ Pets are sometimes referred to as “animal companions” in order to distinguish dogs, cats, and the like from livestock and other farm animals.

² *Richardson and Richardson v. Fairbanks-North Star Borough*, (1985, AK Sup. Ct. File No. S-391; No. 2975; 705 P.2d 454; 1985 Alas. LEXIS 305). We include a copy of the Court’s opinion as Attachment A.

³ We include the Supreme Court’s opinion in *Juelfs v. Gough* (AK Supreme Ct. No. S-9931, No. 5535; 41 P.3d 593; 2002 Alas. LEXIS 20) as Attachment B.

lower court initially awarded visitation rights for what it legally considers to be an item of property. It was among the early examples of a nascent trend in U.S. jurisprudence—a court employing the concept of pets as “living property.”

According to the Animal Legal and Historical Center at Michigan State University Law School, the ubiquity of pets and the fact that many are viewed as members of the household has led a number of jurisdictions to begin viewing custody of animals in a different light. A professor at the Center, David Favre, argues that pets should be viewed as living property, which he defines as “physical, movable living objects—not human—that have an inherent self-interest in their continued well-being and existence.” The Center has compiled a list of cases in which courts went beyond seeing pets strictly as property and began considering the best interests of the animal.⁴ Such cases, including the Alaska case outlined above, have variously resulted in orders of shared custody, visitation, and even an award of monetary support; however, a number of courts have recently considered the status of pets but ultimately determined that their classification as strictly property is valid.⁵

At least three states’ legislatures— Maryland (2011), Michigan (2007), and Wisconsin (2007)—have considered laws to delineate a process in statute by which pets are awarded during divorce proceedings. We include, as Attachment C, copies of those measures.

Inclusion of Pets in Protective Orders

As the attached table shows, at least 27 states have enacted laws allowing courts to include pets in protective orders. Statutes in Arizona and Tennessee offer such protection but also expand the definition of domestic violence to include harm or threatened harm to a pet. Laws in, for example, Illinois, Iowa, Maryland, Minnesota, and Oklahoma, allow courts to award “exclusive care, custody, and control” of a pet to a petitioner. A number of states—Louisiana, Maine, and West Virginia, for example—offer protection for the pets of petitioners and / or those of their children. Oregon statute provides judges authority to “order any relief” considered necessary to protect service animals and animal companions. We include, as Attachment D, the applicable statutes from the 29 states with laws allowing pets to be included in protective orders.

We hope this is helpful. If you have questions or need additional information, please let us know.

⁴ A list and full text of the decisions in such cases is available under the “Related Information” tab at <https://www.animallaw.info/intro/custody-pets-divorce>.

⁵ Tabby T. McLain, “Overview of Pets in Divorce/Custody Issues,” Animal Legal and Historical Center at Michigan State University Law School, 2009. This article and links to further discussion and information on the topic are available at <https://www.animallaw.info/intro/custody-pets-divorce>.

Table 1: State Laws Allowing Pets to be Included in Protective Orders

Arizona	A.R.S. §§ 13-2910 and 13-602	Allows judges to include pets in domestic violence protection orders; amends the definition of domestic violence to include intentionally or knowingly subjecting an animal to cruel mistreatment, neglect, or abandonment resulting in serious physical injury.
Arkansas	Ark. Code § 9-15-205	Upon a finding of domestic abuse at a hearing, the court may direct the care, control, or custody of any pet in the household.
California	Family Code § 6320	Authorizes the court to order that the petitioner be granted the exclusive care, custody, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or respondent or a minor child residing in either's household; and to order the respondent to stay away from the animal.
Colorado	C.R.S. §§ 13-14-101 and 103 18-6-800.3	Clarifies the definition of property to include animals in the context of protective orders. Defines domestic abuse and abuse of an elderly or at-risk adult as including threats or acts of violence against an animal, or harming or disposing of it, when intended to coerce, control, punish, intimidate, or exact revenge against the petitioner.
Connecticut	G.S.C. §§ 46b-15(b), 46(b)-38(c), and 54-1(k)	Allows the court to issue a protection order that protects any animal owned or kept by the applicant including an order enjoining the respondent from injuring or threatening to injure such animal.
Hawaii	H.R.S. § 586-4	Allows judges to enjoin or restrain either the respondent or the protected person from taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to the household until further court order.
Illinois	725 ILCS § 5/112A-14	Allows the court to include in the protection order exclusive care, custody, or control of animals and ordering the respondent to stay away from the animal.
Iowa	I.C.A. §§ 236.3, 236.4, 236.5	Allows the court to grant petitioners exclusive care, possession, or control of any pets or companion animals in both temporary and permanent orders. The animals can belong to the petitioner, the abuser, or a minor child of the petitioner or the abuser. The court can also order the abuser to stay away from the animals and not take, hide, bother, attack, threaten, or otherwise get rid of the pet or companion animal.
Louisiana	LSA-RS § 46:2135(A)(7) and Child. Code Art. § 1569(A)(7)	Amends statutes and Children's Code to allow judges to include petitioner's or children's pets in protective orders, grant petitioner exclusive control of pets, and enjoin defendant from harming them.
Maine	19-A MRSA §§ 4007(1) and 4011 (2)	Authorizes courts to issue orders of protection to safeguard the well-being of animals of either party or minor children. Violation is treated as contempt.
Maryland	Ann. Code of Md. §§ 4-504.1, 4-505 to 4-506	Authorizes District Court Commissioners, in an interim protective order, or judges, in a temporary or final protective order, to award temporary possession of a pet belonging to either the respondent or the person eligible for relief.

Table 1: State Laws Allowing Pets to be Included in Protective Orders (continued)

Massachusetts	ALM GL ch. 209A, § 11	Allows courts to order defendants to refrain from abusing, threatening, taking, interfering with, transferring, encumbering, concealing, harming or otherwise disposing of any "domesticated animals" in the household. The procedure can apply in any temporary or permanent vacate, stay-away, restraining or no-contact order in any domestic relations, child custody, domestic abuse or abuse prevention proceeding. Also requires courts to notify law enforcement agencies, and for those agencies to take necessary actions, when a warrant has been issued for violation of the protection order when the court believes an "imminent threat of bodily injury" exists to any person or domesticated animal involved in the proceedings.
Minnesota	Minn. Stat. § 518B.01(6)(15)	Court may direct the care, possession, or control of a pet or companion animal owned, possessed, or kept by the petitioner, respondent or a child; and direct the respondent to refrain from physically abusing or injuring any pet or companion animal without legal justification, known to be owned, possessed, kept or held by either party or a minor child as "an indirect means of intentionally threatening the safety of such person."
Nevada	NRS §§ 33.018 and 33.030	Expands the unlawful acts which constitute domestic violence to include knowingly, purposefully or recklessly injuring or killing an animal with the intent to harass the victim. The penalty is a misdemeanor. The court may issue a temporary or extended order to prevent the adverse party from harming or taking possession of an animal owned by the victim or a minor child, and may specify arrangements for the care of such animal.
New Hampshire	N.H. Rev. Stat. §§ 173-B:1, 173:B4, 173:B5	Allows a judge to grant the petitioner of a protective order exclusive care, custody, or control of any animal owned, possessed, leased, kept, or held by the victim, the abuser, or a minor child in the household; the law also allows a judge to order the abuser to stay away from the pet in both temporary and final domestic violence protective orders.
New Jersey	N.J. Stat. § 2C:25-26	Allows court to order a pet protection order in respondent's request for emergency relief, or when defendant has been charged with DV, released on bail or personal recognizance, or convicted. Restraining orders can include animals. When a person has abused or threatened to abuse an animal, there is a presumption that possession of the animal shall be awarded to the non-abusive party.
New York	NY FAM CT § 842	Allows a court to order the respondent to refrain from intentionally injuring or killing, without justification, any companion animal the respondent knows to be owned, possessed, leased, kept or held by the petitioner or a minor child residing in the household.
North Carolina	N.C. Gen. Stat. § 50B-3	Allows a domestic violence protective order to "provide for the care, custody, and control of any animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household" and to order a party to refrain from "cruelly treating or abusing an animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household."

Table 1: State Laws Allowing Pets to be Included in Protective Orders (continued)

Oklahoma	22 OSA §§ 60.2(E) and § 1105(B)	Victims of domestic violence, stalking or harassment may request exclusive control, care, or possession of animals belonging to them, defendant or minor child, and court may forbid defendant from making contact with, taking, threatening, harming or disposing of animal. In issuing a protective order, the court shall consider, among other histories, whether the alleged violent incident involved the abuse of pets.
Oregon	ORS § 107.718	Allows judges to order any relief considered necessary to prevent the neglect and protect the safety of any service or therapy animal, or any animal kept for personal protection or companionship. Animals kept for commercial, business, agricultural, or economic purposes are excluded.
South Carolina	CLSC § 20-4-60	Allows a judge to issue a protective order that prohibits the harm or harassment against any pet animal owned, possessed, kept, or held by the petitioner; any family or household member designated in the order; or the respondent if the petitioner has a demonstrated interest in the pet animal. The law also allows the judge to issue a protective order that provides for temporary possession of the personal property, including pet animals, of the parties and order assistance from law enforcement officers in removing personal property of the petitioner if the respondent's eviction has not been ordered.
Tennessee	Tenn. Code §§ 36-3-601(1) and 606(a)	Expands the definition of domestic abuse to include physical harm or threatened physical harm to a pet of an adult or minor, and allows security of pets to be provided for in protection orders.
Texas	Tex. Family Code § 85.021	Allows the court to prohibit removal, harm, threat, or interference with the care, custody or control of a pet, companion animal, or assistance animal possessed by a person or family member protected by a court order.
Vermont	15 V.S.A. § 1103	Allows a court to include an order relating to the possession, care and control of any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household in a domestic violence situation.
Virginia	VA Code §§ 16.1-253, 253.1, 253.4, 279.1, 19.2-152.8 to 10	Grants petitioners possession of any "companion animal," so long as that person is considered the owner. Companion animals do not include farm animals. To be considered an owner, a petitioner must either have a property interest, keep or house, currently care for, or have acted as a custodian of the animal.
Washington	RCW §§ 26.50.060 and 26.50.110	Includes pets among petitioner's personal effects; allows judges to grant petitioner exclusive custody or control of pets belonging to petitioner, respondent or minor, and to prohibit the respondent from coming within a specified distance of specified locations where the pet is regularly found; and prohibits acts of violence, harm, or interference with these animals. Violation is a gross misdemeanor.
West Virginia	WV Code § 48-27-503	Permits protective orders to include animals of petitioner, respondent or minor child.

Notes: There may be other states with applicable laws that we were unable to locate due to variations in wording and construction.

Sources: "Pets in Protection Orders by State," National Link Coalition, August 6, 2012, <http://nationallinkcoalition.org/wp-content/uploads/2013/01/PPO-StateSummary.pdf>.

Rebecca F. Wisch, "Domestic Violence and Pets: List of States that Include Pets in Protection Orders," Michigan State University College of Law, Animal Legal and Historical Center, 2014, <https://www.animallaw.info/article/domestic-violence-and-pets-list-states-include-pets-protection-orders>.

ALASKA STATE LEGISLATURE

REPRESENTATIVE LIZ VAZQUEZ
Co-Chair: House Special Committee on Energy

REPRESENTATIVE MAX GRUENBERG
House Independent Democratic Minority Whip

Email: Rep.Liz.Vazquez@akleg.gov

State Capitol, Room 428
Juneau, AK 99801
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Summary of "Protecting Domestic Violence Victims by Protecting Their Pets"¹

Animals have been overlooked victims of family violence

Growing research over the past 20 years has firmly established a significant link between domestic violence, child abuse and animal abuse. Sherry Ramsey, a co-author of the article, has prosecuted a number of domestic abuse cases that included violence against pets, such as setting them on fire, throwing them off balconies, or beating or killing them in front of children.

Legislatures Respond to the Need to Protect animals

When Katrina revealed that people will not evacuate without their pets, Congress passed and President George W. Bush signed into law the Pets Evacuation and Transportation Standards Act in 2002. This law requires local and state emergency plans cover pets and service animals in order to qualify for grants from FEMA. It also provides assistance with creating appropriate shelters.

In violent homes throughout the country, domestic violence victims risk their lives staying in dangerous situations in order to protect their beloved pets. Abusers have been known to threaten or harm or kill a pet if a victim does not return to the home or dismiss the temporary restraining order (TRO). Complicating the situation is the fact that animals are considered property in all 50 states. If an abuser refuses to relinquish a pet and the pet is not listed on a TRO, police and even courts are often reluctant to get involved in what is usually considered a marital property dispute. As of 2015, a total of 27 states have enacted laws allowing courts to include pets in protective orders.

Many states have recognized that including animals in TROs is an important component in protecting domestic violence victims. In 2006, Maine was the first state to enact statutes that specifically allowed judges to include pets in restraining orders. In 2010, thirteen states had enacted these laws and many more were considering them.

The vast majority of domestic violence shelters do not allow pets. As a result, "safe havens for pets" programs², which provide emergency care for pets while their owners stay at a shelter or other temporary housing are extremely important in efforts to keep victims and their pets safe. In some instances, a domestic violence program may enlist the aid of local veterinarians, boarding facilities and foster homes.

Including Pets in Temporary Restraining Orders (TROs)

Allowing pets to be included in TROs removes one obstacle that may prevent a victim from leaving an abusive situation. Including animals in an initial TRO is often essential to protecting the animal as well as ensuring that the victim can leave without fear of abuse to her animal family member.

¹ by Sherry Ramsey, Mary Lou Randour, Nancy Blaney and Maya Gupta-- Juvenile and Family Justice Today -- Spring 2010

² Safe Havens Mapping Project can now be found on line at awionline.org/safe-havens

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
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State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 20, 2015

SUBJECT: Sectional Summary of HB 147 (Work Order No. 29-LS0302\Y)

TO: Representative Liz Vazquez
Attn: Catherine Simpson

FROM: Emily Nauman 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 removes the definition of "peace officer" from AS 03.55.110(c) to conform with the definition subsection added by sec. 2 of the bill.

Section 2 adds a definition of "cruelty" to AS 03.55.110.

Section 3 amends AS 03.55.120(c) to require notice to be posted at a premises from which an animal is removed under AS 03.55.120.

