control group which will receive an existing treatment. Fung et al., *supra*, at 631. In such trials, study designers attempt to control as many extrinsic factors as possible, removing confounding variables so that differences between the groups can be attributed to the new treatment and not patient- or physician-specific factors. McLeod, *supra*, at 1210; Fung, *supra*. RCTs, when possible, are often considered the most reliable form of medical research. McLeod, *supra*, at 1210; Fung, *supra*, at 631; but see Tom L. Beauchamp & James F. Childress, *Principles of Biomedical Ethics* 327 (5th ed. 2001) ("RCTs should not become indispensable rituals or necessary canons of valid research."); Kjell Benson et al., *A Comparison of Observational Studies and Randomized, Controlled Trials*, 342 New Eng. J. Med. 1878, 1883 (2000) (estimates of the effects of treatment in observational studies and randomized controlled trials were similar). Despite the acknowledged benefits of having RCT data, it is not always practical or even possible to conduct such trials, particularly for surgical advancement. Bartels, *supra*, at 24-25; Fung, *supra*, at 631-32; Michael J. Solomon & Robin S. McLeod, *Surgery and the Randomised Controlled Trial: Past, Present and Future*, 169 Med. J. Australia 380, 381-82 (1998).

The first barrier is surgeon enrollment. In some cases, by the time an adaptation has evolved to the point of being eligible for systematized study, it has already been embraced by surgeons, who cannot ethically participate in RCT study unless they believe there is uncertainty as to which approach is the most effective.[5] Albert R. Jonsen et al., *Clinical Ethics* 204 (6th ed. 2006); Bernard Lo, *Resolving Ethical Dilemmas: A Guide for Clinicians* 177 (3d ed. 2005). Otherwise, the

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[5] This principle of genuine uncertainty is known as "equipoise." Clinical research ethics require that there be equipoise on the part of the individual clinical investigator or clinical equipoise about the preferred treatment within the expert medical community. Benjamin Freedman, *Equipoise and the Ethics of Clinical Research*, 317 New Eng. J. Med. 141, 141 (1987).

surgeon is ethically required to use what he or she believes is the safest and most effective technique for the particular patient. Lo, *supra*, at 177; Beauchamp & Childress, *supra*, at 327.

When there is sufficient doubt so that an RCT would be ethical, the nature of surgery nevertheless often renders the goal of randomization unattainable.[6] If, as is often the case, patients already have a preference for a particular procedure or technique, patient recruitment becomes an obstacle to randomized study. Fung, *supra*, at 632; Solomon & McLeod, *supra*, at 381.[7] Patient preference has frustrated efforts to conduct RCTs in a number of surgical contexts. See, *e.g.*, D. A. Grimes et al., *Mifepristone and misoprostal versus dilation and evacuation for mid-trimester abortion: a pilot randomized controlled trial*, 111 B. J. Obstet. Gynecol. 148, 148 (2004) (unable to conduct RCT because of vast patient

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[6] In attempting to compare intact D&E to a dismemberment approach randomization is nearly impossible. As is discussed below, a physician does not know when beginning a D&E whether the fetus will present intact, or largely intact, or whether it will be necessary to dismember the fetus—even where the physician makes every effort to remove the fetus as intact as possible. Pet. App. 142a. Thus, a comparative study would be possible only by dividing procedures into two groups *after* the surgery—one more intact and one more dismembered—and comparing the complication types and rates as well as patient benefits. This type of retrospective cohort study is precisely the approach taken in the first study to attempt to compare dismemberment and intact variations or D&E. *See* Stephen T. Chasen et al., *Dilation and Evacuation at ≥ 20 Weeks: Comparison of Operative Techniques*, 190 Am. J. Obstet. & Gynec. 1180 (2004) (App. 1055-70) (hereinafter "Chasen, *D&E*").

[7] Randomization is also unappealing to surgeons who believe that it requires the surgeon to acknowledge ambivalence as to which treatment approach is safest and thus compromises apparent authority and expertise. R. Lefering & E. Neugebauer, *Problems of Randomized Controlled Trials (RCT) in Surgery* (1997), *available at* http://www.symposion.com/nrccs/lefering.htm; *see also* Fung, *supra*, at 632. In turn, the hesitancy of surgeons to participate and solicit their patients for studies exacerbates the problem of patient recruitment. Lefering & Neugebauer, *supra*.

preference for D&E over induction abortion); McLeod, *supra*, at 1212 (unable to conduct trial comparing mastectomy to lumpectomy).

Even when surgical studies can be randomized, they are hard to standardize and control. For example, variations in skill and training among surgeons make standardization difficult to achieve. If different surgeons operate on different patients, it may be impossible to determine whether the success of a procedure is attributable to the procedure or to the surgeon's skill in executing it. David S. Jones, *Visions of Cure: Visualization, Clinical Trials, and Controversies in Cardiac Therapies, 1968-1998*, 91 Isis 504, 523 (2002); Fung, *supra*, at 632-33; McLeod, *supra*, at 1210. Having a single surgeon conduct every surgery in a study could theoretically solve the standardization problem. Lefering & Neugebauer, *supra*. However, no surgeon can conduct a procedure in the exact same way every time. A surgeon must respond to patient- and procedure-specific circumstances that arise during the surgery, making it impossible to standardize multiple procedures. McLeod, *supra*, at 1210; see Joel E. Frader & Donna A. Caniano, *Research and Innovation in Surgery, in Surgical Ethics* 216, 216 (Laurence B. McCullough et al. eds., 1998) ("Even on the same day, with similar patients, a single surgeon may perform 'the same' procedure somewhat differently, due to anatomic or physiologic differences among patients or for other reasons.").[8]

These barriers are especially problematic when the surgical techniques being compared have low complication and high success rates, as is the case with all variations of D&E. Pet. App. 141a. In such cases, a study can only produce

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[8] Furthermore, the more a surgeon performs a technique or procedure, the more effective he or she becomes, thereby reducing the complication rates on the procedure over time—again undercutting standardization. Fung, *supra*, at 632-33.

statistically significant results if it includes a high volume of participants. The barriers to participation discussed above can thus render RCTs impossible.

As a result, surgeons frequently rely on other methods of attaining confidence in a new or modified surgical procedure. Congress's artificial notion that RCTs are necessary to demonstrate the safety and efficacy of a particular surgical procedure is inaccurate and flatly inconsistent with the standards to which surgical professionals currently adhere. As illustrated below, the development of intact D&E is consistent with the standards applied to other surgical innovations. If Congress had banned surgical procedures at this stage of development on an RCT rationale, the nation would have been deprived of the benefits of some of the most important surgical advancements in the past century.

One of the greatest surgical developments of the twentieth century is the widespread use of minimally invasive laparoscopic techniques. Because the laparoscopic incision is much smaller than the incision in a traditional "open" procedure, patients have less pain, shorter hospital stays, briefer recovery periods and reduced scarring. See, *e.g.*, U. Giger et al., *Laparoscopic Cholecystectomy in Acute Cholecystitis: Indication, Technique, Risk and Outcome*, 390 Langenbecks Arch. Surg. 373, 373 (2005). As a result, even in the absence of controlled trials demonstrating relative effectiveness and safety, laparoscopic surgery became the method of choice for surgeons and patients almost as soon as its use became an option.

Laparoscopic surgery requires only small incisions through which the surgeon passes surgical instruments and removes tissue. Instead of direct visualization, the surgeon observes the target of the surgery through a small camera with the image projected onto a screen in the operating room. Laparoscopic surgery evolved from the use of an endoscope to visualize the interior of the human body for diagnostic purposes. G.S. Litynski & V. Paolucci, *Origin of Laparo-*

scopy: Coincidence of Surgical Interdisciplinary Thought?, 22 World J. Surg. 899, 900-01 (1998). Early endoscopes—first just small mirrors with illumination—were inserted into the abdomen to permit visualization of internal organs without large incisions. See *id.* Surgeons later adapted the technology for surgical use by inserting specialized surgical instruments through other small incisions and visualizing the operating area through the endoscope.

One application of this surgical innovation is the laparoscopic cholecystectomy, used to remove a diseased gall bladder for treatment of gallstones. The traditional method of cholecystectomy, the "open" method (in which the surgeon makes an incision large enough to visualize and touch the gall bladder and the interior of the abdomen), was first performed in 1882, and for more than 100 years was the "gold standard" for treatment of gall bladder disease. See Giger, *supra*, at 373; Thomas R. Gadacz et al., *Traditional Versus Laparoscopic Cholecystectomy*, 161 Am. J. Surg. 336, 337 (1991). In the mid-1980s, a German surgeon performed the first reported laparoscopic cholecystectomy. Giger, *supra*, at 373; see also J. Barry McKernan, *Origin of Laparoscopic Cholecystectomy in the USA: Personal Experience*, 23 World J. Surg. 332, 333 (1999). Word of this innovation spread through conversations and at conferences. See Thomas L. Dent et al., *Minimal Access General Surgery: the Dawn of a New Era*, 161 Am. J. Surg. 323, 323 (1991) (videotape of procedure shown at conference in 1989).

After anecdotal results were presented to surgeons, patients became aware of its benefits through reports in the lay press. Lefering & Neugebauer, *supra*. Patients began insisting that their cholecystectomies be performed laparoscopically. Within six years of the first laparoscopic cholecystectomy, and despite the absence of formal clinical trials establishing safety and effectiveness, the method became widely available in both the United States and Europe. C. Randle Voyles, *A*

Practical Approach to Laparoscopic Cholecystectomy, 161 Am. J. Surg. 365, 365 (1991).

