

The Link Between Animal Abuse and Family Violence: Legal and Ethical Issues for Family Court Practitioners

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A well-established and growing body of research has demonstrated a connection between animal cruelty and violence against humans, including child abuse and other domestic violence. When animals in a home are abused or neglected, it is a warning sign that others in the household may not be safe. This training will help family court practitioners and other professionals understand and identify animal cruelty in the home as a precursor or indicator of child abuse or neglect or domestic violence.

Understanding the Link Between Animal Cruelty and Interpersonal Violence

Why is this important?

- 1) Animal Abuse Exposes Other Criminal Behavior
- 2) Link Between Animal Abuse and Family Violence
- 3) Willingness to Discuss Animal Abuse vs. Child/Domestic Violence
- 4) Role of Pets in American Families

Animal Abuse Exposes Other Criminal Behavior



**70% of people charged with
cruelty to animals were
known by police for other
violent behavior--including
homicide.**

(National Link Coalition—Boat & Knight, 2000)

The Link Between Animal Abuse and Family Violence: Women



Twelve independent surveys have found that between 18% and 48% of battered women have delayed their decision to leave, or have returned to their abusers, out of fear for the welfare of their animals.

(Ascione, 2007)

The Link Between Animal Abuse and Family Violence: Women



**71% of abused women said their partners
harmed, killed or threatened pets.**

(NATIONAL LINK COALITION—ASCIONE, WEBER & WOOD, 1997)

The Link Between Animal Abuse and Family Violence: Children



- ◆ Abused animals were found in **60%** of homes where child abuse or neglect occurred.
- ◆ Abused animals were found in **88%** of homes where physical child abuse occurred.

(DEVINEY, DICKERT, & LOCKWOOD, 1983)

The Link Between Animal Abuse and Family Violence: Children



- ❖ **Children exposed to domestic violence were three times more likely to be cruel to animals.**

(NATIONAL LINK COALITION—CURRIE, 2006)

- ❖ **26.8% of boys and 29.4% of girls who were victims of physical and sexual abuse and domestic violence have been reported to abuse the family pet.**

(FRANK R. ASCIONE, *CHILDREN AND ANIMALS: EXPLORING THE ROOTS OF KINDNESS AND CRUELTY* (2005))

The Link Between Animal Abuse and Family Violence: Children



- **75% of the incidents of animal abuse occurred in the presence of children to psychologically control and coerce them.**
(NATIONAL LINK COALITION—ASCIONE, WEBER & WOOD, 1997)
- **The parent responsible for abusing the child was often also the person who injured or killed the family pet.**
(THE FIRST STRIKE: THE VIOLENCE CONNECTION. THE HUMANE SOCIETY OF THE UNITED STATES. DEVINEY, DICKERT & LOCKWOOD, 1983)

Willingness to Discuss Animal Abuse vs. Child/Domestic Violence



- Victims may be more willing to speak about harm to a pet.
- Talking about animal cruelty or neglect may open discussions to other family violence.

The Role of Pets in American Families

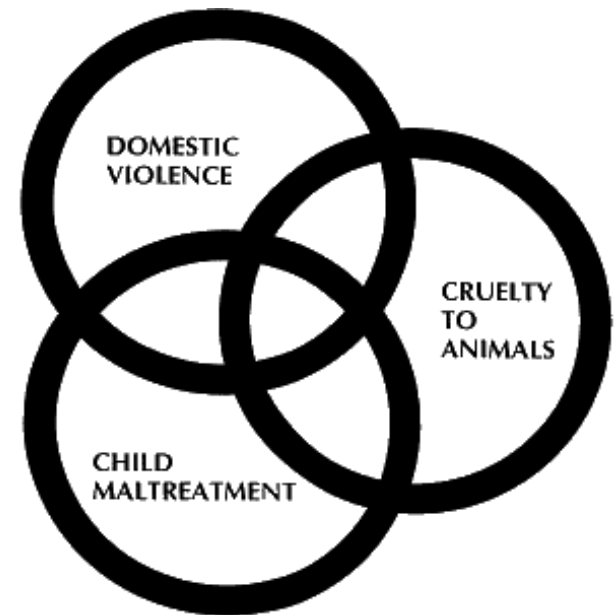


- ❖ 64% of households with children under age 6, and 74.8% of households with children over the age of 6, have pets. (Phil Arkow, Latham Foundation)
- ❖ 74% of women entering domestic violence shelters owned pets in the last 12 months. (Ascione, 1998)
- ❖ ~ 1 million animals are abused or killed each year in the U.S. in domestic violence situations (HSUS, 2011)

What is “the Link” ?