Section 4 amends AS 03.55.130 by adding a requirement that, if the owner of an animal wants to prevent the destruction or adoption of an animal by posting a bond or other security for the cost of care for the animal, the bond or security must be posted within ten business days after a court order to post the bond or security.

Section 5 amends AS 03.55.130 by requiring a cost of care bond or security to be sufficient to cover 30 days of care of a seized animal; requires the owner to post additional bond every 30 days; states that if a bond or security expires, the animal becomes custody of its temporary custodian; allows the court to hold a cost of care hearing within ten days after the animal was seized; requires the custodian to provide notice of the time and place of a cost of care hearing to the owner of the animal.

Section 6 amends AS 11.56.740(a) to make it a crime to violate certain provisions of a domestic violence protective order related to animals.

Section 7 amends AS 12.30.027(a) to allow a judicial officer to impose certain restrictions related to animals on a person charged with or convicted of a crime involving domestic violence.

Section 8 amends AS 18.65.520(a) to require that the form given to a victim of domestic violence must state that a protective order may: prohibit the victim's abuser from harming, removing, or disposing of an animal possessed by the victim, the abuser, or another person living in the residence of the victim; authorize a victim to remove an animal from the possession of the abuser; or grant a victim custody of an animal possessed by the victim, abuser, or another person living in the residence of the victim.

Section 9 adds a definition of "animal" at AS 18.65.590.

Section 10 amends AS 18.66.100(b) to allow provisions of a protective order related to pets to be effective for one year.

Section 11 amends AS 18.66.100(c) to allow a domestic violence protective order issued under AS 18.66.100(c) to prohibit a respondent from harming, removing, or disposing of an animal possessed by the petitioner, the respondent, or another person living in the residence of the petitioner; authorizes a petitioner to remove an animal from the possession of the respondent; or grants a petitioner custody of an animal possessed by the petitioner, responder or another person living in the residence of the petitioner.

Section 12 amends AS 18.66.110(a) to allow a court to include certain provisions related to animals in an ex parte domestic violence protective order.

Section 13 amends AS 18.66.110(b) to allow a court to include certain provisions related to animals in an emergency domestic violence protective order.

Section 14 amends AS 18.66.130(a) to prohibit a domestic violence protective order respondent from removing, harming, or destroying an animal possessed by the petitioner, the respondent, or another person living in the residence of the petitioner.

Section 15 adds a definition of "animal" at AS 18.66.990.

Section 16 amends AS 22.15.030(a) to give the district court the jurisdiction over cases involving cruelty to or seizure, destruction, or adoption of animals under AS 03.55.100 - 03.55.190.

Section 17 amends AS 25.24.160(a) to allow a court to consider the well-being of an animal when considering ownership or joint ownership of an animal as part of a divorce proceeding.

Section 18 amends AS 25.24.200(a) by adding a requirement that, before a husband and wife can jointly petition the court for a dissolution, if an animal is owned, the spouses

Senator Liz Vazquez
March 20, 2015
Page 3

have agreed to the ownership or joint ownership of the animal, taking into consideration the well-being of the animal.

Section 19 amends AS 25.24.200(b) by adding a requirement that before a husband or wife can separately petition the court for a dissolution, the petitioning spouse must demonstrate that he or she has been unable to ascertain the other spouse's position on the ownership of an animal.

Section 20 amends AS 25.24.200(c) by adding a requirement that, before a spouse can waive an appearance at a dissolution, or hearing if an animal is owned, the spouses have agreed to the ownership of the animal, taking into consideration the well-being of the animal.

Section 21 adds a definition of "animal" at AS 25.24.990.

ELN:lnd
15-251.lnd

Alaska Rural Veterinary Outreach, Inc.

9138 Arlon Street, Ste. A3-584, Anchorage, AK 99507
Toll-free: 1-855-259-2786 (ARVO) ~ Anchorage Local: 907-349-2786
IRS #45-4779560
Email: info@akrvo.org ~ Website: www.akrvo.org

March 30, 2015

Representative Liz Vasquez
Representative Max Gruenberg
Alaska State Legislature
Via email to Catherine.Simpson@akleg.gov
and Nicoli.Bailey@akleg.gov

Re: Support for HB 147 - An Act Relating to various provisions regarding the treatment of animals taken into protective custody in Alaska

Dear Representative Vasquez and Representative Gruenberg:

Please accept my strong support for HB 147.

I have nearly 3 decades of involvement in and commitment to animal welfare in Alaska, including as past president of Alaska Equine Rescue for many years, as a past member of Anchorage Animal Care and Control Advisory Board, as past Executive Director and a current board member for the Alaska SPCA, and currently as a co-founder and President of Alaska Rural Veterinary Outreach, Inc. I believe that HB 147 takes vital steps forward to address many problems I have seen over the years. I bring to your attention the following:

- The link between domestic violence and animal cruelty is well documented.
- In rural communities where there is an overpopulation of unwanted pets, especially dogs, and where there is no veterinary care to provide humane means to control this problem, many animals are routinely abandoned, shot, drowned, or have very short lifespans as a result of disease, hypothermia, starvation, or predation.
- Inhumane treatment and lack of protection for animals in rural communities is not uncommon. Young people grow up where this is just part of life. Without saying so specifically, HB 147 recognizes this and will go a long way towards showing youngsters that humane treatment of animals is important.
- Is it just a coincidence that Alaska has the highest rate of dog bites in the nation and the highest rate of domestic violence? Or are they all part of the same issue - lack of respect for living things. HB 147 helps to bridge this gap, and can only help both people and animals.

The current structure of rescuing animals taken into protective custody is costly to both the state and to foster homes that house animals on behalf of the state. Legal cases can go on for months, sometimes even years. For example, during my tenure with Alaska Equine Rescue, we spent thousands and thousands of dollars caring for horses in protective custody for nearly 2 years, waiting for the courts to make a determination. These were cases that were unquestionably extreme cruelty - emaciated horse carcasses on the ground, starved animals barely alive, no food or water on the property ... the list goes on. Had HB 147 been in place back then, it would have made an enormous difference to the organization, to the caretakers, and especially to the animals, whose chances of being rehomed would have been greatly increased, and in some cases, assured.

During my time with Alaska SPCA, I received numerous calls from pet owners who were in some sort of domestic dispute (violence, divorce, etc.) both in the Anchorage area and some in rural communities, who wanted their animals legally protected. However, without relinquishing the animals altogether, this was not possible. Again, had HB 147 been in effect, this would not have been a problem.

Your efforts to craft this proposed legislation are greatly appreciated. I urge you pass it for the benefit of the animals and the people it seeks to support. Thank you very much for your consideration.

Respectfully,



Sally Clappitt
President

Catherine Simpson

From: Margaret Gadsden <winstonmom2004@gmail.com>
Sent: Wednesday, March 18, 2015 4:56 PM
To: Rep. Liz Vazquez
Subject: HB 147 - Animals Protection/Release/Custody

Dear Representative Vazquez,

I want to thank you for sponsoring the bill HB 147 regarding cruelty to animals. I think that this is a very important bill and I particularly like the addition of the sections in regards to protecting animals in cases of domestic violence.

(15)

prohibit your abuser from removing, harming, or disposing of an animal owned or possessed by you, your abuser, or any other person living in your residence, or authorize you to remove an animal from the possession of your abuser;

(16) grant you the exclusive care, custody, and control of an animal owned or possessed by you, your abuser, or any other person living in your residence; and other relief the court determines to be necessary

I have personal experience with this issue. In November of 2013 I fled from an abusive marriage with my dog, Winston. I stayed in the marriage, and in an increasingly dangerous situation, longer than I should have because I couldn't find a way to get both Winston and myself to safety. Leaving Winston behind simply wasn't an option. Once we finally did flee and get to a safe location, the home of my parents, I was able to get a protective order that granted me temporary ownership of Winston. What followed after that was a protracted battle in the courts in which Winston was deemed "chattel" and had to be assigned a monetary value so that there could be an equitable division of property. My former spouse didn't do this because he wanted Winston for himself, he had used Winston and was continuing to use Winston as a tool to manipulate, control and harm me. While any physical harm he caused was very limited, the psychological harm was extensive. The fight for Winston in the courts took six months and was expensive. Despite the record showing that there had been two emergency and one long term protective order awarded to me that included Winston for protection from harm.

So, thank you for supporting strengthening this bill. I think further strengthening could be done. I was lucky, I had a safe place for both Winston and I to go for help. People in similar situations to mine that don't have family or friends that they can stay with often endure more abuse to protect their pets. Winston is my dog, but he is also my baby boy. He has been through a lot with me and I could never cause him harm or allow another to harm him. I'm just so grateful there was a safe option that included us both. Please do all that you can to encourage your colleagues to support the passage of this bill.

Thank you for all of your hard work! Thank you for your time and consideration.

Sincerely,
Margaret E. McDonagh
2908 Doris Street
Anchorage, AK 99517
907-351-0709
Winston's Mom

Catherine Simpson

From: Kathy Hessler [<mailto:khessler@lclark.edu>]
Sent: Tuesday, March 31, 2015 5:18 PM
To: Nicoli Bailey
Subject: Re: FW: list of questions from our 3/24 meeting

Hi Nicoli,

I am writing in case we don't talk again tonight. (And if we need to talk tomorrow the only time I can't before the hearing is from 9-10 Portland time.)

I'm attaching a CV for your use.

And here are some answers to the questions posed in this email:

First, the protective order doesn't determine ownership and if there is no divorce pending, the victim can handle the animal any way she wants and would already have rights to. If the animal is co-owned, there wouldn't be a limitation on her rights. If the victim is deemed to have been the sole owner she has no obligations to the abuser.

If a divorce is pending and the animal is co-owned, the abuser could seek some financial compensation for his portion - but there is no market value on "used" animals unless the animal has special economic value, like a breeding or show dog. Some states allow for non-economic damages relating to animals, but I don't think Alaska is one (we can check). But the bottom line is that even if there is a violation of the abuser's ownership interests, the remedy is economic compensation and that isn't likely to be very much (perhaps replacement cost).

If the animal is later deemed to have been solely owned by the abuser, the economic compensation is still the remedy. So a victim would not have to talk with an abuser if she did not want to and was willing to pay for the loss of property.

If the word custody is removed from this section as was discussed, I think that addresses some of the questions.

In the divorce section, the language relates to ownership of the animal, not custody so a temporary custody petition would not be appropriate. Nor would any of the other custody and visitation rules.

The right of control (possession) and care are temporary and only come into effect if the victim has asked for that responsibility. If the victim does not want responsibility for a third party's animal, she does not have to ask for it. If a victim chooses to include a third party's animal, she can turn that animal over to the third party. There would be no need for involvement of the abuser.

The only time the rights of the abuser would be relevant is if he has an ownership interest in the animal. But if it is a joint ownership situation and the parties to the marriage have the right to dispose of marital property (absent a pending divorce proceeding) any way they see fit, there may be no legal consequences.

I hope this is helpful.
peace,
kathy

--

Kathy Hessler, J.D., LL.M.
Clinical Professor & Director, Animal Law Clinic
Center for Animal Law Studies
Lewis & Clark Law School
10015 S.W. Terwilliger Blvd.
Portland, OR 97219-7799
Phone: (503)768-6955
Email: khessler@lclark.edu
Website: CenterForAnimalLawStudies.Org
On 3/31/15 5:20 PM, Nicoli Bailey wrote:

Rep. Gruenberg wanted me to send this to you. This is the list of questions that ANDVSA read to us at the meeting.

Nicoli

From: Lisa Mariotti [<mailto:lmariotti@andvsa.org>]
Sent: Tuesday, March 31, 2015 7:38 AM
To: Nicoli Bailey
Cc: Catherine Simpson; Peggy Brown
Subject: RE: list of questions from our 3/24 meeting

Hi Nicoli,

Our office was closed yesterday in observance of the Seward Day holiday. Below are a list of concerns we discussed during our meeting on 03/24. If you have any other questions, could you please contact Peggy who is handling this bill? Thanks.

- What happens if the victim has to give away the pet during the year she has it in her exclusive custody and care? Does she first have to offer to return the pet to the abuser? Does this wind up creating an obligation for the victim to communicate with the abuser about the pet (especially if it was his pet or jointly owned)? It seems like some victims could be confused by this and feel that they are required to maintain control of the pet, which may be extremely difficult when looking for new housing.
- This part also intersects with the proposed law allowing the court to award custody of an animal in a divorce. In a normal divorce case, the parties are not allowed to dispose of or sell any marital assets, without the permission of the other party or the court, or unless they are doing so in order to provide for their immediate and necessary living

expenses. If a victim has possession of a pet during the pendency of the divorce, what are the consequences if she can't care for it and/or has to get rid of it? Does she have to offer to return the pet to the abuser? Does she have to make a motion to the court before she can get rid of the pet or get the abuser to give her permission to give away or sell the pet? Can the abuser seek a judgment against her for his portion of the value of the pet during the parties' final property division? It seems possible a victim may have to do these things, and that could put a very high burden on her - and also perversely result in harm to the animal if the victim is unable to properly feed or care for it but feels she has to hang on to it because she's not allowed to give the animal away.

- Divorces can sometimes take years to finish. Are we going to start seeing "temporary custody of pet" motions while the divorce is pending, the same way we see temporary custody of children motions? Can it be held against a victim if she refuses to allow an abuser access to a pet, the same as if she withholds access to children? Will a victim have a right to modify custody of a pet order post-divorce for a substantial change in circumstances, the same way she would for a child?
- Finally, these provisions are particularly odd because it gives the petitioner a right to gain "exclusive control, custody and care" over animals owned or possessed by any person in the residence. It also allows a victim to include third party owner pets in their protective orders. This puts a high burden on a victim of domestic violence who would be responsible for insuring the rights of third party pet protection, forcing them to remain in contact with the respondent.

Lisa A. Mariotti, Esq., Policy Director

Alaska Network on Domestic Violence & Sexual Assault

130 Seward Street, Suite 214

Juneau, AK 99801

Phone: (907) 586-3650

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From: Nicoli Bailey [<mailto:Nicoli.Bailey@akleg.gov>]

Sent: Sunday, March 29, 2015 5:23 PM

To: Lisa Mariotti

Cc: Catherine Simpson

Subject: list of questions from our 3/24 meeting

Hi Lisa,

Rep. Gruenberg told me he ran into you at the Legislative Skits last night and you said you would be happy to give us the list of concerns. Could you please email me the list of concerns from your attorneys and possibly others? Thank you in advance for your assistance.