In fact, researchers had difficulty recruiting patients for controlled trials testing laparoscopic cholecystectomy against the open method because "initial reports and articles in the lay press" suggested that the laparoscopic method was far superior to the open method. Lefering & Neugebauer, *supra.* In 1992, the National Institutes of Health concluded that "laparoscopic cholecystectomy provides a safe and effective treatment" for removal of gall bladder for treatment of gall stones, while acknowledging that "well-controlled studies [of its comparative benefits] are unavailable, and there is little prospect that such studies will be done." *Gallstones and Laparoscopic Cholecystectomy*, NIH Consensus Statement 10(3) (Sept. 16, 1992), *available at* http://consensus.nih.gov/1992/1992GallstonesLaparoscopy090html.htm.

Laparoscopic surgery is but one example of this recurring evolutionary phenomenon. Other procedures, including radical mastectomy, the B-Lynch suture, coronary artery bypass grafting ("CABG"), angioplasty, and coronary pulmonary bypass similarly evolved through surgical practice. See, *e.g.*, Jones, *supra*, at 513-16 (discussing evolution of CABG, which came into practice in 1967, and noting that despite lack of RCTs, 100,000 CABGs had been completed by 1974); see also *id.* at 538-39 (angioplasty was first performed in 1977, and the first comparative trials were not published until 1992).

B. The Evolution Of Intact D&E Comports With The Standards For Safety And Efficacy In Surgical Advancement.

The intact approach to D&E came into existence in the same manner as these other surgical procedures: surgeons modified an existing technique to reduce risks, discussed their successful surgeries with colleagues, and slowly began to present the new variation formally at meetings and in journal

publications. As a result, intact D&E has become accepted as safe for terminating second trimester pregnancy, and is widely endorsed by physicians, including those practicing at some of the most prestigious teaching institutions in the country. Pet. App. 205a. These physicians believe, based on extensive experience, that removing the fetus as intact as possible is the safest approach for all patients, and that doing so is particularly important for certain patients in already compromised medical conditions. *Carhart* Pet. App. 497-500a; Pet. App. 143-44a, 147a.

The most appropriate abortion procedure for a particular patient is based on a number of factors, including gestational age. In a vacuum or suction curettage—the most common method in the first trimester—the cervix is dilated and a manual or electric suction tool is used to evacuate the uterus. Phillip G. Stubblefield et al., *Methods for Induced Abortion*, 104 Obstet. & Gynec. 174, 175-76 (2004). Because of the relatively small size of an embryo or first-trimester fetus, this tool alone typically can remove the fetus and all products of conception. But as pregnancy progresses, the small tools and limited dilation achieved during vacuum aspiration become inadequate to empty the uterus safely.

As a result, in the early 1970s, abortion after 12-weeks gestation generally took place in a hospital by labor induction. *Id.* at 179. However, with the advent of safe methods for greater cervical dilation at this later stage of pregnancy, it became possible to perform surgical terminations (D&E) throughout the second trimester. W. Martin Haskell et al., *Surgical Abortion After the First Trimester, in A Clinician's Guide to Medical & Surgical Abortion* 123 (Maureen Paul et al. eds., 1999) (hereinafter "*Clinician's Guide*"); see also Pet. App. 65-66a; *Carhart* Pet. App. 399a. Compared to labor induction, D&E offered abortion patients a significantly shorter procedure, with less pain and discomfort, that could be provided on an out-patient basis. Pet. App. 142a. While D&E required greater skill on the part of the physician,

because of its advantages, D&E quickly became recognized as the safest method of terminating pregnancy in the second trimester. *Clinician's Guide*, *supra*, at 125; see also Chasen, *D&E* at 1180 (App. 1057).

In D&E, after the cervix is dilated, the physician uses grasping tools such as a forceps to remove the fetus and the placenta from the uterus. Stubblefield et al., *supra*, at 179. In many cases, the fetus disarticulates as it is grasped and drawn through the cervix. Pet. App. 60a. Though extremely safe, D&E with disarticulation (or dismemberment) carries potential risks, which although rare, can be devastating.[9] Specifically, the approach involves repeated passes of instruments through the cervix into the uterus and removal of bony fragments, both of which create a risk of perforation or laceration of the highly vascularized uterus and/or cervix, some of the most feared complications of D&E. Chasen, *D&E* at 1183 (App. 1063-64); Pet. App. 144a; see also *Nat'l Abortion Fed'n* v. *Ashcroft*, 330 F. Supp. 2d 436, 471 (S.D.N.Y. 2004), *aff'd in part sub nom.* 437 F.3d 278 (2d Cir. 2006).

As dilation techniques evolved, physicians began to seek wider cervical dilation to facilitate evacuation, which increases the chances of removing the fetus as intact as possible. Stubblefield, *supra*, at 179; Chasen, *D&E* at 1183 (App. 1063); *Clinician's Guide*, *supra*, at 136. Intact removal obviates the need for repeated passes with instruments and removal of sharp bony fragments. *Carhart* Pet. App. 497-98a; Pet. App. 144a. It gives the surgeon certainty that all

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[9] In medicine, the term "risk" encompasses both probability and gravity. The first study comparing intact D&E to D&E with dismemberment, showed general complication rates were the same, but all serious complications were in the dismemberment group. Chasen, *D&E* at 1183 (App. 1063). This evidence of intact D&E's safety was particularly significant since the intact procedures occurred later in gestation, so researchers had expected to see more complications from that group. Pet. App. 117a; *Carhart* Pet. App. 359a.

fetal tissue has been removed, reducing the risk of infection, and offers the potential for shorter operating times, and thus less time under anesthesia. *Carhart* Pet. App. 497-98a; Pet. App. 144a.[10]

While physicians have long known of the benefits of minimizing instrumentation, the first presentation that suggested techniques to maximize the chance of intact removal took place in 1992. It was delivered by Dr. Martin Haskell at a conference of the National Abortion Federation ("NAF"). Dr. Haskell described both dilation techniques and intra-operative techniques used to maximize the possibility of intact removal. See Martin Haskell, *Dilation and Extraction for Late Second Trimester Abortion* 127-28, Presented at Nat'l Abortion Fed'n, Second Trimester Abortion: From Every Angle Seminar (Sept. 13, 1992). Three years later, another physician presented a retrospective observational paper regarding his experience performing an intact variation of D&E. See James T. McMahon, *Intact D&E: The First Decade* at 19, Presentation at NAF Conference (Apr. 2, 1995); see also *Clinician's Guide*, *supra*, at 136.

Following these presentations, other physicians took steps to incorporate aspects of what these physicians called

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[10] Intact D&E also offers psychological benefits and the possibility of increasing a woman's success in carrying future pregnancies to term. Many abortions that take place later in the second trimester are of pregnancies that are very much wanted, but which the patient elects to terminate after learning that she is suffering from a medical condition inconsistent with carrying the pregnancy to term, or that her fetus suffers from an anomaly making sustained survival outside the uterus unlikely. App. 105-08, 208-11, 257-60, 391, 420. These patients often wish to see and hold the fetus, and mourn its death. Pet. App. 105a, 142-43a; *Clinician's Guide*, *supra*, at 136. Moreover, an intact specimen allows for a more complete and sophisticated evaluation of the anomalies with which the fetus was afflicted. Pet. App. 105a; App. 924-25. For patients hoping to later carry a healthy pregnancy to term, information obtained from such an evaluation can be critical to reducing the risk of future pregnancy problems. App. 130-31, 501-02, 924-25.

"dilation and extraction" or "intact D&E" into their own practices. While some physicians adopted an approach similar to that presented, others adapted variations more consistent with their own techniques and circumstances and those techniques continued to evolve through informal communication among practitioners. Pet. App. 67-68a. As this evolution continued, intact removal began to be taught at medical schools, Pet. App. 205a.; *Carhart* Pet. App. 473a, discussed in medical literature, see, *e.g.*, *Clinician's Guide*, *supra*, at 136-37; Stubblefield, *supra*, at 179 and endorsed by leading medical organizations. See, *e.g.*, ACOG Statement of Policy (Jan. 1997, *reaff'd*, Sept. 2000, *reaff'd*, July 2004).

In 2004, Dr. Stephen Chasen, Director of High Risk Obstetrics at New York Presbyterian-New York Weill Cornell Medical Center, and his colleagues published the results of a retrospective case review of patients who underwent surgical abortion at 20 weeks or later in pregnancy at Weill-Cornell Medical Center from 1996-2003. See Chasen, *D&E* at 1180 (App. 1055-70). This study compared outcomes for two cohorts: 1) those whose terminations were achieved largely intact, as defined in the study, and 2) those whose terminations were through dismemberment. *Id.* (App. 1059). It concluded that an intact variation of D&E was as safe as D&E with dismemberment, see *id.* at 1180 (App. 1059), and possibly safer. Pet. App. 117a; *Carhart* Pet. App. 359a; see also Chasen, *D&E* at 1182-83 (App. 1062-63). Dr. Chasen and his colleagues subsequently published a retrospective analysis of the risks of subsequent pre-term birth for the patients in these two cohorts. See Stephen T. Chasen et al., *Obstetric Outcomes After Surgical Abortion at ≥ 20 Weeks' Gestation*, 193 Am. J. Obstet. Gynec. 1161 (2005). Dr. Chasen has presented his study results at conferences, thus furthering the academic discussions about the safety and successes of the variations of D&E. See, *e.g.*, Stephen T. Chasen, *Surgical Abortion in the Second Trimester*,

Presentation at NAF Risk Management Conference (Oct. 2004).