- ❖ Correlation between related abuses and violence
 - ❖ Animal abuse
 - ❖ Child abuse
 - ❖ Domestic violence
 - ❖ Elder abuse
 - ❖ Other personal violence



Historical Recognition of “the Link”



- ❖ “He who is cruel to animals becomes hard also in his dealings with men. We can judge the heart of a man by his treatment of animals.” Immanuel Kant (1724 –1804), *Lectures on Ethics*
- ❖ *The Four Stages of Cruelty*, William Hogarth, 1751

FIRST STAGE OF CRUELTY.



While you view scenes of gross abuse,
The infant's wail of misery,
And the cry of suffering creatures, show
The fiend in the flesh.

Behold a youth of similar heart,
To spare the Child's pain,
O take the gross-like all my heart,
But spare the Dog and Bird no more.

Learn from the late example—See
Whom some people's delight,
How cruelly against the poor
While they observe the night.

SECOND STAGE OF CRUELTY.



*The generous Steed in hoary Age
Subsid'd by Labour's loss;
And mourns a cruel Master's rage,
While Nature Strength decays.*

*The tender Lamb e'er drove and taint,
Amidst expiring Throats,
Waste forth its innocent complaint
And dies beneath the Blows.*

*Inhuman Wretch! say whence proceeds
This coward Cruelty?
What Interest springs from barbarous deeds?
What Joy is in Misery?*

CRUELTY IN PERFECTION.



*To laugh Love when our betwixt,
 Soon cease to cease our side
 At length bequilt to Theft, the Matel
 By her Dequiter bleed.*

*Yet born enduring Mat's own Night,
 With all the noble Crowd,
 Can screen the guilty Deed from Sight,
 And Murder's vice aloud.*

*The gaping Wounds and bloodstained sheet,
 Now which her trembling Soul,
 But Oh! what Pangs his Breath must feel,
 When Death his Knell shall toll.*

Published according to Act of Parliament Feb. 22. 1752.

Designed by W. Hogarth.



Examples of the Link Between Animal Cruelty and Interpersonal Violence



**Animal cruelty: A common trait among
serial killers and mass murderers.**

- **Albert DeSalvo (the Boston Strangler)**
 - Tortured and killed dogs and cats
- **Denis Rader (the BTK killer)**
 - Tortured and killed dogs and cats
- **Jeffrey Dahmer**
 - Tortured and killed dogs and cats
- **Columbine school shooters**
 - Tortured and killed dogs and cats

Examples of the Link Between Animal Cruelty and Interpersonal Violence



Animal neglect as a symptom of child neglect or cruelty

- ❖ June 2013: Two Florida parents were charged with animal abuse and child neglect for keeping two children and 19 neglected, starving dogs and cats in a condemned family home.
- ❖ 2012: Two parents in Pennsylvania were charged with child neglect and animal abuse when police discovered their two young children and pets in a home infested with roaches, covered in feces and urine and one of the children reported that the father had beaten him. Most of the animals were in poor health without food, water or shelter.
- ❖ 2012: Two women in Florida were charged with child abuse and animal cruelty after police found a baby surrounded by animal feces and urine and a starving dog tied up in the yard without food or water.

Examples of the Link Between Animal Cruelty and Interpersonal Violence



Animal neglect as a symptom of child neglect or cruelty

- ❖2012: A Florida woman was charged with child neglect and animal cruelty when police responded to a report of animal cruelty, finding two children in “deplorable conditions,” 22 dogs confined without food or water, one with a broken leg, and a dead bird. The women had previously been charged with animal cruelty.
- ❖2005: Two parents in Indiana were charged with felony child abuse and animal cruelty, stemming from an investigation into the plight of a dog tied up outside without food and water. Upon entering the home police found a three month old child lying near piles of feces, trash and rotten food.