All the best,

Nicoli

Nicoli Ann Bailey

Office of Rep. Max Gruenberg

Alaska State Representative

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KATHERINE HESSLER

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Portland, Oregon 97219

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EDUCATION

Georgetown University Law Center, Washington, DC LL.M. 1997
College of William and Mary; Marshall-Wythe School of Law, Williamsburg, VA J.D. 1987
Received Faculty Service Award. Founded three public interest student organizations.
George Washington University, Washington, DC B.A. 1985
Dean's List; President, Sociological Honor Society; Founder/President, Criminological Honor Society.

TEACHING EXPERIENCE

Lewis & Clark Law School, Portland, OR

Clinical Professor and Director, July 2008 - present

- *Animal Law* - Winter session (2014) **Washington University School of Law**, St. Louis, MO;
- *Graduate Animal Law Seminar* (2012 - 2013). Focuses on research and writing; career development; and collaboration with students at the University of Basel and the Autonomous University of Barcelona.
- *Animal Law* (2008 - 2011). Provides an overview of animal law and examines the development of the field within the context of social justice and law reform movements.
- *Animal Law Clinic* (2009 - present). Clinic takes on matters that allow students to work to further develop the field of animal law while learning to become excellent legal advocates.
- **Among top 15 most innovative clinics**, National Jurist, Pre-Law, January 2015
- *Advanced Animal Law Clinic* (2009 - present). Students continue their clinical work.
- *Animal Law National Moot Court* (2008 - present). Develops legal analysis and oral advocacy skills.

Case Western Reserve University School of Law, Cleveland, OH

Professor, 2002 - 2008; **Associate Professor** 2000 - 2002

- *Civil Litigation and Mediation Clinic* (2005 - 2008); *Civil Clinic* (2000 - 2004). Consumer protection, home repair, predatory lending, and mediation.
- *Animal Law* seminar (2002 - 2007). Animal law, social justice and law reform analysis.
- *Community Development Clinic* (2000 - 2001; 2002 - 2004). Assisted non-profits with organizational structure, leases, employment matters, and IRS lobbying restriction compliance.
- *Family Clinic* (2000 - 2002). Divorce, domestic violence, custody, support, and visitation.
- *Focused Problem Solving* (2004 - 2007). Addressed problem solving theory and skill development.
- *Basic Mediation* (2005 - 2008). Two day mediation training; role of mediation in the legal profession.

Summer Legal Academy, Cleveland, OH

Founder, Director and Faculty Member, 2005 - 2008

- Coordinated two-week legal program for minority high school students.
- Developed and taught curriculum, reported to grantor, managed budget and all aspects of program.

Cornell Law School, Ithaca, NY

Visiting Senior Lecturer, 1999 - 2000

- *Civil litigation Clinic*. Domestic relations, landlord-tenant, and public benefits.

University of Dayton School of Law, Dayton, OH

Visiting Assistant Professor, 1998 - 1999

- *Civil litigation Clinic*. Landlord-tenant and domestic relations.
- Interim Co-Director for Academic Excellence Program, Spring 1999.

Capital University Law School, Columbus, OH

Assistant Professor, 1994 - 1998

- *Civil litigation Clinic* (1994-1998). Housing, wills (for HIV positive and elderly clients), domestic relations, domestic violence, and Social Security.
- *Mediation Practicum* (Fall 1997).
- *Mediation Clinic* (Spring 1998).
- Director of Academic Success Program (Fall 1996).
- Developed and implemented two experimental integrated Dispute Resolution programs for the first-year curriculum (1994-1995/1995-1996). Focused on integrating substance, theory, and practice using Experiential Learning methodology to teach Dispute Resolution, Legal Skills, and Ethics.
- Martin Luther King Image Award (1997).

Georgetown University Law Center, Center for Applied Legal Studies, Washington, DC

Clinical Fellow, 1992 - 1994

- *Civil litigation Clinic*. Consumer protection and social security disability.

George Washington University, Sociology Department, Washington, DC

Assistant Professorial Lecturer, Spring, 1992

- *Violence in the Family*. Team-taught with Department Chair Joseph Tropea. Course focused on sociological implications of the legal system as it relates to violence in American families. Coordinated visiting lecturers. Introduced an interactive education model to the Department.

Center For Teaching Peace, Washington, DC

Advisory Board Member, 2003 - Present

Special Assistant to Colman McCarthy, 1989 - 1994

- Taught classes on feminism, animal rights and other topics related to non-violence. Shared responsibilities with Professor McCarthy included: conducting classes, developing course materials, evaluating students, organizing classes off-campus, and grading.

Georgetown University Law Center, *Law, Conscience and Nonviolence* (1989-1993)

University of Maryland, *Alternatives to Violence* (Honors Department, 1989-1993) *Solutions to Violence* (Sociology Department, Spring 1994).

Fairfax County Public Schools, Fairfax, VA - Substitute Teacher, May 1988 - October 1989

INTERNATIONAL TEACHING

Kenya

- *Animal Law for Veterinarians*, University of Nairobi School of Veterinary Medicine, with Natasha Dolezal, Nairobi, Kenya - May 2014
- *Animal Law*, University of Riara Law School, with Natasha Dolezal, Nairobi, Kenya - May 2014
- *Animal Law for Veterinarians*, University of Nairobi School of Veterinary Medicine, with Natasha Dolezal, Nairobi, Kenya - May 2013

Switzerland

- *Criminal Animal Law in the United States*, University of Zurich, Zurich, Switzerland - April 2014

Spain

- *Application of Animal Law in the U.S. through Cases and Courses*, with Pamela Frasch, <http://www.derechoanimal.info/esp/page/2454/videos>, Master Program in Animal Law & Society, Autonomous University of Barcelona, Barcelona, Spain - March 2013
- *An Overview of Animal Law and Legal Education in the U.S.*, with Pamela Frasch, , <http://www.derechoanimal.info/esp/page/2454/videos>, Master Program in Animal Law & Society, Autonomous University of Barcelona, Barcelona, Spain - March 2013

Brazil

- *Animal Law*, with Pamela Frasch and Teresa Candela, University of Barcelona, at the Federal University Bahia, Brazil - August 2010
- *Animal Law*, with Pamela Frasch, at Liberdade University, Bahia, Brazil - August 2010

Japan

- *Animal Testing*, and *The Development of Animal Law*, University of Chiba, Chiba, Japan - November 2009
- *Animal Testing*, and *The Development of Animal Law*, Hitotsubashi University, Tokyo, Japan - November 2009

OTHER PROFESSIONAL EXPERIENCE

Ohio Legal Assistance Foundation, Columbus, OH

Consultant, 1998 - 1999 - Evaluated performance of legal service providers in Ohio.

Legal Services of Northern Virginia, Fairfax, VA

Staff Attorney, October 1989 - June 1992

Practice focused on family, housing, public benefits, and consumer cases in administrative and state courts. Average annual caseload - 60. Worked on major projects involving the Community Reinvestment Act and a class action housing discrimination case. Trained and supervised volunteer attorneys and law students. Coordinated shelter outreach for bar members. Offered CLE presentations.

SCHOLARSHIP

TEACHING ANIMAL LAW ACROSS THE CURRICULUM, with Joyce Tischler and Pamela Hart, Carolina Academic Press (forthcoming 2015).

Implementing Toxicity Testing in the 21st Century: Challenges and Opportunities, with Paul A. Locke, Margit Westphal, Joyce Tischler, Pamela Frasch, Bruce Meyers, and Daniel Krewski, *Journal of Toxicology and Environmental Health, Part B*, (forthcoming 2015).

Animal Law – A Global Phenomenon, with Pamela Frasch and Natasha Dolezal, *Global Journal of Animal Law*, Åbo Akademi University Department of Law, Finland (1/2014).

The Legal Framework of Animal Testing: Challenges and Opportunities, 54 *South Texas Law Review* 587 (Spring 2013).

The Role of the Animal Law Clinic

- 61 Revista Brasileira de Direito Animal (Portugese translation) Ano 2013, Vol. 8, Número 14 (September-December).
- ANIMAL LAW ANTHOLOGY, University of Zurich (2012).
- 60 Journal of Legal Education 263, (Number 2/November 2010).

Report and Recommendations on the Status of Clinical Faculty in the Legal Academy, with Bryan Adamson, Bradford Colbert, Katherine Kruse, Robert Kuehn, Mary Helen McNeal, Calvin Pang, and David Santacroce,

- 62 The Journal of Legal Education 115 (2012).
- 36 The Journal of the Legal Profession 353 (2012).

ANIMAL LAW IN A NUTSHELL, with Pamela Frasch, Sarah Kutil and Sonia Waisman, Thompson West (2011).

Animals in Testing: Concerns and Consequences:

- ANIMAL LAW AND SCIENTIFIC RESEARCH: ETHICS AND LEGAL ASPECTS OF ANIMAL EXPERIMENTATION IN BRAZIL AND EUA, Heron Gordilho, Ed. (2014).
- 89 Revista Brasileira de Direito Animal (Portugese translation) Ano 2011, Vol. 6, Número 8, (January-June).
- *Perspectives Philosophiques Sur la Recherche Animale*, L'Animal Dans la Spirale des Besoins de l'Humain, (French translation) (M. Lachance (dir.)), Cowansville, Yvon Blais, 2010, p. 265.
- *Perspectives Philosophiques Sur la Recherche Animale*, (French translation)1 Revue Semestrielle de Droit Animalier – RSDA (Observatoire des Mutations Institutionnelles et Juridiques, Limoges, Fr.), 327 (2010).
- *Philosophical Foundations and Animals in Testing: Concerns and Consequences*, (Japanese translation), (2010) I. Shimazu ed., Crime, Restoration and Responsibility, Research Project Report No.185, Chiba University Graduate School of Humanities and Social Sciences, pp. 36-44. (From the proceedings of the Japanese Association of Legal Philosophy)

Mediating Animal Law Matters, 2 Journal of Animal Law and Ethics 21 (2007). **CITED** in Augillard v. Madura, 257 S.W.3d 494, 503 (TX Ct. of App., 2008).

Bridge of Hope, Journey to Justice: An Essay, Volume 3, Issue 1 Seattle Journal for Social Justice 429, (Fall/Winter 2004).

Early Efforts to Suppress Protest: Unwanted Abolitionist Speech, 7 Boston University Public Interest Law Journal 185 (1998).

Where Do We Draw the Line Between Harassment and Free Speech? An Analysis of Hunter Harassment Law, 3 Animal Law Journal 129 (1997). **CITED** in People v. Sanders, 696 N.E.2d 1144, 1150 (Ill. S.Ct., 1998).

ADDITIONAL WRITING

Report on the Enforcement of the Clean Water Act as it Relates to CAFOs by Oregon's Department of Agriculture, with Denise Luk and Suzanne McMillan, Spring 2012.

Report and Recommendations on the Status of Clinical Faculty in the Legal Academy, by the American Association of Law Schools Section on Clinical Legal Education, Task Force on the Status of Clinicians and the Legal Academy, March 29, 2010.

Exotic Animals as Pets, with Tanith Balaban, American Bar Association GP Solo, Vol. 26, No. 5 (July/August 2009).

Agricultural Animals and the Law, with Tanith Balaban, American Bar Association GP Solo, Vol. 26, No. 5 (July/August 2009).

Amicus Curiae brief filed with the United States Supreme Court in the case of *U.S. v. Stevens*, drafted with Megan A. Senatori, Pamela D. Frasch, and Laura Handzel. The brief was filed in support of neither party, but rather on behalf of a group of American animal law professors to offer expert opinion on the question of whether preventing animal cruelty is a compelling governmental interest, 2009.

Ohio Non-violent Civil Disobedience Protest Manual, 1996, updated 2002, 2003.

INTERVIEWED

- *The rise of the planet of the legal persons formerly known as apes*, Alan Yuhas, The Guardian, October 8, 2014, <http://www.theguardian.com/world/2014/oct/08/tommy-gloversville-new-york-chimp-legal-person/print>
- *Hunted to Extinction*, Bobbie Hasselbring, The Chronicle Magazine, p. 20, Fall 2014.
- *Kenya Legal Project offered animal-law students opportunity for hands-on experience*, Monique Balas, The Oregonian, July 7, 2014, http://www.oregonlive.com/pets/index.ssf/2014/07/kenya_legal_project_offered_an.html
- *Pet Talk: Lewis & Clark animal law students embark for Kenya*, Monique Balas, OregonLive.com, May 5, 2014, http://www.oregonlive.com/pets/index.ssf/2014/05/pet_talk_lewis_clark_animal_la_1.html
- Interview on Our Hen House, with Natasha Dolezal, Jasmin Singer and Mariann Sullivan, April 19, 2014, <http://go.toutapp.com/1245793ab2ce349404>
- Animal Abuse segment, KATU 630 news with Steve Dunn, April 18, 2014.
- *Oregon Appeals Court Ruling Addresses Warrantless Search of Animals*, Think Out Loud with Dave Miller, Oregon Public Broadcasting, April 18, 2014, <http://www.opb.org/radio/programs/thinkoutloud/segment/oregon-appeals-court-ruling-addresses-warrantless-search-of-animals/>
- *A hands-on summer*, Rebecca Larsen, National Jurist, p. 37, February 2014, <http://www.nxtbook.com/nxtbooks/cypress/nationaljurist0214/#/36>
- *Petition would list single captive orca as endangered*, Chris Winters, www.heraldnet.com/article/20140207/NEWS01/140209308/1172/Murky-legal-waters February 7, 2014.
- *Should Animals Have Legal Personhood?* Think Out Loud with Dave Miller, Oregon Public Broadcasting, December 4, 2013, <http://www.opb.org/radio/programs/thinkoutloud/segment/should-animals-have-legal-personhood/>
- FM 101 KXL Morning News, with Rebecca Marshall and Steve Leader, December 4, 2013.
- *EPA's feedlot control still lagging*, Bridget Huber (Fair Warning), The Kansas City Star, June 4, 2013, <http://www.kansascity.com/2013/06/04/4273134/epas-feedlot-control-still-lagging.html#>
- KGW news, Portland Oregon, October 25 and 28 2012.
- *Our Hen House*, Jasmin Singer and Mariann Sullivan, podcast September 22, 2012. <http://www.ourhenhouse.org/category/podcast/>
- *Pet custody battles illustrate need for legal clarity regarding pets*, Monique Balas, OregonLive.com, September 7, 2012. http://blog.oregonlive.com/pets_impact/print.html?entry=/2012/09/pet_talk_pet_custody_battles_i.html
- *The Rise of Animal Law*, Greg Miller, Science, Vol 332, p. 28, 1 April 2011.
- *Panel debates effectiveness of state's CAFO program*, Mitch Lies, Capital Press, July 15, 2010. <http://www.capitalpress.com/dairy/ml-cafo-oregon-071610>