This level of study—presentations at conferences, discussions among colleagues and publication of the retrospective case reviews—is consistent with the way surgical advancement has been evaluated historically. As Government expert, Dr. Watson Bowes, testified, the Chasen study is an appropriate and important first step in studying this variation of D&E. App. 577. Moreover, as with other surgical procedures, the absence of prospective controlled trials has proved immaterial to the conclusions drawn by learned surgeons that intact D&E carries with it significant health advantages. Any desire to conduct prospective, controlled trials of intact D&E would be frustrated by all of the challenges of surgical research in general, see *supra* at 6-10, as well as procedure-specific obstacles that make such study a near impossibility. See generally App. 384-89 (discussing the infeasibility of prospective controlled studies of second trimester abortion methods). As noted, even when trying to remove the fetus as intact as possible, physicians cannot know at the beginning of a D&E procedure whether the fetus will present intact or largely intact, or whether it will be necessary to dismember. Pet. App. 142a. As a result, patients cannot be prospectively randomized, and only a retrospective comparative study, like Dr. Chasen's, is even possible. See Chasen, *D&E* at 1180 (App. 1055-70).

In addition, because complication rates for D&E overall are very low, a study comparing relative complication rates for dismemberment and intact variations would need to include a great number of patients in order to find a statistically significant difference. App. 385-87 (recognizing that thousands of women would have to participate to reach statistical significance). Given that the universe of patients seeking pregnancy termination at the stage of gestation when intact removal may be successful on a relatively regular basis is very small, see *Abortion Surveillance—United States 2002*,

54 *Morbidity & Mortality Weekly Report* (Center for Disease Control & Prevention), Nov. 25, 2005, at 21 tbl.6, reaching a statistically significant result would be nearly impossible.

Furthermore, as discussed above, recruitment into prospective controlled surgical studies presents a particular challenge, as both patients and surgeons are hesitant to limit their surgical choices based on the parameters of a study. Many physicians believe that it is always safer to remove the fetus as intact as possible. Accordingly, it would be enormously difficult to recruit them into a study in which they agreed to attempt to dismember the fetus—something they believe to be less safe for their patients. See *supra* note 5 (discussing principle of individual and clinical equipoise).

The Act would prevent research of the relative safety of second trimester abortion options and would restrict physicians from attempting additional modifications aimed at further reducing complication rates and increasing safety. While infrequent, the serious complications that intact D&E can help to prevent can be catastrophic when they occur. Prohibiting intact D&E would deprive women of the best medical judgment in the field and of the significant health benefits the medical profession has recognized are associated with reducing these risks.

II. THE HEALTH BENEFITS OF INTACT D&E MANDATE THAT IT BE CONSTITUTIONALLY PROTECTED.

As demonstrated above, Congress has attempted to justify a ban on safe abortion procedures by imposing an artificial and unrealistic standard for judging safety that the surgical community does not impose on itself, and that as a practical matter can never be the sole standard by which surgeons judge the safety and health benefits of new procedures. This Court has long recognized that the constitutionality of regulations affecting abortion must be considered in light of the medical profession's standards of judgment. *City of*

Akron v. *Akron Ctr. for Reprod. Health, Inc.*, 462 U.S. 416, 434 (1983) (stating that a regulation of abortion that "departs from accepted medical practice" may not be upheld), *overruled on other grounds by Planned Parenthood* v. *Casey*, 505 U.S. 833 (1992);[11] *Planned Parenthood* v. *Danforth*, 428 U.S. 52, 79 (1976) (striking down abortion ban that would have "force[d] a woman and her physician to terminate her pregnancy by methods more dangerous than the method outlawed"); see also *Simopoulos* v. *Virginia*, 462 U.S. 506, 519 (1983) (upholding requirement that second-trimester abortions be performed in licensed clinics because the requirement "comport[s] with accepted medical practice, and leaves the method and timing of the abortion precisely where

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[11] Justice Kennedy's suggestion that *Casey* "repudiated" this aspect of *Akron* is misplaced. *Stenberg* v. *Carhart*, 530 U.S. 914, 969 (2000) (Kennedy, J., dissenting). While Justice Kennedy is correct that in overruling *Akron*'s informed consent holding, *Casey* repudiated those portions of *Akron* which suggested that deference to the individual physician was mandated, *compare Planned Parenthood* v. *Casey*, 505 U.S. 833, 884 (1992) (plurality opinion), *with Akron*, 462 U.S. at 445, *Casey* did nothing to curtail the deference the *Akron* Court had paid to professional standards in striking down the hospitalization requirement, *compare Casey*, 505 U.S. at 881-86 (plurality opinion), *with Akron*, 462 U.S. 430 n.11; *id.*, at 435-36; *id.* at 437 (noting: "ACOG [American College of Obstetricians and Gynecologists] no longer suggests that all second–trimester abortions be performed in a hospital. It recommends that abortions performed in a physician's office or outpatient clinic be limited to 14 weeks of pregnancy, but it indicates that abortions may be performed safely in 'a hospital-based or in a free-standing ambulatory surgical facility,' until 18 weeks of pregnancy. These developments, and the professional commentary supporting them, constitute impressive evidence that-at least during the early weeks of the second trimester-D & E abortions may be performed as safely in an outpatient clinic as in a full-service hospital.") (internal citations omitted); *see also id.* at 437 n.26 (discussing the government's own reliance on ACOG standards.). Indeed, as this Court has recognized, what is accepted medical practice according to ACOG is highly relevant to determining if there is "substantial medical authority" in support of a procedure. *E.g.*, *Stenberg*, 530 U.S. at 938; *Akron*, 462 U.S. 416.

they belong—with the physician and the patient"). Viewed through the same lens that surgical professionals would, it becomes clear that intact D&E has been shown to be safe and to provide tangible and substantial health benefits. *Supra* Part I.B.

This law unquestionably jeopardizes women's health, with a veiled pretense of concern for safety. To uphold the Act, then, would mark a sea change in this Court's jurisprudence because never before has this Court held that a government interest in a particular abortion regulation outweighed the combined strength of the state's and the woman's interest in her health.

A. Women's Health Is Primary To, If Not Dispositive Of, The Constitutional Analysis.

Joining an unbroken line of this Court's precedents, *Stenberg* v. *Carhart* held that "a State may promote but not endanger a woman's health when it regulates the methods of abortion." 530 U.S. 914, 931 (2000) (collecting cases); *accord Ayotte* v. *Planned Parenthood*, 126 S. Ct. 961, 967 (2006); see *Casey*, 505 U.S. at 879 (plurality opinion). Where this Court has recognized that an interest in protecting women's health is implicated by a potential restriction on abortion, that interest has *always* overcome the competing interests advanced by the state. See, *e.g.*, *Ayotte*, 126 S. Ct. at 967; *Stenberg*, 530 U.S. at 929-31; *Thornburg* v. *Am. Coll. of Obstetricians & Gynecologists*, 476 U.S. 747, 769 (1986), *overruled on other grounds by Casey*, 505 U.S. 833; *Danforth*, 428 U.S. at 79; see *Colautti* v. *Franklin*, 439 U.S. 379, 400 (1979) (women's health is "paramount"). This is hardly surprising, for not only is women's health a fundamental right in abortion jurisprudence, but women's health and safety are themselves compelling state interests. See, *e.g.*, *Casey*, 505 U.S. at 977 (Rehnquist, C.J., dissenting) (state interest in women's health); *Danforth*, 428 U.S. at 80-81 (upholding recordkeeping requirements directed at preservation of women's health); *Akron*, 462 U.S. at 428-29,

430-31, 443; *id.* at 459 (O'Connor, J., dissenting) (state has interests in "the areas of health and medical standards," as well as "maximum" safety for women).

A woman's fundamental right to her health is so great that even post-viability, when the state's interest in potential life is so strong as to permit the state to ban abortion altogether, this Court has pointedly refused to allow that interest to override the woman's (and the state's) interests in her health. When necessary for the health of the woman, an abortion must be allowed, even after viability. *Casey*, 505 U.S. at 879 (plurality opinion) ("'subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother'") (quoting *Roe* v. *Wade*, 410 U.S. 113 164-65 (1973)). These longstanding principles require that the decision below be affirmed because the Act will put women's health at risk.

The *Stenberg* Court correctly recognized that an intact approach to D&E offers safety advantages for women. See generally 530 U.S. at 931-37 (discussing general and specific advantages of intact variation.). In doing so, the *Stenberg* Court took the modest step of affirming what physicians had discovered to be true over the years in which they had explored different variations of D&E, seeking to provide the safest and most effective procedures for their patients. *Supra* at 12-17. Indeed, this Court properly recognized that considerable physician experience with intact D&E—which has grown dramatically since *Stenberg*—provided strong evidence of the benefits of the surgical innovation. This conclusion is bolstered by the fact that dismemberment D&E constituted an evolutionary alternative to labor induction nearly two decades earlier. See *supra* at 13-14.

B. Banning An Intact Approach To D&E Denies Women A Potential Health Benefit By Increasing The Health Risks They Face.

Some of *Stenberg*'s critics do not deny that women's interest in their health is so great that it cannot be overcome by the state's competing interests. Instead, they have charged that this and similar statutory schemes pass constitutional muster because there has been no showing that such bans "create[] a significant health risk." *Nat'l Abortion Fed'n* v. *Gonzales*, 437 F.3d 278, 291 (2d Cir. 2006) (Walker, C.J., concurring); see also, *e.g.*, *Stenberg*, 530 U.S. at 966-72 (Kennedy, J., dissenting); *Planned Parenthood* v. *Doyle*, 162 F.3d 463, 478 (7th Cir. 1998) (Manion, J., dissenting).