Examples of the Link Between Animal Cruelty and Interpersonal Violence



**Physical animal cruelty as a symptom of child
abuse and family violence:**

**“LOOK WHAT I CAN DO WITH YOUR
ANIMAL, AND IMAGINE
WHAT I CAN DO TO YOU.”**

*(Cynthia Hodges, *The Link Between Animal Cruelty and Violence Toward People*, 2007)*

Examples of the Link Between Animal Cruelty and Interpersonal Violence



Animal cruelty as a symptom of child abuse or family violence

❖2013: Police in Texas responding to a 911 call from a woman who claimed her husband had threatened to kill her led to the husband's arrest for animal cruelty when detectives found 13 dogs beaten and locked in cages, without food or water, covered in feces, and with cuts and untreated broken bones consistent with dog fighting injuries.

❖2013: A man in Michigan was charged with animal cruelty for beating his neighbor's dog to death with a golf club. The man reportedly threatened the woman and her infant son, saying "I killed your dog, what more do I have to do to you guys? Next will be your son."

Examples of the Link Between Animal Cruelty and Interpersonal Violence



Animal cruelty as a symptom of child abuse or family violence

❖2013: A man in Texas was charged with felony assault and animal cruelty for assaulting his girlfriend and killing their dogs. A month prior to assaulting his girlfriend, the man killed her 5 lb. poodle by slamming the dog into the wall. One month later, the man beat his girlfriend for several hours and then stabbed the couple's other dog to death when the dog tried to protect the woman.

❖2012: A man in Alabama was charged with animal cruelty for killing the family dog by slicing open his dog's neck in an attempt to intimidate his wife during a custody battle over their children. The man reportedly sent photographs of the dog to his wife with the caption, "your day is coming."

Examples of the Link Between Animal Cruelty and Interpersonal Violence



Animal cruelty as a symptom of child abuse or family violence

- ❖ 2013: A man in North Carolina was charged with felony assault, child endangerment and animal cruelty after beating the family's kitten to death and beating and choking his fiancée in front of their 2 year old daughter.
- ❖ 2012: A man in West Virginia was charged with abduction and animal cruelty in connection with the torture and killing of 29 dogs in a domestic violence intimidation scheme. The man reportedly told his girlfriend that the only way she was leaving the house was "in a body bag" and forced her to watch him torture and kill animals, including forcing her to hold a puppy as he killed the dog with an electric drill.
- ❖ 2012: A man in Connecticut was sentenced to prison for animal cruelty and assault after killing his girlfriend's cat and leaving it at her front door with a note reading "you're next!"

Ethical Implications of the Link



❖ Attorney Competence

- ❖ Understanding the link between violent crimes allows attorneys to better protect their clients, their community and prevent future violence.
- ❖ When animal abusers are held accountable, other crimes—particularly domestic/child abuse—may be prevented and other crimes perpetrated by an abuser may carry a heavier penalty.

(Investigating and Prosecuting Animal Abuse: A Guidebook on Safer Communities, Safer Families & Being an Effective Voice for Animal Victims. National District Attorneys Association. Phillips and Lockwood, 2013)

❖ Obligations of Attorneys to Pets

States With Laws Recognizing the Link Between Animal Cruelty and Interpersonal Violence

Recognition of “The Link” in State Cruelty Laws



- ❖ All 50 states have animal cruelty statutes
- ❖ 47 states have felony penalties for aggravated cruelty
 - ❖ Those without felony provisions are Idaho, North Dakota, and South Dakota
- ❖ Most of the felony provisions were enacted between 1990 and the early 2000s in response to heightened recognition of the link between animal cruelty and other forms of violence

Recognition of “the Link” in State Cruelty Laws



- ❖ Dual legislative purposes: Animal welfare and related interpersonal violence
 - ❖ Enactment of NY felony cruelty laws
 - ❖ The NY legislature expressly noted “[t]he connection between animal abusers and violence towards humans” among its legislative findings. N.Y.S. Assembly Memo in Support of L. 1999, ch. 118, 1999 N.Y. Sess. 1584-85
 - ❖ Enactment of CA felony cruelty law
 - ❖ The CA legislature expressly noted an “irrefutable link between domestic violence, child abuse and animal cruelty.” CA Senate Judiciary Committee Analysis of SB 353 regarding felony animal cruelty penalties (enacted as CAL. PENAL CODE § 597(a)), at 4 (Mar. 27, 2007).