- *Animal Rights Is the treatment of animals improving?*, Marcia Clemmitt, Congressional Quarterly researcher, Volume 20, Number 1, pps 1-24, January 8, 2010.
- *Divorce and separations can send pets into legal limbo*, Jacques Von Lunen, the Oregonian, September 9, 2009. http://www.oregonlive.com/pets/index.ssf/2009/09/divorce_and_separations_can_se.html
- *Animal Law An Overview*, Robert J. Derocher, American Bar Association GP Solo, Vol. 26, No. 5 (July/August 2009). http://www.abanet.org/genpractice/magazine/2009/jul_aug/#features

RECENT PRESENTATIONS

- *CAFOs: Environmental Protection Perspective*, Factory Farming: Impacts on Animals, Humans, and the Environment, ALDF University of Southern California Law School Symposium, USC, Los Angeles, CA - March 2015
- *Lewis & Clark Animal Law Program*, Human Animal Studies Symposium, Lewis & Clark College, Portland, OR - March 2015
- *Animals in Agriculture and Animal Law Overview*, Master Vegetarian Program, NW Veg, Portland, OR - March 2015
- *Animal Agriculture Overview*, Lewis & Clark Law School, Portland, OR – January 2015
- *Animals as Family*, Annual Meeting, American Association of Law Schools, Washington, DC - January 2015
- *Keeping it Current: Animal Law Examples Across the Curriculum*, Annual Meeting, American Association of Law Schools, Washington, DC - January 2015
- *Clinical Innovation*, Texas A&M Faculty Speaker Series, Forth Worth, TX - November 2014
- *Vegan Prisoners and the Religious Land Use and Institutionalized Persons Act (RLUIPA)*, Lewis & Clark Law School, Portland, OR – November 2014
- *What Can We Do To Protect Animals Overseas?*, with Natasha Dolezal, The Animal Law Conference at Lewis & Clark, Animal Law in a Changing Environment; Finding Common Ground, Lewis & Clark Law School, Portland, OR - October 2014
- *Resistance; Not All Germs Are Created Equal*, with Michael Graziano and Rachel Fischer, MD, MPH, Portland, OR - October 2014
- *Animal Law Clinic: Law Clinic Tour*, CARE: Community and Recreation for Employees, Lewis & Clark, Portland, OR - July 2014
- *Animal Law for Veterinarians*, University of Nairobi School of Veterinary Medicine, with Natasha Dolezal, Nairobi, Kenya - May 2014
- *Animal Law*, University of Nairobi Law School, with Natasha Dolezal, Nairobi, Kenya - May 2014
- *Animal Law and Agriculture*, Master Vegetarian Program, Northwest VEG, Portland, OR - May 2014
- *Learning from Difficult Cases: Lessons from Tilikum v. SeaWorld and Consideration of Rights*, The Animal Turn and the Law: Interdisciplinary Perspectives and New Directions in Animal Law, The first Annual European Animal Law Conference, University of Basel, Basel, Switzerland - April 2014
- *Criminal Animal Law in the United States*, University of Zurich, Zurich, Switzerland - April 2014
- *"Ag-Gag"*, National Lawyers Guild, Northwest Regional Conference, Lewis & Clark Law School, March 2014
- *Protecting Workers and Animals*, CAFO Panel, sponsored by the Student Animal Legal Defense Fund and Latino Law Society, Lewis & Clark Law School, Portland, OR - February 2014
- *Case Studies in Animal Law*, Human Animal Conference, Lewis & Clark College, Law School and Graduate School, Portland, OR - January 2014
- *Legal Issues Related to Animal Shelters*, Lewis & Clark Legal Analysis and Writing class, Portland, OR - January 2014
- *Overview of Recent Developments in Animal Law*, Louisiana State Bar Association Animal Law Section Annual New CLE, New Orleans, LA - December 2013

- *Risk to workers in Animal Production*, Animal Law Conference, Lewis & Clark, Animal Legal Defense Fund and L&C Student Animal Legal Defense Fund at Stanford Law School, Palo Alto, CA - October 2013
- *Multi-Species Conflict: Sea Lions, Salmon and Humans in the Bonneville Dam Dispute*, Oregon State Bar, 2013 Annual Environmental and Natural Resources CLE, Portland, OR - October 2013
- *Pro-Pasture, Law and Animal Agriculture*, InFARMation, Friends of Family Farmers, Portland, OR - September 2013
- *Animal Law and Agriculture*, Master Vegetarian Program, Northwest VEG, Portland, OR - July 2013
- *Animal Law for Veterinarians*, University of Nairobi School of Veterinary Medicine, with Natasha Dolezal, Nairobi, Kenya - May 2013
- *Application of Animal Law in the U.S. through Cases and Courses*, with Pamela Frasch, Assistant Dean of the Center for Animal Law Studies, <http://www.derechoanimal.info/esp/page/2454/videos>, Master Program in Animal Law & Society, Autonomous University of Barcelona, Barcelona, Spain - March 2013
- *An Overview of Animal Law and Legal Education in the U.S.*, with Pamela Frasch, Assistant Dean of the Center for Animal Law Studies, <http://www.derechoanimal.info/esp/page/2454/videos>, Master Program in Animal Law & Society, Autonomous University of Barcelona, Barcelona, Spain - March 2013
- *Animal Law and Agriculture*, Northwest Master Vegetarian Series, Portland, OR - February 2013
- *Vegan Prisoners: Free Exercise or Government Sponsored Carnism?*, Lewis & Clark Law School faculty colloquium, Portland, OR - February 2013
- *Animal Law* - Week-long Inter-session course, Washington University School of Law, St. Louis, MO - January 2013
- *Commenting 101*, Student Animal Legal Defense Fund, Lewis & Clark Law School, Portland, OR - November 2012
- *The Legal Framework of Animal Testing: Challenges and Opportunities*, 19th Annual Ethics Symposium, South Texas Law Review, South Texas College of Law, Houston, TX - October 2012
- *Learning from Difficult Cases: Focusing on Strategy*, on a panel with Jeff Kerr, The Animal Law Conference at Lewis & Clark “Celebrating 20 Years of Animal Law: Looking Back and Looking Forward”, Lewis & Clark Law School, Portland, OR - October 2012
- *Standing and Preemption* (moderator), Second Annual Animal Law Review Symposium, Lewis & Clark Law School, Portland, OR - October 2012
- *Learning from the U.S. Animal Law Experience: Cases and Classes*, Animal Law and Ethics Conference, Reflecting on European, American, and Asian Concepts, University of Zurich, Zurich, Switzerland - July 2012
- *Consideration of Whether Hunting is Cruel Under the Law*, Law & Society Annual Meeting, Honolulu, HA - June 2012

BAR MEMBERSHIPS

- 1989 - Virginia (inactive)
- 1989 - District of Columbia (inactive)
- 1996 - Ohio (inactive)
- 2001 - United States District Court, Northern District of Ohio
- 2009 - Oregon

INVOLVEMENTS

Positions:

- *Executive Committee Member (Past Chair, Founding Board Member)* - AALS Balance in Legal Education Section (Board member from 2005), 2012 - present
- *Executive Committee Member (Past Chair, Founding Board Member)* - AALS Animal Law Section - (Board member 2007-2011), 2013 - present
- *Board Member, National Advisor* - Animal Law Journal, 1998 - 2008; *Faculty Advisor*, 2008 - present
- *Legal Advisory Board Member*, Equal Justice Alliance, 2011 - present
- *Advisory Board Member* - Vienna Encyclopedia of Animal Welfare, 2011 - present
- *Advisory Board Member* - Center for Teaching Peace, 2003 - present
- *William and Mary Co-Counsel Program*, 1992 - present

Select Previous Positions:

- *Member* - AALS Clinical Section Committee on the Status of Clinicians, 2005 - 2010
- *Executive Board Member* - AALS Clinical Legal Education Section, 2003 - 2006; 2007 - present; *Chair* 2008
- *Associate Director* - Center for the Interdisciplinary Study of Conflict and Dispute Resolution, 2004 - 2008
- *National Board Member* - Animal Legal Defense Fund, 2005 - 2008
- *Founder, Member* - Animal Bar Committee, Cuyahoga County Bar Association, 2005 - 2008
- *Founding Board Member, Director* - Summer Legal Academy, 2003 - 2008
- *Advisory Board Member* - Case Western Reserve University's Women's Center, 2003 - 2008
- *Committee Chair* - AALS Clinic Section, Committee on Integration/Teaching Methods, 1999 - 2008
- *Faculty Senator* - Case Western Reserve University, 2004 - 2007
- *Member* - Executive Committee of American Association of Clinical Legal Education, 2003- 2006
- *Strategic Planning Committee Member* - Case Western University, 2004 - 2005
- *Member* - AALS Planning Committee for Annual Conference on Clinical Legal Education, 2002
- *Chair* - AALS Clinical Section's Committee on Integration into Traditional Curriculum, 1999-2007
- *Chair* - ABA Negotiation Competition Subcommittee, 1998-1999, *Member* 1996-1998

Awards:

- Recognition for service as Co-Chair of the AALS Section on Clinical Legal Education - 2009
- Salute by Summer Legal Academy - 2008
- Cuyahoga County Bar Association Lawyer Profile - 2008
- Woman of Excellence - Case Western Reserve University - 2007
- Outstanding Program Award - Summer Legal Academy, Ohio State Bar Foundation - 2006
- Martin Luther King Image Award - 1997

REFERENCES

Lewis & Clark Law School

10015 SW Terwilliger Blvd., Portland, OR 97219-7799 (503) 768-6965

- Assistant Dean, Animal Law Program, Director, Center for Animal Law Studies, Pamela Frasch
- Dean Robert Klonoff

Case Western Reserve University School of Law

11075 East Boulevard, Cleveland, OH 44106, (216) 368-2766

- Professor Gerald Korngold, (formerly Dean of Case) New York Law School
- Professor Judy Lipton
- Professor Ken Margolis
- Professor Bryan Adamson (formerly at Case) Seattle University School of Law

Cornell Law School

Legal Aid Clinic, Myron Taylor Hall, Ithaca, NY 14853-4901, (607) 255-4196

- JoAnne Miner, Senior Lecturer
- Nancy Cook, Senior Lecturer (formerly at Cornell) University of Minnesota

University of Dayton School of Law

300 College Park, Dayton, OH 45469-1320, (937) 229-3818

- Professor Andrea Seielstad
- Professor Kim O'Leary, (formerly clinical director at Dayton) Thomas M. Cooley Law School

Capital University Law School

303 East Broad Street, Columbus, OH 43215, (614) 236-6500

- Professor Mark Strasser
- Professor Don Hughes

Georgetown University Law Center

600 New Jersey Avenue, N.W., Washington, DC 20001, (202) 662-9379

- Professor David A. Koplow
- Professor Philip G. Schrag
- Professor Carrie Menkel-Meadow

Center For Teaching Peace

4501 Van Ness Street, N.W., Washington, DC 20016, (202) 966-7682

- Colman McCarthy, Director

CS FOR HOUSE BILL NO. 147()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES VAZQUEZ, Gruenberg, LeDoux, Lynn, Drummond, Edgmon, Guttenberg, Josephson, Ortiz, Tarr, Tuck, Muñoz, Talerico, Stutes

~~Introduced:~~
~~Referred:~~

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the investigation of cruelty to animals complaints; relating to the
2 seizure of animals; relating to the destruction of animals; relating to ~~a bond or security~~
3 ~~posted for~~ the costs of care ~~for~~ of an animal that has been seized; relating to the inclusion
4 of an animal in a protective order and the crimes and arrests for violating that
5 protective order; and relating to the ownership of an animal upon divorce or dissolution
6 of marriage."

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 * **Section 1.** AS 03.55.110(~~eb~~) is amended to read:

9 (b) A peace officer who receives a complaint of animal cruelty may apply for
10 a search warrant under AS 12.35 to the judicial officer in the judicial district in which
11 the alleged violation has taken place or is taking place. If the court finds that probable
12 cause exists, the court shall issue a search warrant directing a peace officer to proceed

immediately to the location of the alleged violation, search the place designated in the warrant, and, if warranted, seize [TAKE] property, including animals, specified in the warrant. The warrant shall be executed by the peace officer and returned to the court.

* Sec. 2. AS 03.55.110(c) is amended to read:

(c) Before a peace officer may ~~take~~seize [TAKE] an animal and place it into protective custody, the peace officer shall request an immediate inspection and decision by a veterinarian licensed under AS 08.98 that placement into protective custody is in the immediate best interest of the animal. If a veterinarian is not available to perform an inspection, before a peace officer may ~~take~~seize [TAKE] an animal, the peace officer shall communicate with a veterinarian who has, after hearing a description of the condition of the animal and its environment, decided it is in the immediate best interest of the animal that it be placed into protective custody. If the peace officer is not able to communicate with a veterinarian, before the officer may take an animal, the officer shall decide it is in the immediate best interest of the animal that it be placed into protective custody [.

FOR PURPOSES OF THIS SECTION, "PEACE OFFICER" MEANS

- (1) AN OFFICER OF THE STATE TROOPERS;
- (2) A MEMBER OF THE POLICE FORCE OF A MUNICIPALITY;
- (3) A VILLAGE PUBLIC SAFETY OFFICER; OR
- (4) A REGIONAL PUBLIC SAFETY OFFICER].

* Sec. 23. AS 03.55.~~110~~120 is amended ~~by adding a new subsection~~ to read:

~~Sec. (d) In this section,~~

~~(1) "cruelty" includes promoting a fighting exhibition of animals;~~

(203.55.120. Seizure of animals. (a) A peace officer shall place an animal in protective custody before seizing [REMOVING] the animal from the location where it was found. If the animal is seized [REMOVED], the peace officer shall place the animal with a veterinarian licensed under AS 08.98 or, if a veterinarian is not readily available, with a responsible public or private custodian to be sheltered, cared for, and provided necessary medical attention.