For example, Chief Judge Walker asserted that "in all circumstances there are objectively 'safe' alternatives" to intact D&E. *Nat'l Abortion Fed'n*, 437 F.3d at 291. Based on his posited notion of objective "safety," Chief Judge Walker characterized the ban as a mere "den[ial to] some women [of] a potential health *benefit* over an objectively 'safe' baseline; it does not establish that such a statute would pose a constitutionally significant health *risk*." *Id.* In essence, his argument is that alternatives exist that are "safe enough."

Chief Judge Walker's artificial distinction between the denial of a health benefit and an increased health risk does not withstand scrutiny. There is no such thing as a completely "safe" surgery, because by definition surgery disrupts the physical integrity of the body, and all such disruptions involve some harm. Although years of surgical experience brought about consensus that D&E is a relatively safe procedure which should continue to be practiced to maximize the health of women who need abortions, D&Es of all variations, like all surgical procedures, carry risks. When intact procedures reduce those real and potentially catastrophic risks, it makes no sense to talk about a dismemberment approach to D&E as inherently or objectively

safe. Moreover, any such discussion of an objective level of safety accompanying one approach to abortion or another is inherently flawed because, in every event, any approach to abortion is considerably safer in the abstract than child birth. David A. Grimes, *Estimation of Pregnancy-Related Mortality Risk by Pregnancy Outcome, United States, 1991-1999*, 194 Am. J. Obstet. & Gynec. 92, 92-93 (2006) (concluding "[t]he relative [mortality] risk associated with live birth was 12.4 times higher" than that associated with legal abortion).

There is no distinction between risk and benefit in the D&E context. Rather, they are two inseparable sides of the same coin. See Beauchamp & Childress, *supra*, at 194-95 (stating "[b]enefit" compares to harm, as "risk"—which can refer to chance of harm, or the potential magnitude of harm—compares to "probability of benefit"). Like all patients, a woman terminating a pregnancy in the second trimester seeks to minimize the risk of harm associated with the procedure. If the physician concludes that D&E with intact removal will reduce the risks for a particular patient, Chief Judge Walker would apparently recognize that such a patient is receiving a health benefit. In his view, however, withholding this benefit is permissible because the less safe procedure still satisfies some arbitrary but minimalist notion of "safe." Yet the health benefit denied here is an increase in safety—in other words, the reduction of risk. Accordingly, when this "benefit" is denied, the woman is not merely deprived of an advantage, but is inherently put at risk.

Surgeons simply do not think of safety in the kind of absolute terms Chief Judge Walker has posited. It is senseless for a court to attempt to evaluate the magnitude of a health benefit against some objective notion of what is "safe." Cf. *United States* v. *Rutherford*, 442 U.S. 544, 555 (1979) ("Few if any drugs are completely safe in the sense that they may be taken by all persons in all circumstances without risk."). To the contrary, even medical procedures that are performed safely in the overwhelming majority of cases

present health risks, and in particular cases the minimal risk manifests as substantial injury. See, *e.g.*, *Fulton* v. *Loucks*, 947 F.2d 944 (6th Cir. 1991) (table) (appeal of wrongful death action by parents whose son died days after having his tonsils removed).

In surgery and in medical practice generally, physicians always strive for the safest treatment *under the circumstances*. In any given surgery, factors such as the individual patient's health history and his or her use of medications, as well as the physician's judgment as to which risks are acceptable to the overall health of the patient make the concept of "safety" in the context of surgery transient at best. In addition, risks are always understood in relation to benefits. A certain level of risk might be acceptable for a procedure that excises a deadly cancer and unacceptable for elective surgery. Finally, the circumstances as they present when the surgeon initially assesses treatment options may evolve during the procedure, altering what actions are and are not safe. These variables dispel any claims that an "objectively 'safe' baseline" exists. Cf. *Anderson* v. *Weinsweig*, 34 Fed. Appx. 916, 917 (4th Cir. 2002) (per curiam).[12]

The enhanced safety of intact D&E is well-recognized by physicians. Of course, patient- or fetus-specific circumstances known at the outset (for example, gestational age) may make an actual intact extraction unlikely. Likewise, circumstances that arise during the procedure may frustrate

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[12] In *Anderson*, the Fourth Circuit detailed the multiple variables faced by a physician where a patient's foot bothered him before undergoing planned brain surgery. As the Fourth Circuit noted, the doctor determined "the problems arose from constricted blood flow; that this constriction could not be treated without administering blood thinners; that these blood thinners, combined with inevitable delays in performing the brain surgery, might exacerbate the problems in [the patient's] brain; and that it was therefore appropriate to proceed with the brain surgery even though doing so might have adverse consequences for [the patient's] foot," and indeed the delay led to amputation of two toes. 34 Fed. Appx. at 917.

the attempt to accomplish the removal intact. In addition, physician training or protocols, or patient medical circumstances may result in less dilation and less chance of intact removal. What matters is that physicians be permitted to exercise their professional judgment based on their experience and training and the state of the medical art to perform a D&E procedure in the manner that maximizes patient safety and health. See *Stenberg*, 530 U.S. at 923-29.

A responsible physician who is performing a second trimester abortion would not merely ask whether an alternative approach satisfies some contrived notion of "safe enough." Physicians' ethical commitments to their patients require that they maximize patient safety within the parameters of learned professional judgment. See Beauchamp & Childress, *supra*, at 115 (the principle of beneficience requires one to prevent harm, remove harm and do good; the principle of nonmaleficence requires one to not inflict harm); ACOG, *Ethics in Obstetrics and Gynecology* at 4 (2d ed. 2004) (same); *Planned Parenthood Ass'n* v. *Ashcroft*, 462 U.S. 476, 487 (1983); *Akron*, 462 U.S. at 434 (acknowledging value of accepted medical standards); *Dent* v. *W. Virginia*, 129 U.S. 114, 122-23 (1889). A law criminalizing the safest methods of abortion for particular patients—especially where the banned methods accord with substantial medical authority—would put physicians in a terrible ethical dilemma: betray their duty to their patient, or betray the obligation to follow the law. Just as deference has been paid to physicians' collective expertise as they have developed innovative medical procedures through years of observation and refinement, deference is owed when surgeons determine how to put their knowledge, training and experience to use to advance health and safety in a given case. Because physicians must seek to optimize safety for every patient they treat, a prohibition against safe abortion methods undermines their collected experience and the resulting procedures carry enhanced risks. A government restriction that deprives

physicians of the full range of options within their professional medical judgment and expertise—and in accord with authoritative medical standards—thus offends the constitutional requirement that women not be forced to undergo methods of abortion that are riskier than those that would be available absent the restriction. See *Stenberg*, 530 U.S. at 931.

III. ADOPTING THE GOVERNMENT'S POSITION WOULD MARK A SEA CHANGE IN THIS COURT'S ABORTION JURISPRUDENCE.

This Court's precedents share an unwavering commitment to protecting maternal health as the predominant consideration in determining the constitutionality of a restriction on abortion. The constitutional analysis the Government advocates—which repudiates this framework—cannot be squared with this Court's precedents.

A. This Court Should Reject The Claim That Preventing Abortion Which "Resembles Infanticide" Is A Compelling Interest Sufficiently Strong To Overcome Women's Interest In Access To The Safest Abortion Procedure.

The Government urges this Court to recognize a novel compelling state interest, *viz.*, "prohibiting a particular type of abortion procedure that closely resembles infanticide." U.S. Br. 28. The Government goes so far as to argue that this "interest" in preventing procedures resembling infanticide is "*no less compelling*" than its interest in protecting human life, *id.* (emphasis added); in turn, the Government's argument suggests that this novel interest also outweighs the woman's interest in safety. See *id.* at 10, 24, 27; see also *id.* at 28.[13]

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[13] Comparing the abortion procedures at issue in this case—all of which occur prior to viability—to infanticide is curious from the outset. *See, e.g.*, *Oxford English Dictionary* (2d ed. 1989) (defining infanticide and its origins in a manner presuming viability); *American Heritage Dictionary of the English Language* (4th ed. 2000) (defining "infanticide" as "*1.* The

The Government's effort to elevate its purported interest in preventing abortion that supposedly resembles infanticide to one so compelling as to outweigh the paramount interest in women's health should be rejected.

First, in advancing the infanticide interest as controlling, the Government turns the prevailing constitutional analysis on its head. Without doctrinal foundation, the Government attempts to subvert the heretofore predominant interests in women's health, the potential for human life and medical progress. Adopting the Government's proposed compelling interest where, as here, the woman has already determined that the pregnancy should be terminated and where the procedure is occurring prior to viability, would deal a massive blow to the woman's health interests. Focusing on *how* the pregnancy will be terminated, rather than the nature of the health deprivation, would rework this Court's cases that "have repeatedly invalidated statutes that in the process of regulating the *methods* of abortion, imposed significant health risks." *Stenberg*, 530 U.S. at 931 ("a risk to a women's [sic] health is the same whether it happens to arise from regulating a particular method of abortion, or from barring abortion entirely"). If the Court were to adopt the moral condemnation approach that the Government urges, the result would be breathtaking, allowing the interest in women's health to be trumped even pre-viability where the state interests have long been recognized as "considerably weaker than postviability." *Stenberg*, 530 U.S. at 930 (citing *Casey*, 505 U.S. at 870).

Second, this Court recently rejected a criminalization argument by the federal government directly parallel to the one it now advances. See *Ashcroft* v. *Free Speech Coalition*, 535 U.S. 234 (2002). In enacting the Child Pornography

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act of killing an infant. *2.* The practice of killing newborn infants."). *See also Stenberg*, 530 U.S. at 946-47 (Stevens, J., concurring) (notion that one form of D&E "is more akin to infanticide than the other, or that the State furthers any legitimate interest by banning one but not the other, is simply irrational").