Recognition of “the Link” in State Cruelty Laws

- ❖ First all-encompassing animal cruelty statute in the U.S. enacted in New York in 1867. (N.Y. Rev. Stat. secs. 375.2 - 375.9 (1867).)
 - ❖ a person who "needlessly mutilated, or killed ... any living creature" is guilty of a misdemeanor.
 - ❖ Prior 19th century American state laws covered only commercially valuable animals (horses, livestock) and commonly only applied to 3rd parties (not to the owner of the animal).
- ❖ NY law drafted by Henry Bergh, founder of ASPCA and the NYSPCC. *See* David Favre & Vivien Tsang, *The Development of Anti-Cruelty Laws During the 1800s*, 1993 Det. C.L. Rev. 1 (1993).
- ❖ Many states enacted cruelty laws in the 19th century following the NY model.

Recognition of “the Link” in State Cruelty Laws



❖ Key purposes of 19th century anti-cruelty laws

- ❖ to protect personal property
- ❖ to prevent animal cruelty
- ❖ **to address the link between cruelty to animals and violence to people**
- ❖ Cruelty to animals "injur[es] the moral character of those who witness it --- and may therefore be treated as a **crime.**" Elbridge T. Gerry, The Law of Cruelty to Animals, Address Before the Bar of Delaware County (August 16, 1875) (quoting LORD CAMPBELL, 9 LIVES LORD CHANCELLORS 22-23). See David Favre & Vivien Tsang, The Development of Anti-Cruelty Laws During the 1800s, 1993 Det. C.L. Rev. 1 (1993).

Recognition of “the Link” in State Laws Permitting Orders of Protection for Pets



- ❖ Amendment of CA Family Code in 2005 to include orders of protection for pets
 - ❖ The legislature noted the **connection “between animal abuse, family violence, and other forms of community violence.”** 2007 Cal. Stat. ch. 205, § 1.
- ❖ Amendment of NY Family Court Act in 2006 to include orders of protection for pets
 - ❖ The NYS legislature expressly noted the connection between animal abuse and domestic violence, including that **“often abusers, in an effort to control and threaten their partners, harm or kill their pets.”**

See Justification memo for Assembly Bill 10767-2006/ Senate Bill No. 7691-2006.

Including Family Pets in an Order of Protection

States with Laws that Include Animals In Orders of Protection



- New York
- Arizona
- Arkansas
- California
- Colorado
- District of Columbia (D.C)
- Connecticut
- Hawaii
- Illinois
- Louisiana
- Maine
- Maryland
- Massachusetts
- Minnesota
- Nevada
- New Jersey
- North Carolina
- Oklahoma
- Oregon
- Puerto Rico
- Tennessee
- Texas
- Vermont
- Washington
- West Virginia
- Kentucky

New York Law Permits Animals to be Included in Orders of Protection



Order of Protection

- ❖ Issuable by any NY court to limit the behavior of someone who harms or threatens another, including an animal.
- ❖ “Any order of protection issued pursuant to this section may require the petitioner or 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.**” NY FAM CT §842 (i).

California Law Permits Animals to be Included in Orders of Protection



Order of Protection

- ❖ Issuable by any CA court to limit the behavior of someone who harms or threatens another, including an animal.
- ❖ “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 . . . 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.**” CA FAM § 6320 - 6327

Illinois Law Permits Animals to be Included in Orders of Protection



Order of Protection

- ❖ Issuable by any IL court to limit the behavior of someone who harms or threatens another, including an animal.
- ❖ The court can “[g]rant 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 . . . 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
- ❖ “**the court may enter any injunctive orders reasonably necessary to protect animals from any further acts of abuse, neglect, or harassment** by a defendant” who has committed acts of cruelty against the animal. 510 ILCS 70/16.3

Attorney Ethics and Orders of Protection for Pets



- ❖ Attorney Competence
 - ❖ Are orders of protection for pets available in your state?
 - ❖ Are other resources available to assist a client with a pet seeking to leave a family violence situation?
 - ❖ Co-sheltering or other dedicated pet sheltering
 - ❖ Counseling

- ❖ Zealous Representation
 - ❖ Inform client with pet who is victim of family abuse where pet protection order may be obtained
 - ❖ Recommend client to proceed in seeking pet protection order
 - ❖ Best interest of client