(b) A peace officer who has seized [REMOVED] an animal shall immediately notify the animal's owner in writing of the seizure [REMOVAL] and of the owner's

1 right to petition the court under AS 03.55.130 for return of the animal. Notification
2 may be delivered in person, posted at the owner's residence, or mailed to the owner.

3 (c) If a seized [REMOVED] "peace officer" means

4 (A) an officer of the state troopers;

5 (B) a member of the police force of a municipality;

6 (C) a village public safety officer; or

7 (D) a regional public safety officer.

8 ~~* Sec. 3. AS 03.55.120(e) is amended to read:~~

9 ~~(e) If a removed animal's owner is unknown and cannot be ascertained with~~
10 ~~reasonable effort,~~

11 (1) the animal shall be considered a stray or abandoned; and

12 (2) the notice required in (b) of this section shall be conspicuously
13 posted at the premises from which the animal was removedseized.

14 (d) The state, a municipality, or a person [,] that supplies shelter, care,
15 veterinary attention, or medical treatment for an animal seized under this section shall
16 make a reasonable effort to locate the owner.

17 * Sec. 4. AS 03.55.130(a) is amended to read:

18 (a) If a determination is made by a veterinarian licensed under AS 08.98, by a
19 peace officer in consultation with a veterinarian licensed under AS 08.98, or by a
20 peace officer who is unable to locate or communicate with a veterinarian licensed
21 under AS 08.98 that an animal seized [REMOVED] under AS 03.55.100 - 03.55.190
22 is injured or diseased to such an extent that, in the opinion of the veterinarian, it is
23 probable the animal cannot recover, the veterinarian or the peace officer may
24 humanely destroy the animal or arrange for the animal's humane destruction.

25 * Sec. 5. AS 03.55.130(b) is amended to read:

26 (b) Upon diagnosis and recommendation of a veterinarian licensed under
27 AS 08.98, a public or private custodian may humanely destroy or arrange for the
28 humane destruction of a severely injured, diseased, or suffering animal that has been
29 seized [REMOVED] under AS 03.55.100 - 03.55.190.

30 * Sec. 6. AS 03.55.130(d) is amended to read:

31 (d) Except as provided in (a) or (b) of this section, the custodian of an animal

1 may not adopt, provide for the adoption of, or euthanize the animal within 10 business
2 days after the animal is taken into custody. An owner or custodian may prevent the
3 animal's adoption or destruction by

4 ~~[(1)]~~ petitioning the court of the judicial district in which the animal
5 was ~~removed~~seized [REMOVED] for the animal's ~~immediate~~[IMMEDIATE] return,
6 subject, ~~if appropriate, [, IF APPROPRIATE.]~~ to court-imposed conditions; ~~or~~ [; OR

7 (2) POSTING A BOND OR SECURITY WITH THE COURT OF
8 THE JUDICIAL DISTRICT IN WHICH THE ANIMAL WAS SEIZED IN AN
9 AMOUNT DETERMINED BY THE COURT TO BE SUFFICIENT TO PROVIDE
10 FOR THE ANIMAL'S CARE FOR A MINIMUM OF 30 DAYS FROM THE DATE
11 THE ANIMAL WAS REMOVED].

12 * Sec. 7. AS 03.55.130(e) is repealed and reenacted to read:

13 (e) The court may, on its own accord or upon a filing by the custodian, the
14 owner of the animal, or the entity that seized the animal, enter an order for the cost of
15 care of the animal pending final disposition of the custody of the animal. An order
16 under this section may include a requirement that the owner of the animal post a bond
17 or other security to guarantee that the cost of care of the animal is received and
18 maintained. If, without justifiable cause, the owner of the animal fails to comply with
19 an order under this section, the court may order that the animal be forfeited.

20 * Sec. 8. AS 03.55.130(f) is amended to read:

21 (f) The state may not be required to reimburse a public or private agency,
22 organization, or person that voluntarily assists with **the seizure** [A REMOVAL] of an
23 animal or receives custody of an animal **seized** [REMOVED] under this section for
24 **the cost of care of** [COSTS OF SHELTER, CARE, VETERINARY ASSISTANCE,
25 OR MEDICAL TREATMENT RENDERED TO] the animal.

26 * Sec. 9. AS 03.55.130 is amended by adding a new subsection to read:

27 (g) Nothing in (d) or (e) of this section shall shift the burden of proof from the
28 party who would otherwise have that burden.

29 * Sec. 10. AS 03.55.190 is amended by adding new paragraphs to read:

30 (4) "cost of care" means the cost of shelter, care, veterinary assistance,
31 and medical treatment rendered to the animal;

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(5) "cruelty to animals" includes acts constituting cruelty to animals under AS 11.61.140(a), acts promoting an exhibition of fighting animals under AS 11.61.145(a)(1) or (2), and other serious acts of animal cruelty warranting protective actions under AS 03.55.100 - 03.55.190, whether or not they are specifically listed in AS 11.61.140 or 11.61.145;

(6) "peace officer" means

(A) an officer of the state troopers;

(B) a member of the police force of a municipality;

(C) a village public safety officer; or

(D) a regional public safety officer.

~~* Sec. posting a bond or security with the court of the judicial district in which the animal was seized within 10 business days after the court's order to post a bond or security under this paragraph in an amount determined by the court to be sufficient to provide for the animal's care for a minimum of 30 days from the date the animal was seized [REMOVED].~~

~~* Sec. 5. AS 03.55.130(e) is amended to read:~~

~~(e) [IF THE CUSTODIAN STILL HAS CUSTODY OF THE ANIMAL WHEN THE BOND OR SECURITY POSTED UNDER (d)(2) OF THIS SECTION EXPIRES AND THE COURT HAS NOT ORDERED AN ALTERNATIVE DISPOSITION, THE ANIMAL BECOMES THE CUSTODIAN'S PROPERTY.] If an [A COURT] order of the court prevents a [THE] custodian from assuming ownership and the custodian continues to care for the animal, the court shall order [REQUIRE] the owner of the animal to pay or post a [BY] bond or security for the amount ordered under (g) of this section [OTHERWISE] for the custodian's continuing costs of care for the animal until a final disposition of the animal is ordered [MADE] by the court. Upon the expiration of a bond or security posted under this section, the owner shall pay or post the amount ordered by the court every 30 days thereafter until a final disposition of the animal is ordered by the court. If a bond or security posted under this subsection expires, the owner fails to pay or post an additional bond or security, and the court has not ordered an alternative disposition, the animal shall become the property of the custodian.~~

~~The court of the judicial district in which the animal was seized may enter an order directing the owner of the animal to pay the custodian an amount sufficient to provide for the animal's care for a minimum of 30 days or to post a bond or security for the same amount. The court may hold a cost of care hearing for this purpose. The court shall, if possible, hold a hearing under this section not more than 10 business days after an animal is taken into custody. The custodian or, at the direction of the custodian, a peace officer or person authorized to serve process shall provide notice of the time and place of the hearing to the owner of the animal. If the owner of the animal is unknown and cannot be ascertained with reasonable effort, the custodian or, at the direction of the custodian, a peace officer or person authorized to serve process shall conspicuously post the notice required by this subsection on the premises where the animal was seized.~~

~~* 11 Sec. 6. AS 11.56.740(a) is amended to read:~~

~~(a) A person commits the crime of violating a protective order if the person is subject to a protective order~~

~~(1) issued or filed under AS 18.66 and the protective order contains one or more of the provisions [CONTAINING A PROVISION] listed in AS 18.66.100(c)(1) - (7), ~~(17), and (18)~~ and the person knowingly commits or attempts to commit an act with reckless disregard that the act violates or would violate a provision of the protective order;~~

~~(2) issued under AS 18.65.850, 18.65.855, or 18.65.860 and knowingly commits or attempts to commit an act that violates or would violate a provision listed in AS 18.65.850(c)(1) - (3); or~~

~~(3) issued under AS 13.26.207 - 13.26.209 and knowingly commits or attempts to commit an act with reckless disregard that the act violates or would violate a provision of the protective order.~~

~~* Sec. 7. AS 12.30.027(a) is amended to read:~~

~~(a) ~~Before ordering release before or after trial, or pending appeal, of a person charged with or convicted of a crime involving domestic violence, the judicial officer shall consider the safety of the victim or other household member. To protect the victim, household member, other persons, and the community and to reasonably~~~~

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~~ensure the person's appearance, the judicial officer~~

~~(1) shall impose conditions required under AS 12.30.011;~~

~~(2) may impose any of the conditions authorized under AS 12.30.011;~~

~~(3) may impose any of the provisions of AS 18.66.100(c)(1) — (7);~~

~~[AND] (11), (17), and (18);~~

~~(4) may order the person to participate in a monitoring program with a global positioning device or similar technological means that meets guidelines for a monitoring program adopted by the Department of Corrections in consultation with the Department of Public Safety; and~~

~~(5) may impose any other condition necessary to protect the victim, household member, other persons, and the community, and to ensure the appearance of the person in court, including ordering the person to refrain from the consumption of alcohol~~12.

* ~~Sec. 8.~~ AS 18.65.520(a) is amended to read:

(a) A peace officer investigating a crime involving domestic violence shall orally and in writing inform the victim of the rights of victims of domestic violence and the services available to them. The notice must be in substantially the following form:

If you are the victim of domestic violence and you believe that law enforcement protection is needed for your physical safety, you have the right to request that the officer assist in providing for your safety, including asking for an emergency protective order.

You may also request the officer to assist you in obtaining your essential personal belongings and locating and taking you to a safe place, including a designated meeting place or shelter, the residence of a household member or friend, or a similar place of safety. In some places in Alaska there are organizations that provide aid and shelter to victims of domestic violence. The nearest organization is located at _____.

If you are in need of medical treatment, you may request that the officer assist you in obtaining medical treatment.

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You may obtain information about whether the prosecuting attorney will file a criminal complaint about the domestic violence. Additionally, the victim/witness assistance program of the Department of Law may be able to help you. This information is available from the district attorney's office, which is located at _____.

You also have the right to file a petition in court requesting a protective order that may include any of the following provisions:

(1) prohibit your abuser from threatening to commit or committing further acts of domestic violence;

(2) prohibit your abuser from stalking, harassing, telephoning, contacting, or otherwise communicating with you, directly or indirectly;

(3) remove your abuser from your residence;

(4) order your abuser to stay away from your residence, school, place of employment, or any other specified place frequented by you or another designated household member;

(5) prohibit your abuser from entering your vehicle or a vehicle you occupy;

(6) prohibit your abuser from using or possessing a deadly weapon if the court finds your abuser was in the actual possession of or used a weapon during the commission of your abuse;

(7) direct your abuser to surrender any firearm owned or possessed by that person if the court finds your abuser was in the actual possession of or used a firearm during the commission of your abuse;

(8) request a peace officer to accompany you to your residence to ensure your safe possession of the residence, vehicle, or other items, or to ensure your safe removal of personal items from the residence;

(9) award temporary custody of a minor child to the petitioner and may arrange for visitation with a minor child if the safety of the child and the petitioner can be protected;

1 (10) grant you possession and use of a vehicle and other
2 essential personal ~~effects; items, including a pet, regardless of the~~
3 ownership of those items [EFFECTS];

4 (11) prohibit your abuser from consuming controlled
5 substances;

6 (12) require your abuser to pay support for you or a
7 minor child in your care if there is an independent legal obligation of
8 your abuser to support you or the child;

9 (13) require your abuser to reimburse you for your
10 expenses caused by domestic violence, including medical bills, or for
11 your costs in getting a protective order;

12 (14) order your abuser to participate in an intervention
13 program for batterers; ~~[AND]and~~

14 ~~(15) prohibit your abuser from removing, harming,~~
15 ~~or disposing of an animal owned or possessed by you, your abuser,~~
16 ~~or any other person living in your residence, or authorize you to~~
17 ~~remove an animal from the possession of your abuser;~~

18 ~~(16) grant you the exclusive care, custody, and~~
19 ~~control of an animal owned or possessed by you, your abuser, or~~
20 ~~any other person living in your residence; and~~

21 ~~(17)~~(15) other relief the court determines to be necessary
22 for your safety.

23 The forms you need to obtain a protective order are available
24 from the nearest court. It is not necessary to have an attorney to obtain
25 a protective order, but you may consult an attorney if you choose. If
26 you would like help obtaining a protective order, you may contact the
27 nearest domestic violence program located at _____. The program
28 can also tell you about other resources available in this community for
29 information about domestic violence, treatment of injuries, and places
30 of safety and shelter.

31 You may also qualify for compensation from the Violent

1 Crimes Compensation Board. The board may be contacted at

2 _____.