Prevention Act, Congress sought to go beyond the preexisting ban on child pornography by criminalizing images that looked like child pornography but did not involve actual children. Reasoning that the indirect government interest in prohibiting the *appearance of* child pornography was not sufficient to outweigh the First Amendment protection at issue, the Court held that only direct harm to real children could justify such an imposition on the fundamental right. See *id.* at 248-51. Moreover, the Court squarely rejected the Government's argument that prohibiting otherwise protected conduct as a means to prevent already impermissible actions was a compelling interest that allowed infringement of the speech right. See *id.* at 254-55. Applied here, the same fundamental rights analysis prevents the government from prohibiting intact D&E, which would otherwise be lawful, as an attempt to prevent infanticide, which is already subject to criminal penalty.

Finally, this Court's precedent forecloses the Government's effort to impose morality as a compelling interest that would override a fundamental right. In *Lawrence* v. *Texas*, 539 U.S. 558 (2003), this Court firmly rejected the proposition that moral concerns alone could ground a statute that infringes upon the right to autonomy protected by the due process clause. *Id.* at 571 ("These [moral] considerations do not answer the question before us, however."). The fact of moral objection standing alone was insufficient to prove that the morality rationale would constitutionally justify "us[ing] the power of the State to enforce these views on the whole society through operation of the criminal law." *Id.*; see also *Romer* v. *Evans*, 517 U.S. 620, 634-35 (1996) (legislation cannot be justified by animosity toward a class of persons); *Lawrence*, 539 U.S. at 583 (O'Conner, J, concurring) ("moral disapproval" is not a legitimate state interest sufficient to ban one form of sodomy but not another). Just as in the equal protection context where it would not even rise to the level of a rational basis to express animus to a particular group, see,

e.g., *United States Dep't of Agric.* v. *Moreno*, 413 U.S. 528, 534 (1973) (holding "a bare . . . desire to harm a politically unpopular group cannot constitute a legitimate government interest") (emphasis omitted); *Romer*, 517 U.S. at 635 (finding "the breadth of the amendment [was] so far removed from [its asserted] justifications" that it was not "directed to an identifiable legitimate purpose or discrete objective" but "raise[d] the inevitable inference that it [wa]s born of animosity"), in this case the displeasure with a certain type of incidental procedure could never rise to the level of a compelling government interest sufficient to overcome a fundamental right. See *Saenz* v. *Roe*, 526 U.S. 489, 499 n.11, 506 (1999) ("If a law has no other purpose . . . than to chill the assertion of constitutional rights by penalizing those who choose to exercise them, then it [is] patently unconstitutional"; thus, a purpose to deter welfare applicants from migrating to California was an "unequivocally impermissible" government interest) (alteration and omission in original) (quotation omitted). The Act's overbreadth and incomplete-reasoning—no more than direct attacks on otherwise-protected conduct—give rise to a strong inference of simple animus, assertions of moral rectitude notwithstanding, which this Court has never dignified as a constitutional basis for an infringement on a fundamental right.

B. This Court Rightly Has Never Held That A Restriction On Abortion May Survive Even Though It Would Increase Risks To Women.

Although the Government claims that prohibiting intact D&E would not impinge on women's health interests, it also asserts that even if intact D&E reduces health risks, the increased risks to the woman associated with banning such procedures are nonetheless insufficient to require constitutional protection. See U.S. Br. 28. In doing so, the Government urges this Court to hold for the first time that the "relative strength of the government's interests prohibiting partial birth abortion"—its asserted interest in the potential

for life and the "severe moral condemnation" for a procedure supposedly resembling infanticide—supersede the state's and the woman's combined interest in preserving her health. See *id.*; contra *Stenberg*, 530 U.S. at 931 ("we cannot see how the interest-related differences *could make any difference* to the question at hand, namely, the application of the 'health' requirement") (emphasis added).

Because the state's interest in potential life has always proved insufficient to overcome the combined interest of the state and the woman in her health, it would be unprecedented and illogical to allow the novel government interest asserted here to surpass the health interests. Even if the Court were willing to consider taking the fateful step of concluding that some interest could overcome the combined interest in women's health, this would be a particularly poor occasion to do so. As noted above, the newly asserted government interest is of a purely moral dimension; the structure of even a narrowly drawn and clearly worded ban—which this is not—would only incidentally affect the number of abortions performed. Such a ban would be certain to channel at least some women into undergoing riskier abortions. Instead of fundamentally reworking abortion law in this country, this Court should adhere to unbroken years of precedent ensuring that abortion regulations do not undermine the medical community's commitment and ability to protect women's health.

CONCLUSION

For the foregoing reasons, the judgment of the United States Court of Appeals for the Ninth Circuit should be affirmed.

Respectfully submitted,

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September 20, 2006

SB

273

25-LS1127\C.1
Luckhaupt
3/10/08

AMENDMENT #1

OFFERED IN THE SENATE BY SENATOR WIELECHOWSKI

TO: SB 273

Page 1, following line 2:

Insert new bill sections to read:

"* **Section 1.** AS 11.61.140(a) is amended to read:

(a) A person commits cruelty to animals if the person

(1) knowingly inflicts severe and prolonged physical pain or suffering on an animal;

(2) with criminal negligence, fails to care for an animal and, as a result, causes the death of the animal or causes severe physical pain or prolonged suffering to the animal;

(3) kills or injures an animal by the use of a decompression chamber; [OR]

(4) intentionally kills or injures a pet or livestock by the use of poison; **or**

(5) knowingly kills or injures an animal with the intent to intimidate, threaten, or terrorize another person.

* **Sec. 2.** AS 11.61.140(b) is amended to read:

(b) Each animal that is subject to cruelty to animals under **(a)** [(a)(1) - (4)] of this section shall constitute a separate offense."

Page 1, line 3:

Delete "Section 1"

Insert "Sec. 3"

Renumber the following bill section accordingly.

Page 1, line 5, following "(a)(2)":

Insert "or (5)"

Dear Senator Hollis French,

One subject that will be presented to the Senate Judiciary committee hearing this Wednesday, Feb 27th will be about a change to our state animal cruelty laws. That change would add a Felony provision to the law. As the law stands now, animal cruelty can only be prosecuted as a misdemeanor.

Strong animal cruelty laws are a first step towards stemming both future human and animal violence. As I am sure you know , there is a strong correlation between animal cruelty and human violence. A felony cruelty provision will provide a much needed tool that can be used in our courts to help protect both animals and people.

Alaska is now one of only seven states that does not have Felony cruelty laws, yet several cases of animal cruelty are discovered every year in the state. While several cases make the headlines in our major Alaskan newspapers, many more cases occur outside the state's major areas. I know as the Animal Control Officer for Valdez for the last 19 years that I have seen several cases that I would have liked to seen prosecuted under a Felony law. I also know as a professional that there are other cruelty cases that do not deserve to be prosecuted in that manner. I think it is important to know that professional, trained law enforcement people do know the difference.

I am asking for your support in seeing this important bill is passed on to the Senate floor; and in seeing this bill go all the way in 2008.

Thank you,

Animal Shelter Facility Manger

Shana Anderson

Valdez Alaska

03/03/2008

To whom it may concern:

I am writing this letter to show that I support Senate Bill 273. I strongly feel that there should be consequences for the many instances of animal cruelty that occur unnoticed or ignored in the state of Alaska. I have taken in a few animals that were mistreated and I wish I could provide a good home for more, but cannot due to finances. I think that if there was some sort of punishment or repercussion for the horrible things that people do to animals that it would happen less often.

Sincerely,

Kristina Livingston
P.O. Box 83796
Fairbanks, AK
99708

Hello,
I just wanted to voice my support for SB 273.
This felony cruelty bill is very important to the animals of Alaska. We have one of the weakest cruelty laws in the nation and probably per capita more dogs than most other states.
I have sled dogs. I understand the "farm animal" mentality that is so prevalent up here (which I totally don't agree with but that is for another day!) But what bothers me the most is that a person in Alaska can starve to death dogs (I have one that I took from the shelter that came in almost dead with 2 puppies while 6 of her kennel mates died of starvation on their chain--the owner is not being prosecuted at all...not even charged!!!) and there are rarely any follow ups and rarely are these people prosecuted.

This really needs to change and I pray that the Senate will do the right thing and keep progressing forward on this bill.

Thank you.
Carol Kleckner
P O Box 82856
Fairbanks Alaska 99708
907-479-0430

Charges of Cruelty to Animals (For both AS 11.61.140 and AS 11.61.145)

2002 – 10 cases referred for prosecution
5 cases accepted for prosecution

2003 – 25 cases referred for prosecution
22 cases accepted for prosecution

2004 – 15 cases referred for prosecution
11 cases accepted for prosecution

2005 – 10 cases referred for prosecution
7 cases accepted for prosecution

2006 – 12 cases referred for prosecution
7 cases accepted for prosecution

2007 – 18 cases referred for prosecution
10 cases accepted for prosecution

25-LS1127\E
Luckhaup
3/12/08

CS FOR SENATE BILL NO. 273(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR WIELECHOWSKI

A BILL

FOR AN ACT ENTITLED

"An Act relating to cruelty to animals and promoting an exhibition of fighting animals."

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

*** Section 1.** AS 11.61.140(a) is amended to read:

(a) A person commits cruelty to animals if the person

(1) knowingly inflicts severe and prolonged physical pain or suffering on an animal;

(2) with criminal negligence, fails to care for an animal and, as a result, causes the death of the animal or causes severe physical pain or prolonged suffering to the animal;

(3) kills or injures an animal by the use of a decompression chamber; [OR]

(4) intentionally kills or injures a pet or livestock by the use of poison; **or**

(5) knowingly kills or injures an animal with the intent to intimidate, threaten, or terrorize another person.

* **Sec. 2.** AS 11.61.140(b) is amended to read:

(b) Each animal that is subject to cruelty to animals under **(a)** [(a)(1) - (4)] of this section shall constitute a separate offense.

* **Sec. 3.** AS 11.61.140(f) is amended to read:

(f) Cruelty to animals **under (a)(1), (3), or (4) of this section** is a **class C felony. Cruelty to animals under (a)(2) or (5) of this section is a** class A misdemeanor. **In addition to these penalties, the** [THE] court may also

(1) require forfeiture of any animal affected to the state or to a custodian that supplies shelter, care, or medical treatment for the animal;

(2) require the defendant to reimburse the state or a custodian for all reasonable costs incurred in providing necessary shelter, care, veterinary attention, or medical treatment for any animal affected;

(3) prohibit or limit the defendant's ownership, possession, or custody of animals for up to 10 years.

* **Sec. 4.** AS 11.61.145(d) is amended to read:

(d) Promoting an exhibition of fighting animals

(1) under (a)(1) or (2) of this section is a class C felony;

(2) under (a)(3) of this section is a **class A misdemeanor** [VIOLATION] for the first offense and a class **C felony** [B MISDEMEANOR] for the second and each subsequent offense.

Sec. 11.61.140. Cruelty to animals.

(a) A person commits cruelty to animals if the person

(1) knowingly inflicts severe and prolonged physical pain or suffering on an animal;

(2) with criminal negligence, fails to care for an animal and, as a result, causes the death of the animal or causes severe physical pain or prolonged suffering to the animal;

(3) kills or injures an animal by the use of a decompression chamber; or

(4) intentionally kills or injures a pet or livestock by the use of poison.

(b) Each animal that is subject to cruelty to animals under (a)(1) - (4) of this section shall constitute a separate offense.

(c) It is a defense to a prosecution under this section that the conduct of the defendant

(1) was part of scientific research governed by accepted standards;

(2) constituted the humane destruction of an animal;

(3) conformed to accepted veterinary or animal husbandry practices;

(4) was necessarily incidental to lawful fishing, hunting or trapping activities;

(5) conformed to professionally accepted training and discipline standards.

(d) In (a)(2) of this section, failure to provide the minimum standards of care for an animal under AS 03.55.100 is prima facie evidence of failure to care for an animal.

(e) This section does not apply to generally accepted dog mushing or pulling contests or practices or rodeos or stock contests.

(f) Cruelty to animals is a class A misdemeanor. The court may also

(1) require forfeiture of any animal affected to the state or to a custodian that supplies shelter, care, or medical treatment for the animal;

(2) require the defendant to reimburse the state or a custodian for all reasonable costs incurred in providing necessary shelter, care, veterinary attention, or medical treatment for any animal affected;

(3) prohibit or limit the defendant's ownership, possession, or custody of animals for up to 10 years.

Sec. 11.61.145. Promoting an exhibition of fighting animals.

(a) A person commits the crime of promoting an exhibition of fighting animals if the person

(1) owns, possesses, keeps, or trains an animal with intent that it be engaged in an exhibition of fighting animals;

(2) instigates, promotes, or has a pecuniary interest in an exhibition of fighting animals; or

(3) attends an exhibition of fighting animals.

(b) The animals, equipment, vehicles, money, and other personal property used by a person in a violation of (a)(1) or (2) of this section shall be forfeited to the state if the person is convicted of an offense under this section.

(c) In this section, "animal" means a vertebrate living creature not a human being, but does not include fish.

(d) Promoting an exhibition of fighting animals

(1) under (a)(1) or (2) of this section is a class C felony;

(2) under (a)(3) of this section is a violation for the first offense and a class B misdemeanor for the second and each subsequent offense.

Sec. 11.61.150. Obstruction of highways.

(a) A person commits the crime of obstruction of highways if the person knowingly

(1) places, drops, or permits to drop on a highway any substance that creates a substantial risk of physical injury to others using the highway; or

(2) renders a highway impassable or passable only with unreasonable inconvenience or hazard.

(b) It is an affirmative defense to a prosecution under (a)(1) of this section that

(1) the defendant took reasonable steps to remove the substance from the highway; and

(2) no person suffered physical injury as a result of the presence of the substance on the highway.

(c) Obstruction of highways is a class B misdemeanor.

Sec. 11.61.160. Recruiting a gang member in the first degree.

(a) A person commits the crime of recruiting a gang member in the first degree if the person uses or threatens the use of force against a person or property to induce a person to participate in a criminal street gang or to commit a crime on behalf of a criminal street gang.

(b) Recruiting a gang member in the first degree is a class C felony.

Sec. 11.61.165. Recruiting a gang member in the second degree.

ALASKA STATE LEGISLATURE

Co-chair, Joint Armed Services Committee
•
Senate Resources Committee
•
Senate Judiciary Committee
•
Senate Transportation Committee

Session:
State Capitol, Rm. 115
Juneau, AK 99801
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Interim:
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SENATOR BILL WIELECHOWSKI

Senate Bill 273: Animal Cruelty/Dog-fighting

Forty-three states and the District of Columbia have enacted felony level penalties for atrocious acts of animal cruelty, yet Alaska ranks among the weakest states for animal protection. SB 273 seeks to increase the penalty for heinous acts against animals from a misdemeanor to a Class C felony and to criminalize participating in animal fighting.

Research indicates that without intervention, people who abuse and kill animals are more likely to similarly abuse humans. The National Coalition Against Domestic Violence reports that 71% of pet owners entering domestic violence shelters state that their batterer had threatened, injured, or killed family pets. Many abusers have a history of animal abuse that precedes domestic violence toward their partner.

In addition, animal cruelty often is an indicator that an individual poses a risk to himself and or others. A U.S. Department of Justice-supported longitudinal study found that animal abuse predicted which children would exhibit anti-social and aggressive behavior later in childhood, adolescence, and then adulthood. Serial killers and school shooters often have histories of abusing animals.

Passage of a felony-level animal cruelty law is a critical step toward halting the progression of violent crime. Please join us in supporting this critical legislation.

Animal Legal Defense Fund

JURISDICTIONS WITH FELONY ANIMAL ABUSE PROVISIONS

(AND YEAR FIRST ENACTED)

1. **Alabama** (2000)
2. **Arizona** (1999)
3. **California** (1988)
4. **Colorado** (2002)
5. **Connecticut** (1996)
6. **Delaware** (1994)
7. **Florida** (19[illegible]
8. **Georgia** (20[illegible]
9. **Hawaii** (2007)
10. **Illinois** (1999)
11. **Indiana** (1998)
12. **Iowa** (2000)
13. **Kansas** (2006)
14. **Kentucky** (2003)
15. **Louisiana** (1995)
16. **Maine** (1999)
17. **Maryland** (2001)
18. **Massachusetts** (1804)
19. **Michigan** (1994)
20. **Minnesota** (2001)
21. **Missouri** (1994)
22. **Montana** (1993)
23. **Nebraska** (2002)
24. **Nevada** (1999)
25. **New Hampshire** (1994)
26. **New Jersey** (2001)
27. **New Mexico** (1999)
28. **New York** (1999)
29. **North Carolina** (1998)
30. **Ohio** (2003)
31. **Oklahoma** (1887)
32. **Oregon** (1995)
33. **Pennsylvania** (1995)
34. **Rhode Island** (1896)
35. **South Carolina** (2000)
36. **Tennessee** (2002)
37. **Texas** (1997)
38. **Vermont** (1998)
39. **Virginia** (1999)
40. **Washington** (1994)
41. **West Virginia** (2003)
42. **Wisconsin** (1986)
43. **Wyoming** (2003)

Territories, Districts & Possessions:

District of Columbia (2001)
Puerto Rico (2004)
Virgin Islands (2005)

JURISDICTIONS WITHOUT FELONY ANIMAL ABUSE PROVISIONS

1. **Alaska**
2. **Arkansas**
3. **Idaho**
4. **Mississippi**
5. **North Dakota**
6. **South Dakota**
7. **Utah**

Territories, Districts & Possessions:

American Samoa
Northern Marianas
Guam

Stephan K. Otto (Version 6-1-2007)

NATIONAL COALITION AGAINST DOMESTIC VIOLENCE

NCADV

Every Home A Safe Home

PETS AND DOMESTIC VIOLENCE

WHY IT MATTERS

[redacted]

DID YOU KNOW?