3 * **Sec. 913.** AS 18.65.590 is amended to read:

4 **Sec. 18.65.590. Definitions [DEFINITION].** In AS 18.65.510 - 18.65.590,

5 ~~(1) "animal" means a vertebrate living creature not a human~~
 6 ~~being, but does not include fish;~~

7 ~~(2)(1) "domestic violence" has the meaning given in AS 18.66.990-;~~

8 ~~(2) "pet" means a vertebrate living creature maintained for~~
 9 ~~companionship or pleasure, but does not include dogs primarily owned for~~
 10 ~~participation in a generally accepted mushing or pulling contest or practice or~~
 11 ~~animals primarily owned for participation in rodeos or stock contests.~~

12 * ~~Sec. 14~~ * **Sec. 10.** AS 18.66.100(b) is amended to read:

13 ~~(b) When a petition for a protective order is filed, the court shall schedule a~~
 14 ~~hearing and provide at least 10 days' notice to the respondent of the hearing and of the~~
 15 ~~respondent's right to appear and be heard, either in person or by an attorney. If the~~
 16 ~~court finds by a preponderance of evidence that the respondent has committed a crime~~
 17 ~~involving domestic violence against the petitioner, regardless of whether the~~
 18 ~~respondent appears at the hearing, the court may order any relief available under (c) of~~
 19 ~~this section. The provisions of a protective order issued under~~

20 ~~(1) (c)(1) of this section are effective until further order of the court;~~

21 ~~(2) (c)(2) - (18) [(c)(2) - (16)] of this section are effective for one year~~
 22 ~~unless earlier dissolved by court order.~~

23 * ~~Sec. 11.~~ AS 18.66.100(c) is amended to read:

24 (c) A protective order under this section may

25 (1) prohibit the respondent from threatening to commit or committing
 26 domestic violence, stalking, or harassment;

27 (2) prohibit the respondent from telephoning, contacting, or otherwise
 28 communicating directly or indirectly with the petitioner;

29 (3) remove and exclude the respondent from the residence of the
 30 petitioner, regardless of ownership of the residence;

31 (4) direct the respondent to stay away from the residence, school, or

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place of employment of the petitioner or any specified place frequented by the petitioner or any designated household member;

(5) prohibit the respondent from entering a propelled vehicle in the possession of or occupied by the petitioner;

(6) prohibit the respondent from using or possessing a deadly weapon if the court finds the respondent was in the actual possession of or used a weapon during the commission of domestic violence;

(7) direct the respondent to surrender any firearm owned or possessed by the respondent if the court finds that the respondent was in the actual possession of or used a firearm during the commission of the domestic violence;

(8) request a peace officer to accompany the petitioner to the petitioner's residence to ensure that the petitioner

(A) safely obtains possession of the petitioner's residence, vehicle, or personal items; and

(B) is able to safely remove a vehicle or personal items from the petitioner's residence;

(9) award temporary custody of a minor child to the petitioner and may arrange for visitation with a minor child if the safety of the child and the petitioner can be protected; if visitation is allowed, the court may order visitation under the conditions provided in AS 25.20.061;

(10) give the petitioner possession and use of a vehicle and other essential personal items, including a pet, regardless of ownership of the items;

(11) prohibit the respondent from consuming controlled substances;

(12) require the respondent to pay support for the petitioner or a minor child in the care of the petitioner if there is an independent legal obligation of the respondent to support the petitioner or child;

(13) require the respondent to reimburse the petitioner or other person for expenses associated with the domestic violence, including medical expenses, counseling, shelter, and repair or replacement of damaged property;

(14) require the respondent to pay costs and fees incurred by the petitioner in bringing the action under this chapter;

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(15) order the respondent, at the respondent's expense, to participate in (A) a program for the rehabilitation of perpetrators of domestic violence that meets the standards set by, and that is approved by, the Department of Corrections under AS 44.28.020(b), or (B) treatment for the abuse of alcohol or controlled substances, or both; a protective order under this section may not require a respondent to participate in a program for the rehabilitation of perpetrators of domestic violence unless the program meets the standards set by, and that is approved by, the Department of Corrections under AS 44.28.020(b);

(16) order other relief the court determines necessary to protect the petitioner or any household member².

~~(17) prohibit the respondent from removing, harming, or disposing of an animal owned or possessed by the petitioner, respondent, or any other person living in the residence;~~

~~(18) grant the petitioner the exclusive care, custody, and control of an animal owned or possessed by the petitioner, respondent, or any other person living in the residence.~~

* Sec. 12. AS 18.66.110(a) is amended to read:

~~(a) A person who is a victim of a crime involving domestic violence may file a petition under AS 18.66.100(a) and request an ex parte protective order. If the court finds that the petition establishes probable cause that a crime involving domestic violence has occurred, it is necessary to protect the petitioner from domestic violence, and if the petitioner has certified to the court in writing the efforts, if any, that have been made to provide notice to the respondent, the court shall ex parte and without notice to the respondent issue a protective order. An ex parte protective order may grant the protection provided by AS 18.66.100(c)(1) (5), (8) (12), and (16) (18) [(16)]. An ex parte protective order expires 20 days after it is issued unless dissolved earlier by the court at the request of either the petitioner or the respondent and after notice and, if requested, a hearing. If a court issues an ex parte protective order, the court shall have the order delivered to the appropriate local law enforcement agency for expedited service and for entry into the central registry of protective orders under AS 18.65.540.~~

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1 ~~* Sec. 13. AS 18.66.110(b) is amended to read:~~

2 ~~(b) A peace officer, on behalf of and with the consent of a victim of a~~
 3 ~~crime involving domestic violence, may request an emergency protective order from a~~
 4 ~~judicial officer. The request may be made orally or in writing based on [UPON] the~~
 5 ~~sworn statement of a peace officer, and in person or by telephone. If the court finds~~
 6 ~~probable cause to believe that the victim is in immediate danger of domestic violence~~
 7 ~~based on an allegation of the recent commission of a crime involving domestic~~
 8 ~~violence, the court ex parte shall issue an emergency protective order. In an~~
 9 ~~emergency protective order, the court may grant the protection provided by~~
 10 ~~AS 18.66.100(e)(1) ~~(5), (8), (10), (11), and (16)~~ (18) [(16)]. An emergency~~
 11 ~~protective order expires 72 hours after it is issued unless dissolved earlier by the court~~
 12 ~~at the request of the petitioner.~~

13 ~~* Sec. 14. AS 18.66.130(a) is amended to read:~~

14 ~~(a) If a respondent in a protective order issued under AS 18.66.100 ~~18.66.180~~~~
 15 ~~is prohibited from communicating with the petitioner, excluded from the residence of~~
 16 ~~the petitioner, [OR] ordered to stay away from the petitioner as provided in~~
 17 ~~AS 18.66.100(e)(2) ~~(5), or prohibited from removing, harming, or disposing of~~~~
 18 ~~an animal as provided in AS 18.66.100(e)(17), an invitation by the petitioner to~~
 19 ~~communicate, enter the residence or vehicle, or have other prohibited contact with the~~
 20 ~~petitioner or the animal does not waive or nullify any provision in a protective order.~~

21 * Sec. 15. AS 18.66.990 is amended by adding a new paragraph to read:

22 (11) "animal~~pet~~" means a vertebrate living creature ~~not a human~~
 23 ~~being~~maintained for companionship or pleasure, but does not include ~~fish~~dogs
 24 primarily owned for participation in a generally accepted mushing or pulling contest
 25 or practice or animals primarily owned for participation in rodeos or stock contests.

26 * Sec. 16. AS 22.15.030(a) is amended to read:

27 (a) The district court has jurisdiction of civil cases, including foreign
 28 judgments filed under AS 09.30.200 and arbitration proceedings under AS 09.43.170
 29 or 09.43.530 to the extent permitted by AS 09.43.010 and 09.43.300, as follows:

30 (1) for the recovery of money or damages when the amount claimed
 31 exclusive of costs, interest, and attorney fees does not exceed \$100,000 for each

1 defendant;

2 (2) for the recovery of specific personal property, when the value of the
3 property claimed and the damages for the detention do not exceed \$100,000;

4 (3) for the recovery of a penalty or forfeiture, whether given by statute
5 or arising out of contract, not exceeding \$100,000;

6 (4) to give judgment without action upon the confession of the
7 defendant for any of the cases specified in this section, except for a penalty or
8 forfeiture imposed by statute;

9 (5) for establishing the fact of death or cause and manner of death of
10 any person in the manner prescribed in AS 09.55.020 - 09.55.069;

11 (6) for the recovery of the possession of premises in the manner
12 provided under AS 09.45.070 - 09.45.160 when the value of the arrears and damage to
13 the property does not exceed \$100,000;

14 (7) for the foreclosure of a lien when the amount in controversy does
15 not exceed \$100,000;

16 (8) for the recovery of money or damages in motor vehicle tort cases
17 when the amount claimed exclusive of costs, interest, and attorney fees does not
18 exceed \$100,000 for each defendant;

19 (9) over civil actions for taking utility service and for damages to or
20 interference with a utility line filed under AS 42.20.030;

21 (10) over cases involving protective orders for domestic violence under
22 AS 18.66.100 - 18.66.180;

23 (11) over cases involving cruelty to or seizure, destruction, ~~or~~
24 adoption, or cost of care of animals under AS 03.55.100 - 03.55.190.

25 * Sec. 17. AS 25.24.160(a) is amended to read:

26 (a) In a judgment in an action for divorce or action declaring a marriage void
27 or at any time after judgment, the court may provide

28 (1) for the payment by either or both parties of an amount of money or
29 goods, in gross or installments that may include cost-of-living adjustments, as may be
30 just and proper for the parties to contribute toward the nurture and education of their
31 children, and the court may order the parties to arrange with their employers for an

1 automatic payroll deduction each month or each pay period, if the period is other than
2 monthly, of the amount of the installment; if the employer agrees, the installment shall
3 be forwarded by the employer to the clerk of the superior court that entered the
4 judgment or to the court trustee, and the amount of the installment is exempt from
5 execution;

6 (2) for the recovery by one party from the other of an amount of money
7 for maintenance, for a limited or indefinite period of time, in gross or in installments,
8 as may be just and necessary without regard to which of the parties is in fault; an
9 award of maintenance must fairly allocate the economic effect of divorce by being
10 based on a consideration of the following factors:

11 (A) the length of the marriage and station in life of the parties
12 during the marriage;

13 (B) the age and health of the parties;

14 (C) the earning capacity of the parties, including their
15 educational backgrounds, training, employment skills, work experiences,
16 length of absence from the job market, and custodial responsibilities for
17 children during the marriage;

18 (D) the financial condition of the parties, including the
19 availability and cost of health insurance;

20 (E) the conduct of the parties, including whether there has been
21 unreasonable depletion of marital assets;

22 (F) the division of property under (4) of this subsection; and

23 (G) other factors the court determines to be relevant in each
24 individual case;

25 (3) for the delivery to either party of that party's personal property in
26 the possession or control of the other party at the time of giving the judgment;

27 (4) for the division between the parties of their property, including
28 retirement benefits, whether joint or separate, acquired only during marriage, in a just
29 manner and without regard to which of the parties is in fault; however, the court, in
30 making the division, may invade the property, including retirement benefits, of either
31 spouse acquired before marriage when the balancing of the equities between the

1 parties requires it; and to accomplish this end the judgment may require that one or
 2 both of the parties assign, deliver, or convey any of their real or personal property,
 3 including retirement benefits, to the other party; the division of property must fairly
 4 allocate the economic effect of divorce by being based on consideration of the
 5 following factors:

6 (A) the length of the marriage and station in life of the parties
 7 during the marriage;

8 (B) the age and health of the parties;

9 (C) the earning capacity of the parties, including their
 10 educational backgrounds, training, employment skills, work experiences,
 11 length of absence from the job market, and custodial responsibilities for
 12 children during the marriage;

13 (D) the financial condition of the parties, including the
 14 availability and cost of health insurance;

15 (E) the conduct of the parties, including whether there has been
 16 unreasonable depletion of marital assets;

17 (F) the desirability of awarding the family home, or the right to
 18 live in it for a reasonable period of time, to the party who has primary physical
 19 custody of children;

20 (G) the circumstances and necessities of each party;

21 (H) the time and manner of acquisition of the property in
 22 question; and

23 (I) the income-producing capacity of the property and the value
 24 of the property at the time of division;

25 **(5) if an animal is owned, for the ownership or joint ownership of**
 26 **the animal, considering the well-being of the animal.**

27 * **Sec. 18.** AS 25.24.200(a) is amended to read:

28 (a) A husband and wife together may petition the superior court for the
 29 dissolution of their marriage under AS 25.24.200 - 25.24.260 if the following
 30 conditions exist at the time of filing the petition:

31 (1) incompatibility of temperament has caused the irremediable

1 breakdown of the marriage;

2 (2) if there are unmarried children of the marriage under the age of 19
3 or the wife is pregnant, and the spouses have agreed on which spouse or third party is
4 to be awarded custody of each minor child of the marriage and the extent of visitation,
5 including visitation by grandparents and other persons if in the child's best interests,
6 and support to be provided on the children's behalf, whether the payments are to be
7 made through the child support services agency, and the tax consequences of that
8 agreement;

9 (3) the spouses have agreed as to the distribution of all real and
10 personal property that is jointly owned or community property under AS 34.77,
11 including retirement benefits and the payment of spousal maintenance, if any, and the
12 tax consequences resulting from these payments; the agreement must be fair and just
13 and take into consideration the factors listed in AS 25.24.160(a)(2) and (4) so that the
14 economic effect of dissolution is fairly allocated; [AND]

15 (4) the spouses have agreed as to the payment of all unpaid obligations
16 incurred by either or both of them and as to payment of obligations incurred jointly in
17 the future; and

18 (5) if an animal is owned, the spouses have agreed to the ownership
19 or joint ownership of the animal, taking into consideration the well-being of the
20 animal.

21 * **Sec. 19.** AS 25.24.200(b) is amended to read:

22 (b) A husband or wife may separately petition for dissolution of their marriage
23 under AS 25.24.200 - 25.24.260 if the following conditions exist at the time of filing
24 the petition:

25 (1) incompatibility of temperament, as evidenced by extended absence
26 or otherwise, has caused the irremediable breakdown of the marriage;

27 (2) the petitioning spouse has been unable to ascertain the other
28 spouse's position in regard to the dissolution of their marriage and in regard to the fair
29 and just division of property, including retirement benefits, spousal maintenance,
30 payment of debts, animals, and custody, support, and visitation because the
31 whereabouts of the other spouse is unknown to the petitioning spouse after reasonable

1 efforts have been made to locate the absent spouse; and

2 (3) the other spouse cannot be personally served with process inside or
3 outside the state.

4 * **Sec. 20.** AS 25.24.200(c) is amended to read:

5 (c) Except as provided in AS 25.24.220(i), a spouse who has been personally
6 served with a copy of a petition filed under (a) of this section may execute an
7 appearance, waiver of time to answer, and waiver of notice of hearing. The appearance
8 and waivers must include an acknowledgment signed before an officer authorized to
9 administer an oath or affirmation that the spouse being served has read the petition;
10 assents to the terms relating to custody of the children, child support, visitation,
11 spousal maintenance taking into consideration the factors listed in AS 25.24.160(a)(2),
12 and tax consequences, division of property, including retirement benefits and taking
13 into consideration the factors listed in AS 25.24.160(a)(4), **ownership of animals**
14 **taking into consideration the well-being of the animals,** and allocation of debts;
15 agrees that the conditions otherwise required by (a) of this section exist; agrees that
16 the petition constitutes the entire agreement between the parties; understands fully the
17 nature and consequences of the action; and is not signing the appearance and waivers
18 under duress or coercion.