- 71% of pet owners entering domestic violence shelters report that their batterer had threatened, injured, or killed family pets.[2]
- One study found that 87% of batterer-perpetrated incidents of pet abuse are committed in the presence of their partners for the purpose of revenge or control.[3]
- Studies show that up to 76% of batterer-perpetrated pet abuse incidents occur in the presence of children.[4]
- 13% of intentional animal abuse cases involve domestic violence.[5]
- Women in domestic violence shelters are 11 times more likely to report animal abuse by their partner than women not experiencing violence.[6]
- 85% of domestic violence shelters report that they commonly encounter women who speak about pet abuse incidents.[6]
- 52% of victims in shelters left their pets with their batterers.[6]
- Criminals and troubled youth have high rates of animal cruelty during their childhood, perpetrators often were victims of child abuse themselves.[7]
- Investigation of animal abuse is often the first point of social services intervention for a family experiencing domestic violence.[8]

THE LINK BETWEEN PET ABUSE AND DV

- Similar to domestic abuse, abusers demonstrate power and control over the family by threatening, harming, or killing animals.[8]
- Domestic violence victims whose batterers abuse their pets report more than twice as many incidents of child abuse as compared to domestic violence victims whose batterers have not abused their pets.[10]
- Batterers threaten, harm, or kill their children's pets in order to coerce them into sexual abuse or to force them to remain silent about abuse.[11]
- Abusers harm pets to punish the victim for leaving, or in attempts to coerce her/him to return.[17]
- Abusers may harm pets to retaliate for acts of self-determination or independence.[9]
- Animal abusers are more likely to be domestic violence abusers, to have been arrested for other violent crimes and drug-related offenses, and engage in other delinquent behavior.[6]
- Many abusers have a history of animal abuse that precedes domestic violence toward their partner.[12]
- Animals may sometimes be used as weapons against domestic violence victims.[6]

THE ROLE OF PETS

- Family pets are commonly viewed as family members and companions.
- 55% of domestic violence victims and their children report that their pets are very important sources of emotional support, thus violence toward pets may be especially devastating and viewed as another form of family violence.[13]
- A large majority of women residing in domestic violence shelters report being emotionally close to their pets and experience distress when their animals are abused.[6]
- Studies show that a vast majority of children who witness pet abuse become distressed and emotionally distraught.[6]
- Women without children are more likely to postpone seeking shelter out of concern for their pets' safety as compared to women with children, 33.3% versus 19.5%.[6]

NCADV Public Policy Office · 1633 Q St NW # 210 · Washington, DC 20009 · (202) 745-1211 · Fax: (202) 745-0088 publicpolicy@ncadv.org

BARRIERS TO SEEKING SERVICES

- 65% of women who report prior pet abuse continue to worry for their pets' welfare after entry into a shelter.[6]
- Up to 40% of domestic violence victims are unable to escape their abusers because they are concerned about what will happen to their pets when they leave.[14]
- Only 12% of domestic violence programs can provide shelter for pets and 24% provide referral services to local animal welfare organizations.[15]
- Victims of domestic violence have been known to live in their cars for as long as four months until an opening was available at a pet-friendly safe house or shelter.[16]

TIPS FOR VICTIMS WITH PETS[9]

- Some shelters allow pets and many others have established "safe haven" foster care programs for the animal victims of domestic violence.
- If it is not possible to take the animals when the victim leaves the home, try to arrange temporary shelter for the pets with a veterinarian, trusted friend or family member, or local animal shelter.
- When vaccinating pets against rabies and licensing them with the town or county, it is important that registrations are in the victim's name. This will serve as proof that tne victim owns the pets.
- Prepare the pets for a quick departure: collect vaccination records, pet license, medical records, and other documents.
- Ask for help from animal care and control officers or law enforcement if pets need to be retrieved from the abuser. Never reclaim animals alone.

IF YOU NEED HELP

For more information or if you need help, please contact the
American Humane Association at 303-792-9900.
National Domestic Violence Hotline at 1-800-799-SAFE.
National Child Abuse Hotline at 1-800-4-A-CHILD.
National Sexual Assault Hotline at 1-800-656-HO E.

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NATIONAL COALITION AGAINST DOMESTIC VIOLENCE

NCADV

Every Home A Safe Home

The Public Policy Office of the National Coalition Against Domestic Violence (NCADV) [illegible]

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February 27, 2008

Senator Hollis French, Chair
Senate Judiciary Committee
State Capitol, Room 417
Juneau, AK 99801

Dear Chairman French:

On behalf of The Humane Society of the United States (The HSUS), the nation's largest animal protection organization with more than 17,000 members and constituents in Alaska, I am writing to urge you to support S.B. 273 when it is heard before the Senate Judiciary Committee on Wednesday, February 27. Currently, Alaska is one of only seven states with no felony level penalties for the most malicious acts of animal cruelty. Passage of S.B. 273 would bring Alaska's cruelty code in line with the rest of the country.

Strong laws against animal cruelty protect not only animals, but also our communities. An irrefutable body of research confirms the connection between animal cruelty and human violence. Animal cruelty is often a component of domestic violence, as pets are used to threaten or intimidate a spouse or child. A recent cruelty case from Alaska illustrates this connection: In November 2007, Robert Farrell of Fairbanks was charged with animal cruelty after he allegedly picked up his wife's cat by the hind legs and slammed the cat into a tree after an argument with his wife. This type of cruelty and intimidation should not be tolerated.

Numerous studies over the last 25 years have demonstrated that violent offenders frequently have childhood and adolescent histories of serious and repeated animal cruelty. The FBI has recognized the connection since the 1970s, when its analysis of the lives of serial killers suggested that most had killed or tortured animals as children. Other research has shown consistent patterns of animal cruelty among perpetrators of more common forms of violence, including child abuse, spouse abuse, and elder abuse. Just as importantly, research has shown that animal cruelty investigations often provide the first opportunity for law enforcement to intervene in homes where other violent crimes are occurring.

Those who possess the capacity for malicious acts of cruelty to animals are dangerously violent criminals. Over the past two decades, forty-three states and territories have enacted felony-level animal cruelty states to give prosecutors and judges the tools they need to more adequately protect our communities. We hope that Alaska will not let the opportunity pass to offer equal protection to its citizens.

Passage of a felony animal cruelty law is an essential initial step in halting the progression of violent crime—against humans and nonhumans. The HSUS strongly supports S.B. 273 and urges its quick passage through the Alaska legislature.

Sincerely,

David Pauli
Director, Northern Rocky Regional Office

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February 18, 2008

Senator Bill Weilechowski
State Capitol
Juneau, AK 99801-1182

Re: Letter of Support for SB 273—Cruelty to Animals & Animal Fighting

Dear Senator Weilechowski:

On behalf of the American Society for the Prevention of Cruelty to Animals (ASPCA) and our 1500 Alaska members and donors, I am writing to express support for SB 273, a bill that will make certain acts of cruelty to animals, including promoting an exhibition of animal fighting, a felony in the State of Alaska.

We must ensure the penalty scheme of our animal cruelty statutes punishes the perpetrators sufficiently to deter the commission of the crime. By doing this, we will not only protect our companion animals but perhaps break the cycle that leads these individuals to harm other people.

Thank you for introducing this important humane legislation.

Sincerely,

Jill A. Buckley

Jill A. Buckley, Esq
Legislative Services

WE ARE THEIR VOICE

AMERICAN HUMANE

Protecting Children & Animals Since 1877

Testimony by Allie Phillips, J.D. and Tracy Coppola, J.D.
Of the American Humane Association
Before the Senate Judiciary Committee
In support of SB 273 – Felony Animal Cruelty
Wednesday, February 27, 2008

The American Humane Association, the nation's oldest non-profit organization with 130 years dedicated to protecting animals and children from abuse and neglect, would like to thank Chairman French for the opportunity to submit the following testimony in enthusiastic support of Senate Bill 273, sponsored by Senator Bill Wielechowski.

Alaska has one of the weakest animal cruelty laws in the nation[1]. The beautiful state of Alaska is not immune to horrific acts of torture and cannot afford to ignore them. Last November, a Fairbanks man, following an argument with his wife, is accused of slamming her cat unconscious against a tree. He is only charged with a misdemeanor for his crime. In 2006, an 18-year-old Anchorage man was convicted of beating his brother's dog. In addition to other related felony charges related to weapon offenses, he only received a $100 fine for beating the dog.

These are just some of the examples why animal cruelty must finally be taken seriously in Alaska. Despite the escalating level of egregious animal cruelty acts and the nationally recognized danger these acts pose to society, Alaska's law lacks felony penalties for these acts. By doing so, it also attracts individuals who seek venues wherein they can abuse animals without facing any serious punishment.

For the welfare of both humans and animals, the law must treat all acts of violence against animals in a way that accurately reflects their magnitude. The strength of an animal cruelty law directly corresponds with how acts of animal abuse are investigated and prosecuted. For this reason, American Humane supports legislation that seeks to increase penalties for animal cruelty offenses.

By making certain forms of animal cruelty Class C felonies punishable up to five years in prison and/or a $50,000 fine, Senate Bill 273 would ensure such actions will be more properly investigated, prosecuted, and treated as crimes with serious consequences. This is consistent with other states' felony cruelty laws and is a moderate bill.

SB 273 will make it a felony to knowingly inflict severe pain or suffering on an animal, killing/injuring an animal by use of a decompression chamber, intentionally killing/injuring a pet or livestock by the use of poison, and promoting animal fighting

[1] Currently, only seven states—Alaska, Arkansas, Idaho, Mississippi, North Dakota, South Dakota, and Utah—penalize aggravated animal cruelty offenses as mere misdemeanors.

exhibitions. In addition, intentionally participating in an animal fight as a spectator for the second time would also become a felony offense.

Protecting animals from abuse is not just an animal welfare issue, it is also a societal issue of how to keep communities safe from violence. The Link® between animal cruelty and human violence is an internationally recognized fact. A growing body of research demonstrates the undeniable link between those who are cruel to animals and then progress toward human violence. Deliberate and brutal abuse of companion animals rarely occurs in isolated instances. Instead, animal abuse is often part of a vicious cycle of violence that often escalates to human abuse. Thus, strict enforcement against animal cruelty is necessary for a safe society.