19 * **Sec. 21.** AS 25.24 is amended by adding a new section to read:

20 **Sec. 25.24.990. Definition.** In this chapter, "animal" means a vertebrate living
21 creature not a human being, ~~but does not include fish.~~

Catherine Simpson

From: Peggy Brown [mailto:pbrown@andvsa.org]
Sent: Tuesday, April 14, 2015 9:23 AM
To: Rep. Max Gruenberg; Rep. Liz Vazquez; Rep. Matt Claman
Cc: Lisa Mariotti
Subject: hb 147

Representatives Vazquez, Gruenberg and Claman,

Thank you all for working with us on this bill and addressing our concerns. With the current CS workdraft 29-LS0302\U, ANDVSA removes its opposition to the bill. Lisa Mariotti, ANDVSA Policy Director, will be available to state so on the record when the bill is next heard.



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Peggy Brown, Executive Director
Alaska Network on Domestic Violence
& Sexual Assault
130 Seward Street, Suite 209
Juneau AK 99801
(907) 586-3650
(907) 463-4493 fax
www.andvsa.org

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29-LS0302\U
Nauman
4/13/15

CS FOR HOUSE BILL NO. 147()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES VAZQUEZ, Gruenberg, LeDoux, Lynn, Drummond, Edgmon, Guttenberg, Josephson, Ortiz, Tarr, Tuck, Muñoz, Talerico, Stutes

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the investigation of cruelty to animals complaints; relating to the**
2 **seizure of animals; relating to the destruction of animals; relating to the costs of care of**
3 **an animal that has been seized; relating to the inclusion of an animal in a protective**
4 **order and the crimes and arrests for violating that protective order; and relating to the**
5 **ownership of an animal upon divorce or dissolution of marriage."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 *** Section 1. AS 03.55.110(b) is amended to read:**

8 (b) A peace officer who receives a complaint of animal cruelty may apply for
9 a search warrant under AS 12.35 to the judicial officer in the judicial district in which
10 the alleged violation has taken place or is taking place. If the court finds that probable
11 cause exists, the court shall issue a search warrant directing a peace officer to proceed
12 immediately to the location of the alleged violation, search the place designated in the
13 warrant, and, if warranted, seize [TAKE] property, including animals, specified in the

1 warrant. The warrant shall be executed by the peace officer and returned to the court.

2 * **Sec. 2.** AS 03.55.110(c) is amended to read:

3 (c) Before a peace officer may seize [TAKE] an animal and place it into
4 protective custody, the peace officer shall request an immediate inspection and
5 decision by a veterinarian licensed under AS 08.98 that placement into protective
6 custody is in the immediate best interest of the animal. If a veterinarian is not available
7 to perform an inspection, before a peace officer may seize [TAKE] an animal, the
8 peace officer shall communicate with a veterinarian who has, after hearing a
9 description of the condition of the animal and its environment, decided it is in the
10 immediate best interest of the animal that it be placed into protective custody. If the
11 peace officer is not able to communicate with a veterinarian, before the officer may
12 take an animal, the officer shall decide it is in the immediate best interest of the animal
13 that it be placed into protective custody [. FOR PURPOSES OF THIS SECTION,
14 "PEACE OFFICER" MEANS

- 15 (1) AN OFFICER OF THE STATE TROOPERS;
16 (2) A MEMBER OF THE POLICE FORCE OF A MUNICIPALITY;
17 (3) A VILLAGE PUBLIC SAFETY OFFICER; OR
18 (4) A REGIONAL PUBLIC SAFETY OFFICER].

19 * **Sec. 3.** AS 03.55.120 is amended to read:

20 **Sec. 03.55.120. Seizure of animals.** (a) A peace officer shall place an animal
21 in protective custody before seizing [REMOVING] the animal from the location
22 where it was found. If the animal is seized [REMOVED], the peace officer shall place
23 the animal with a veterinarian licensed under AS 08.98 or, if a veterinarian is not
24 readily available, with a responsible public or private custodian to be sheltered, cared
25 for, and provided necessary medical attention.

26 (b) A peace officer who has seized [REMOVED] an animal shall immediately
27 notify the animal's owner in writing of the seizure [REMOVAL] and of the owner's
28 right to petition the court under AS 03.55.130 for return of the animal. Notification
29 may be delivered in person, posted at the owner's residence, or mailed to the owner.

30 (c) If a seized [REMOVED] animal's owner is unknown and cannot be
31 ascertained with reasonable effort,

1 **(1) the animal shall be considered a stray or abandoned; and**
2 **(2) the notice required in (b) of this section shall be conspicuously**
3 **posted at the premises from which the animal was seized.**

4 (d) The state, a municipality, or a person [,] that supplies shelter, care,
5 veterinary attention, or medical treatment for an animal seized under this section shall
6 make a reasonable effort to locate the owner.

7 * **Sec. 4.** AS 03.55.130(a) is amended to read:

8 (a) If a determination is made by a veterinarian licensed under AS 08.98, by a
9 peace officer in consultation with a veterinarian licensed under AS 08.98, or by a
10 peace officer who is unable to locate or communicate with a veterinarian licensed
11 under AS 08.98 that an animal **seized** [REMOVED] under AS 03.55.100 - 03.55.190
12 is injured or diseased to such an extent that, in the opinion of the veterinarian, it is
13 probable the animal cannot recover, the veterinarian or the peace officer may
14 humanely destroy the animal or arrange for the animal's humane destruction.

15 * **Sec. 5.** AS 03.55.130(b) is amended to read:

16 (b) Upon diagnosis and recommendation of a veterinarian licensed under
17 AS 08.98, a public or private custodian may humanely destroy or arrange for the
18 humane destruction of a severely injured, diseased, or suffering animal that has been
19 **seized** [REMOVED] under AS 03.55.100 - 03.55.190.

20 * **Sec. 6.** AS 03.55.130(d) is amended to read:

21 (d) Except as provided in (a) or (b) of this section, the custodian of an animal
22 may not adopt, provide for the adoption of, or euthanize the animal within 10 business
23 days after the animal is taken into custody. An owner **or custodian** may prevent the
24 animal's adoption or destruction by

25 [[1]] petitioning the court of the judicial district in which the animal
26 was **seized** [REMOVED] for the animal's [IMMEDIATE] return, subject [, IF
27 APPROPRIATE,] to court-imposed conditions [; OR

28 (2) POSTING A BOND OR SECURITY WITH THE COURT OF
29 THE JUDICIAL DISTRICT IN WHICH THE ANIMAL WAS SEIZED IN AN
30 AMOUNT DETERMINED BY THE COURT TO BE SUFFICIENT TO PROVIDE
31 FOR THE ANIMAL'S CARE FOR A MINIMUM OF 30 DAYS FROM THE DATE

1 THE ANIMAL WAS REMOVED].

2 * **Sec. 7.** AS 03.55.130(e) is repealed and reenacted to read:

3 (e) The court may, on its own accord or upon a filing by the custodian, the
4 owner of the animal, or the entity that seized the animal, enter an order for the cost of
5 care of the animal pending final disposition of the custody of the animal. An order
6 under this section may include a requirement that the owner of the animal post a bond
7 or other security to guarantee that the cost of care of the animal is received and
8 maintained. If, without justifiable cause, the owner of the animal fails to comply with
9 an order under this section, the court may order that the animal be forfeited.

10 * **Sec. 8.** AS 03.55.130(f) is amended to read:

11 (f) The state may not be required to reimburse a public or private agency,
12 organization, or person that voluntarily assists with the seizure [A REMOVAL] of an
13 animal or receives custody of an animal seized [REMOVED] under this section for
14 the cost of care of [COSTS OF SHELTER, CARE, VETERINARY ASSISTANCE,
15 OR MEDICAL TREATMENT RENDERED TO] the animal.

16 * **Sec. 9.** AS 03.55.130 is amended by adding a new subsection to read:

17 (g) Nothing in (d) or (e) of this section shall shift the burden of proof from the
18 party who would otherwise have that burden.

19 * **Sec. 10.** AS 03.55.190 is amended by adding new paragraphs to read:

20 (4) "cost of care" means the cost of shelter, care, veterinary assistance,
21 and medical treatment rendered to the animal;

22 (5) "cruelty to animals" includes acts constituting cruelty to animals
23 under AS 11.61.140(a), acts promoting an exhibition of fighting animals under
24 AS 11.61.145(a)(1) or (2), and other serious acts of animal cruelty warranting
25 protective actions under AS 03.55.100 - 03.55.190, whether or not they are
26 specifically listed in AS 11.61.140 or 11.61.145;

27 (6) "peace officer" means

28 (A) an officer of the state troopers;

29 (B) a member of the police force of a municipality;

30 (C) a village public safety officer; or

31 (D) a regional public safety officer.

1 * **Sec. 11.** AS 11.56.740(a) is amended to read:

2 (a) A person commits the crime of violating a protective order if the person is
3 subject to a protective order

4 (1) issued or filed under AS 18.66 and the protective order contains
5 one or more of the provisions [CONTAINING A PROVISION] listed in
6 AS 18.66.100(c)(1) - (7) and the person knowingly commits or attempts to commit an
7 act with reckless disregard that the act violates or would violate a provision of the
8 protective order;

9 (2) issued under AS 18.65.850, 18.65.855, or 18.65.860 and knowingly
10 commits or attempts to commit an act that violates or would violate a provision listed
11 in AS 18.65.850(c)(1) - (3); or

12 (3) issued under AS 13.26.207 - 13.26.209 and knowingly commits or
13 attempts to commit an act with reckless disregard that the act violates or would violate
14 a provision of the protective order.

15 * **Sec. 12.** AS 18.65.520(a) is amended to read:

16 (a) A peace officer investigating a crime involving domestic violence shall
17 orally and in writing inform the victim of the rights of victims of domestic violence
18 and the services available to them. The notice must be in substantially the following
19 form:

20 If you are the victim of domestic violence and you believe that
21 law enforcement protection is needed for your physical safety, you
22 have the right to request that the officer assist in providing for your
23 safety, including asking for an emergency protective order.

24 You may also request the officer to assist you in obtaining your
25 essential personal belongings and locating and taking you to a safe
26 place, including a designated meeting place or shelter, the residence of
27 a household member or friend, or a similar place of safety. In some
28 places in Alaska there are organizations that provide aid and shelter to
29 victims of domestic violence. The nearest organization is located at

30 _____
31 If you are in need of medical treatment, you may request that

1 the officer assist you in obtaining medical treatment.

2 You may obtain information about whether the prosecuting
3 attorney will file a criminal complaint about the domestic violence.
4 Additionally, the victim/witness assistance program of the Department
5 of Law may be able to help you. This information is available from the
6 district attorney's office, which is located at _____.

7 You also have the right to file a petition in court requesting a
8 protective order that may include any of the following provisions:

9 (1) prohibit your abuser from threatening to commit or
10 committing further acts of domestic violence;

11 (2) prohibit your abuser from stalking, harassing,
12 telephoning, contacting, or otherwise communicating with you, directly
13 or indirectly;

14 (3) remove your abuser from your residence;

15 (4) order your abuser to stay away from your residence,
16 school, place of employment, or any other specified place frequented
17 by you or another designated household member;

18 (5) prohibit your abuser from entering your vehicle or a
19 vehicle you occupy;

20 (6) prohibit your abuser from using or possessing a
21 deadly weapon if the court finds your abuser was in the actual
22 possession of or used a weapon during the commission of your abuse;

23 (7) direct your abuser to surrender any firearm owned or
24 possessed by that person if the court finds your abuser was in the actual
25 possession of or used a firearm during the commission of your abuse;

26 (8) request a peace officer to accompany you to your
27 residence to ensure your safe possession of the residence, vehicle, or
28 other items, or to ensure your safe removal of personal items from the
29 residence;

30 (9) award temporary custody of a minor child to the
31 petitioner and may arrange for visitation with a minor child if the safety

1 of the child and the petitioner can be protected;

2 (10) grant you possession and use of a vehicle and other
3 essential personal items, including a pet, regardless of the ownership
4 of those items [EFFECTS];

5 (11) prohibit your abuser from consuming controlled
6 substances;

7 (12) require your abuser to pay support for you or a
8 minor child in your care if there is an independent legal obligation of
9 your abuser to support you or the child;

10 (13) require your abuser to reimburse you for your
11 expenses caused by domestic violence, including medical bills, or for
12 your costs in getting a protective order;

13 (14) order your abuser to participate in an intervention
14 program for batterers; and

15 (15) other relief the court determines to be necessary for
16 your safety.

17 The forms you need to obtain a protective order are available
18 from the nearest court. It is not necessary to have an attorney to obtain
19 a protective order, but you may consult an attorney if you choose. If
20 you would like help obtaining a protective order, you may contact the
21 nearest domestic violence program located at _____. The program
22 can also tell you about other resources available in this community for
23 information about domestic violence, treatment of injuries, and places
24 of safety and shelter.

25 You may also qualify for compensation from the Violent
26 Crimes Compensation Board. The board may be contacted at

27 _____.

28 * Sec. 13. AS 18.65.590 is amended to read:

29 **Sec. 18.65.590. Definitions** [DEFINITION]. In AS 18.65.510 - 18.65.590,

30 (1) "domestic violence" has the meaning given in AS 18.66.990;

31 (2) "pet" means a vertebrate living creature maintained for

1 companionship or pleasure, but does not include dogs primarily owned for
2 participation in a generally accepted mushing or pulling contest or practice or
3 animals primarily owned for participation in rodeos or stock contests.