Many studies in psychology, sociology, and criminology have demonstrated that violent offenders frequently have childhood and adolescent histories of serious and repeated animal cruelty. The FBI has recognized the connection since the 1970s, when its analysis of the lives of serial killers suggested that most had killed or tortured animals as children. Other research has shown consistent patterns of animal cruelty among perpetrators of more common forms of violence, including child abuse, spouse abuse, and elder abuse. In a nationwide study, over 71 percent of battered women reported that their abusers had harmed, killed or threatened animals. More than 75 percent of those incidents occurred in the presence of the women or their children.[2]

Please help ensure a more humane Alaska for future generations, and join the 43 other states by voting for passage of Senate Bill 273.

We thank you for your time and consideration.

Respectfully submitted,

Allie Phillips, J.D.
Director of Public Policy

Tracy Coppola, J.D.
Legislative Analyst

[2] Ascione, F.R., Weber, C.V., & Wood, D.S., *The Abuse of Animals and Domestic Violence: A National Survey of Shelters for Women Who are Battered* (Society and Animals, 1997, p. 205-218).

Dear Senator Wielechowski,

One subject that will be presented to the Senate Judiciary committee hearing this Wednesday, Feb 27th will be about a change to our state animal cruelty laws. That change would add a Felony provision to the law. As the law stands now, animal cruelty can only be prosecuted as a misdemeanor.

Strong animal cruelty laws are a first step towards stemming both future human and animal violence. As I am sure you know , there is a strong correlation between animal cruelty and human violence. A felony cruelty provision will provide a much needed tool that can be used in our courts to help protect both animals and people.

Alaska is now one of only seven states that does not have Felony cruelty laws, yet several cases of animal cruelty are discovered every year in the state. While several cases make the headlines in our major Alaskan newspapers, many more cases occur outside the state's major areas. I know as the Animal Control Officer for Valdez for the last 19 years that I have seen several cases that I would have liked to seen prosecuted under a Felony law. I also know as a professional that there are other cruelty cases that do not deserve to be prosecuted in that manner. I think it is important to know that professional, trained law enforcement people do know the difference.

I am asking for your support in seeing this important bill is passed on to the Senate floor; and in seeing this bill go all the way in 2008.

Thank you,
Animal Shelter Facility Manger
Shana Anderson
Valdez Alaska

Katherine Pustay

From: Don Kiely [donkiely@computer.org]

Sent: Tuesday, February 26, 2008 9:29 PM

To: Sen. Hollis French; Sen. Charlie Huggins; Sen. Lesil McGuire; Sen. Bill Wielechowski; Sen. Gene Therriault

Subject: *****SPAM***** SB 273, Cruelty to Animals

Members of the Senate Judiciary Committee:

The Alaska senate has a bill in the works, SB 273, that I would like to urge your strong support for. The bill would strengthen Alaska's laws regarding animal cruelty, making the worst offenses a felony. The Fairbanks borough shelter, as well as those around the state, need stronger laws in place to put a curb on severe animal abuse.

It is depressing to realize that had Michael Vick located his dog fighting operation in Alaska, he would have at most received a light slap on the wrist and would be back in operation the next day. As well as still playing football.

I am the president of Second Chance League, a sleddog rescue organization. We rescue sleddogs who have been dumped at the Fairbanks animal shelter. Over the last several years, we have taken in some dogs that were mere skin and bones, near death. One dog in particular, a sweet female now named Chiclet, was found in a yard with a six dogs dead from starvation and several emaciated dogs. Their owner simply stopped feeding them. Chiclet was nursing two puppies, nearly giving her last ounce of energy to milk for the puppies. She would have been dead had she been found a day later, and the puppies would not have survived long after that. We took her from the shelter and slowly nursed her back to health over the next several months, a long painful process for her. Chicklet and her puppies are now happy and healthy, and living good lives.

The borough has not yet prosecuted this case, despite such blatant abuse of a life. As angry as that makes me, I can't say I fully blame them. Why go through the trouble for just a misdemeanor?

Cases like this are rampant. Another recent example: another person has a solid history of animal abuse in the borough, but nothing was done to actively protect the dogs. Last fall he headed to the Lower 48, where he has been indicted in the state of Montana on one felony and 33 misdemeanor counts on animal cruelty, for the same conditions he left the dogs in here. Thank heavens that Montana has the laws and the will to enforce them! Those dogs have been in living hell for many months now.

How horrid and embarrassing for Alaska that we could have done something to prevent months of additional suffering by the dogs, but did nothing. Absolutely nothing.

There are those that argue that stronger animal cruelty laws would harm dog mushing, our favored sport. They most certainly would not! My partner and I are dog mushers and skijorers, with 31 happy, healthy dogs, many of whom were rescued from the shelter or directly from abusive situations. There are many responsible mushers who take good care of their dogs. Lance Mackey is a great example, showing how being good to your dogs can lead to fabulous mushing success.

PLEASE support SB 273. It isn't a perfect or complete solution, but it begins to lay the foundation for preventing animal cruelty in Alaska.

Sincerely,
Don Kiely
Ester, Alaska

2/28/2008

Senator Bill Wielechowski
Alaska State Legislature
State Capitol, MS 3100, Room 115
Juneau, AK 99801

Dear Senator Wielechowski,

Animal cruelty is bad for animals - and for our communities. Numerous studies show the link between animal cruelty and human violence. Please support S.B. 273 to strengthen the animal cruelty law in Alaska.

Alaska is one of just seven states in the e.tire country with no felony-level penalties for the most egregious acts of intentional animal cruelty such as burning, poisoning, and torture. S.B. 273 would make it a felony to torture or poison an animal.

Animal cruelty is a precursor to other violent criminal acts; increasing penalties for perpetrating such cruelty is imperative to protecting animals and our society.

Thank you.

Sincerely,
christa burg
4933 E 6th ave
anchorage, AK 99508

I personally believe that SB 273 for Felony Animal Cruelty is a necessary bill that should be given serious attention.

Thank you.

Julitta Dixon
General Parts Inc. /CARQUEST
Stocking Supervisor
5491 Electron Drive
Anchorage, AK 99518
Office: 907-273-5614
Fax: 907-273-5601
email: judixon@gpi.com

Katherine Pustay

From: Laudenslager, Richard C [Richard.Laudenslager@va.gov]
Sent: Monday, February 25, 2008 8:22 AM
To: Sen. Bill Wielechowski
Follow Up Flag: Follow up
Flag Status: Red

Senator Wielechowski: This bill is very important to the State and pet owners. Please pass this bill and help protect animals in the state. Thank you for your time. Rick

Katherine Pustay

From: Jeanine [jeanineg@gci.net]
Sent: Sunday, February 24, 2008 5:59 PM
To: Sen. Bill Wielechowski
Subject: SB 273

Follow Up Flag: Follow up
Flag Status: Red

Senator Wielechowski,

I wanted to let you know that I think it is important that SB 273 for Felony Animal Cruelty be passed to the Senate floor. We are one of about 6 or 7 states in which animal cruelty is not a felony. It is time to change that.
A felony cruelty option for first offense charges is a key part of giving the courts a tool to protect both people and animals. Please support this bill.

Sincerely,

Jeanine Greene
PO Box 220923
Anchorage, AK 99522

Dear Honorable Senators:

I strongly urge your support of SB 273 for Felony Animal Cruelty. Alaska is no exception for cruelty to animals or people and in fact this bill is very necessary for our enforcement to stop egregious acts against the innocent.

Thank you,

Deborah J. Lilley-Bloom
Legal Secretary
Ashburn & Mason, P.C.
1227 West Ninth Avenue, Suite 200
Anchorage, AK 99501
(907) 276-4331 (voice)
(907) 277-8235 (fax)

Senator Bill Wielechowski
Alaska State Legislature
State Capitol, MS 3100, Room 115
Juneau, AK 99801

Dear Senator Wielechowski,

Alaska is one of only seven states in the entire country with no felony level penalties for egregious acts of animal cruelty.
Animal cruelty is often linked to human violence -- strong penalties for animal cruelty can protect both animals and our communities.

S.B. 273 would strengthen Alaska's animal cruelty law by making it a felony to torture or poison an animal.

Intentional cruelty is a sign of psychological distress and often indicates that an individual either has already experienced violence or may be predisposed to committing acts of violence. Strong penalties must be available for egregious acts of animal cruelty.

Please help protect animals and society by strengthening Alaska's animal cruelty law. Thank you.

Sincerely,
Skye Nilsson
825 Irwin Street
Anchorage, AK 99508

Katherine Pustay

From: Cathie Mihalko [cathiem@criteriongeneral.com]
Sent: Friday, February 22, 2008 4:11 PM
To: Sen. Bill Wielechowski
Subject: SB 273

Hi Bill -

Please vote to send SB 273 to the floor for Senate approval. Alaska lags way behind other states in the protection of animals and the punishment of those who abuse them. No wonder we have such a horrible reputation for child and spousal abuse.

Thank you and keep up the great work!

Cathie Mihalko
1450 Northview Drive, #J-4
Anchorage, AK 99504-2870

March 5, 2008

Senator Bill Wielechowski
State Capitol, Room 115
Juneau, AK 99801-1182

Dear Senator Wielechowski,

As Alaska residents and members of the Alaska State Veterinary Medical Association Executive Board we lend unanimous support to Senate Bill 273.

We know the association between animal abuse and other forms of societal violence are nationally recognized. Threats or actions against companion animals are strong indicators that violence against human family members will follow. This bill will help guarantee such actions will be properly reported, investigated and prosecuted as a crime with serious consequences.

Innocent animals need strong voices like yours to speak for them. Thank you for your efforts and work on this legislation.

Sincerely,

Dr. Myra Wilson DVM
Secretary
Alaska State Veterinary Medical Association