4 * Sec. 14. AS 18.66.100(c) is amended to read:

5 (c) A protective order under this section may

6 (1) prohibit the respondent from threatening to commit or committing
7 domestic violence, stalking, or harassment;

8 (2) prohibit the respondent from telephoning, contacting, or otherwise
9 communicating directly or indirectly with the petitioner;

10 (3) remove and exclude the respondent from the residence of the
11 petitioner, regardless of ownership of the residence;

12 (4) direct the respondent to stay away from the residence, school, or
13 place of employment of the petitioner or any specified place frequented by the
14 petitioner or any designated household member;

15 (5) prohibit the respondent from entering a propelled vehicle in the
16 possession of or occupied by the petitioner;

17 (6) prohibit the respondent from using or possessing a deadly weapon if
18 the court finds the respondent was in the actual possession of or used a weapon during
19 the commission of domestic violence;

20 (7) direct the respondent to surrender any firearm owned or possessed
21 by the respondent if the court finds that the respondent was in the actual possession of
22 or used a firearm during the commission of the domestic violence;

23 (8) request a peace officer to accompany the petitioner to the
24 petitioner's residence to ensure that the petitioner

25 (A) safely obtains possession of the petitioner's residence,
26 vehicle, or personal items; and

27 (B) is able to safely remove a vehicle or personal items from the
28 petitioner's residence;

29 (9) award temporary custody of a minor child to the petitioner and may
30 arrange for visitation with a minor child if the safety of the child and the petitioner can
31 be protected; if visitation is allowed, the court may order visitation under the

1 conditions provided in AS 25.20.061;

2 (10) give the petitioner possession and use of a vehicle and other
3 essential personal items, including a pet, regardless of ownership of the items;

4 (11) prohibit the respondent from consuming controlled substances;

5 (12) require the respondent to pay support for the petitioner or a minor
6 child in the care of the petitioner if there is an independent legal obligation of the
7 respondent to support the petitioner or child;

8 (13) require the respondent to reimburse the petitioner or other person
9 for expenses associated with the domestic violence, including medical expenses,
10 counseling, shelter, and repair or replacement of damaged property;

11 (14) require the respondent to pay costs and fees incurred by the
12 petitioner in bringing the action under this chapter;

13 (15) order the respondent, at the respondent's expense, to participate in
14 (A) a program for the rehabilitation of perpetrators of domestic violence that meets the
15 standards set by, and that is approved by, the Department of Corrections under
16 AS 44.28.020(b), or (B) treatment for the abuse of alcohol or controlled substances, or
17 both; a protective order under this section may not require a respondent to participate
18 in a program for the rehabilitation of perpetrators of domestic violence unless the
19 program meets the standards set by, and that is approved by, the Department of
20 Corrections under AS 44.28.020(b);

21 (16) order other relief the court determines necessary to protect the
22 petitioner or any household member.

23 * **Sec. 15.** AS 18.66.990 is amended by adding a new paragraph to read:

24 (11) "pet" means a vertebrate living creature maintained for
25 companionship or pleasure, but does not include dogs primarily owned for
26 participation in a generally accepted mushing or pulling contest or practice or animals
27 primarily owned for participation in rodeos or stock contests.

28 * **Sec. 16.** AS 22.15.030(a) is amended to read:

29 (a) The district court has jurisdiction of civil cases, including foreign
30 judgments filed under AS 09.30.200 and arbitration proceedings under AS 09.43.170
31 or 09.43.530 to the extent permitted by AS 09.43.010 and 09.43.300, as follows:

1 (1) for the recovery of money or damages when the amount claimed
2 exclusive of costs, interest, and attorney fees does not exceed \$100,000 for each
3 defendant;

4 (2) for the recovery of specific personal property, when the value of the
5 property claimed and the damages for the detention do not exceed \$100,000;

6 (3) for the recovery of a penalty or forfeiture, whether given by statute
7 or arising out of contract, not exceeding \$100,000;

8 (4) to give judgment without action upon the confession of the
9 defendant for any of the cases specified in this section, except for a penalty or
10 forfeiture imposed by statute;

11 (5) for establishing the fact of death or cause and manner of death of
12 any person in the manner prescribed in AS 09.55.020 - 09.55.069;

13 (6) for the recovery of the possession of premises in the manner
14 provided under AS 09.45.070 - 09.45.160 when the value of the arrears and damage to
15 the property does not exceed \$100,000;

16 (7) for the foreclosure of a lien when the amount in controversy does
17 not exceed \$100,000;

18 (8) for the recovery of money or damages in motor vehicle tort cases
19 when the amount claimed exclusive of costs, interest, and attorney fees does not
20 exceed \$100,000 for each defendant;

21 (9) over civil actions for taking utility service and for damages to or
22 interference with a utility line filed under AS 42.20.030;

23 (10) over cases involving protective orders for domestic violence under
24 AS 18.66.100 - 18.66.180;

25 (11) over cases involving cruelty to or seizure, destruction,
26 adoption, or cost of care of animals under AS 03.55.100 - 03.55.190.

27 * Sec. 17. AS 25.24.160(a) is amended to read:

28 (a) In a judgment in an action for divorce or action declaring a marriage void
29 or at any time after judgment, the court may provide

30 (1) for the payment by either or both parties of an amount of money or
31 goods, in gross or installments that may include cost-of-living adjustments, as may be

1 just and proper for the parties to contribute toward the nurture and education of their
2 children, and the court may order the parties to arrange with their employers for an
3 automatic payroll deduction each month or each pay period, if the period is other than
4 monthly, of the amount of the installment; if the employer agrees, the installment shall
5 be forwarded by the employer to the clerk of the superior court that entered the
6 judgment or to the court trustee, and the amount of the installment is exempt from
7 execution;

8 (2) for the recovery by one party from the other of an amount of money
9 for maintenance, for a limited or indefinite period of time, in gross or in installments,
10 as may be just and necessary without regard to which of the parties is in fault; an
11 award of maintenance must fairly allocate the economic effect of divorce by being
12 based on a consideration of the following factors:

13 (A) the length of the marriage and station in life of the parties
14 during the marriage;

15 (B) the age and health of the parties;

16 (C) the earning capacity of the parties, including their
17 educational backgrounds, training, employment skills, work experiences,
18 length of absence from the job market, and custodial responsibilities for
19 children during the marriage;

20 (D) the financial condition of the parties, including the
21 availability and cost of health insurance;

22 (E) the conduct of the parties, including whether there has been
23 unreasonable depletion of marital assets;

24 (F) the division of property under (4) of this subsection; and

25 (G) other factors the court determines to be relevant in each
26 individual case;

27 (3) for the delivery to either party of that party's personal property in
28 the possession or control of the other party at the time of giving the judgment;

29 (4) for the division between the parties of their property, including
30 retirement benefits, whether joint or separate, acquired only during marriage, in a just
31 manner and without regard to which of the parties is in fault; however, the court, in

1 making the division, may invade the property, including retirement benefits, of either
2 spouse acquired before marriage when the balancing of the equities between the
3 parties requires it; and to accomplish this end the judgment may require that one or
4 both of the parties assign, deliver, or convey any of their real or personal property,
5 including retirement benefits, to the other party; the division of property must fairly
6 allocate the economic effect of divorce by being based on consideration of the
7 following factors:

8 (A) the length of the marriage and station in life of the parties
9 during the marriage;

10 (B) the age and health of the parties;

11 (C) the earning capacity of the parties, including their
12 educational backgrounds, training, employment skills, work experiences,
13 length of absence from the job market, and custodial responsibilities for
14 children during the marriage;

15 (D) the financial condition of the parties, including the
16 availability and cost of health insurance;

17 (E) the conduct of the parties, including whether there has been
18 unreasonable depletion of marital assets;

19 (F) the desirability of awarding the family home, or the right to
20 live in it for a reasonable period of time, to the party who has primary physical
21 custody of children;

22 (G) the circumstances and necessities of each party;

23 (H) the time and manner of acquisition of the property in
24 question; and

25 (I) the income-producing capacity of the property and the value
26 of the property at the time of division;

27 **(5) if an animal is owned, for the ownership or joint ownership of**
28 **the animal, considering the well-being of the animal.**

29 * Sec. 18. AS 25.24.200(a) is amended to read:

30 (a) A husband and wife together may petition the superior court for the
31 dissolution of their marriage under AS 25.24.200 - 25.24.260 if the following

1 conditions exist at the time of filing the petition:

2 (1) incompatibility of temperament has caused the irremediable
3 breakdown of the marriage;

4 (2) if there are unmarried children of the marriage under the age of 19
5 or the wife is pregnant, and the spouses have agreed on which spouse or third party is
6 to be awarded custody of each minor child of the marriage and the extent of visitation,
7 including visitation by grandparents and other persons if in the child's best interests,
8 and support to be provided on the children's behalf, whether the payments are to be
9 made through the child support services agency, and the tax consequences of that
10 agreement;

11 (3) the spouses have agreed as to the distribution of all real and
12 personal property that is jointly owned or community property under AS 34.77,
13 including retirement benefits and the payment of spousal maintenance, if any, and the
14 tax consequences resulting from these payments; the agreement must be fair and just
15 and take into consideration the factors listed in AS 25.24.160(a)(2) and (4) so that the
16 economic effect of dissolution is fairly allocated; [AND]

17 (4) the spouses have agreed as to the payment of all unpaid obligations
18 incurred by either or both of them and as to payment of obligations incurred jointly in
19 the future; and

20 (5) if an animal is owned, the spouses have agreed to the ownership
21 or joint ownership of the animal, taking into consideration the well-being of the
22 animal.

23 * Sec. 19. AS 25.24.200(b) is amended to read:

24 (b) A husband or wife may separately petition for dissolution of their marriage
25 under AS 25.24.200 - 25.24.260 if the following conditions exist at the time of filing
26 the petition:

27 (1) incompatibility of temperament, as evidenced by extended absence
28 or otherwise, has caused the irremediable breakdown of the marriage;

29 (2) the petitioning spouse has been unable to ascertain the other
30 spouse's position in regard to the dissolution of their marriage and in regard to the fair
31 and just division of property, including retirement benefits, spousal maintenance,

1 payment of debts, animals, and custody, support, and visitation because the
2 whereabouts of the other spouse is unknown to the petitioning spouse after reasonable
3 efforts have been made to locate the absent spouse; and

4 (3) the other spouse cannot be personally served with process inside or
5 outside the state.

6 * **Sec. 20.** AS 25.24.200(c) is amended to read:

7 (c) Except as provided in AS 25.24.220(i), a spouse who has been personally
8 served with a copy of a petition filed under (a) of this section may execute an
9 appearance, waiver of time to answer, and waiver of notice of hearing. The appearance
10 and waivers must include an acknowledgment signed before an officer authorized to
11 administer an oath or affirmation that the spouse being served has read the petition;
12 assents to the terms relating to custody of the children, child support, visitation,
13 spousal maintenance taking into consideration the factors listed in AS 25.24.160(a)(2),
14 and tax consequences, division of property, including retirement benefits and taking
15 into consideration the factors listed in AS 25.24.160(a)(4), ownership of animals
16 taking into consideration the well-being of the animals, and allocation of debts;
17 agrees that the conditions otherwise required by (a) of this section exist; agrees that
18 the petition constitutes the entire agreement between the parties; understands fully the
19 nature and consequences of the action; and is not signing the appearance and waivers
20 under duress or coercion.

21 * **Sec. 21.** AS 25.24 is amended by adding a new section to read:

22 **Sec. 25.24.990. Definition.** In this chapter, "animal" means a vertebrate living
23 creature not a human being.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 14, 2015

SUBJECT: Sectional Summary of CSHB 147()
(Work Order No. 29-LS0302\U)

TO: Representative Max Gruenberg
Attn: Nicoli Bailey

FROM: Emily Nauman 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 amends AS 03.55.110(b) by replacing the word "take" with "seize."

Section 2 removes the definition of "peace officer" from AS 03.55.110(c) and adds it to sec. 10 of the bill; replaces the word "take" with "seize."

Section 3 amends AS 03.55.120(c) to require notice to be posted at a premises from which an animal is removed under AS 03.55.120. Replaces the words "removing," "removed," and "removal" in AS 03.55.120(a), (b), and (c) with "seizing," "seized," and "seizure," respectively.

Section 4 amends AS 03.55.130(a) by replacing the word "removed" with "seized."

Section 5 amends AS 03.55.130(b) by replacing the word "removed" with "seized."

Section 6 amends AS 03.55.130(d) to allow a custodian to prevent the adoption or destruction of a seized animal. Replaces the word "removed" with "seized." Removes a provision that allowed the posting of a bond or security sufficient to care for an animal to prevent the adoption or destruction of the animal, this provision is replaced by AS 03.55.130(e) (sec. 7)..

Section 7 repeals and reenacts AS 03.55.130(e). Allows a court on its own or in response to a filing by the custodian, or owner of an animal, to enter an order for the cost of care of

an animal. The order may include a required bond or security. Failure to comply may result in forfeiture of the animal.

Section 8 amends AS 03.55.130(f) by replacing the words "a removal" and "removed" with "the seizure" and "seized," respectively. Replaces a description of "cost of care" with a reference to "cost of care," as "cost of care" is defined under sec. 10 of the bill.

Section 9 adds a new subsection to AS 03.55.130 that states that nothing in AS 03.55.130(d) or (e) is to shift the burden of proof from the party that would otherwise have that burden.

Section 10 adds new definitions to AS 03.55.190 for "cost of care" and "cruelty to animals;" adds a new paragraph for the definition of "peace officer," as that definition previously appeared in AS 03.55.110(c) (sec. 2 of the bill).

Section 11 amends AS 11.56.740(a) to clarify that it is a crime to violate one or more of the provisions of a domestic violence protective order.

Section 12 amends AS 18.65.520(a) to require that the form providing notice to a victim of domestic violence must state that a protective order may grant a victim possession of a pet regardless of the ownership of that pet.

Section 13 adds a definition of "pet" at AS 18.65.590.

Section 14 amends AS 18.66.100(c) to allow a domestic violence protective order issued under AS 18.66.100(c) to grant a petitioner possession of a pet, regardless of the ownership of the pet.

Section 15 adds a definition of "pet" at AS 18.66.990.

Section 16 amends AS 22.15.030(a) to give the district court the jurisdiction over cases involving cruelty to or seizure, destruction, adoption, or costs of care of animals under AS 03.55.100 - 03.55.190.

Section 17 amends AS 25.24.160(a) to allow a court to consider the well-being of an animal when considering ownership or joint ownership of an animal as part of a divorce proceeding.

Section 18 amends AS 25.24.200(a) by adding a requirement that, before a husband and wife can jointly petition the court for a dissolution, if an animal is owned, the spouses have agreed to the ownership or joint ownership of the animal, taking into consideration the well-being of the animal.

Section 19 amends AS 25.24.200(b) by adding a requirement that before a husband or wife can separately petition the court for a dissolution, the petitioning spouse must

Representative Max Gruenberg

April 14, 2015

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demonstrate that he or she has been unable to ascertain the other spouse's position on the ownership of an animal.

Section 20 amends AS 25.24.200(c) by adding a requirement that, before a spouse can waive an appearance at a dissolution, or hearing if an animal is owned, the spouses have agreed to the ownership of the animal, taking into consideration the well-being of the animal.

Section 21 adds a definition of "animal" at AS 25.24.990.

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