Recognition of “the Link” in State Laws Re: Cross-Reporting of Abuses



- ❖ Multi-disciplinary approach to reporting related acts of cruelty: child abuse and animal abuse.
 - Animal control/humane officers → report suspected child abuse/neglect**
 - Child protective worker → report suspected animal abuse/neglect**
- ❖ Mandatory v. Permissive Cross-Reporting
 - ❖ Mandatory: worker *must* report abuse
 - ❖ Permissive: worker *may* report suspected abuse but not required
 - ❖ Hybrid: mandatory reporting of child abuse but only permissive reporting of animal abuse

States with Laws re: Cross-Reporting of Animal Abuse and Child Abuse (*mandatory or permissive*)



- California
- Colorado
- Connecticut
- District of Columbia
- Illinois
- Kentucky
- Louisiana
- Maine
- Massachusetts
- Nebraska
- Ohio
- Oregon
- Tennessee
- Virginia
- West Virginia

States with Laws re: Cross-Reporting of Animal Abuse and Child Abuse



California

❖ **Mandatory reporting of child abuse by animal workers**

- ❖ Veterinarians (Cal. P.C. 11165.7(21)) and humane officers and animal control officers (Cal. P.C. 11165.7(31)) are mandatory reporters of child neglect/abuse

❖ **Permissive reporting of animal abuse by child workers**

- ❖ “Any employee of a county child or adult protective services agency, while acting in his or her professional capacity or within the scope of his or her employment, who has knowledge of or observes an animal whom he or she knows or reasonably suspects has been the victim of cruelty, abuse, or neglect, may report the known or reasonably suspected animal cruelty, abuse, or neglect to the entity or entities that investigate reports of animal cruelty, abuse, and neglect in that county.” Cal. P.C. Section 11199

States with Laws re: Cross-Reporting of Animal Abuse and Child Abuse



Illinois

- ❖ **Mandatory reporting of child abuse by animal workers**
 - ❖ Humane officers/investigator and animal control officers (325 ILCS 5/4, Sec. 4) are mandatory reporters of child neglect/abuse
- ❖ **Mandatory reporting of animal abuse by child service workers**
 - ❖ “[specialists of] the Department of Children and Family Services who reasonably believe that an animal observed by them when in their professional or official capacity is being abused or neglected in violation of this Act must immediately make a written or oral report to the Department of Agriculture's Bureau of Animal Health and Welfare.” Illinois 325 ILCS 5/11.8, Sec. 11.8.

States with Laws re: Cross-Reporting of Animal Abuse and Child Abuse



New York

- ❖ **Mandatory reporting of child abuse by animal workers**
 - ❖ Humane officers are peace officers under NYS law (N.Y. CPL §2.10(7)) and are therefore mandatory reporters of child neglect/abuse (N.Y. SOS. LAW § 413).
- ❖ **There is no animal cruelty reporting requirement for child service workers**

States with Laws re: Cross-Reporting of Animal Abuse and Child Abuse



Virginia

- ❖ **Mandatory reporting of child abuse by animal workers**
 - ❖ Humane officers are mandated reporters of child neglect/abuse in VA (Code of Virginia § 63.2-1509)

- ❖ **There is no animal cruelty reporting requirement for child service workers**

Attorney Ethics and Cross-Reporting



- ❖ Attorney Competence
 - ❖ Is your client a mandated reporter of child abuse/neglect or animal abuse/neglect under state cross-reporting law?

- ❖ Zealous Representation
 - ❖ Responsibility of an attorney to flag suspected animal cruelty in a family violence context
 - ❖ In many states, animal cruelty itself may constitute child neglect or domestic violence
 - ❖ Attorney should consider reporting suspected animal cruelty to authorities and utilizing animal cruelty evidence in vigorously representing family violence clients

Defining and
Identifying Animal
Cruelty, Abuse and
Neglect Under State
Law

Overview of State Animal Cruelty Laws



Every state's animal cruelty laws address:

❖ Animal neglect and abandonment

- ❖ Generally misdemeanor, multiple incidents may constitute felony
- ❖ Omissions: lack of food, water, shelter, appropriate living conditions

❖ Animal abuse

- ❖ Physical acts of cruelty or intentional omissions
- ❖ Misdemeanor
 - ❖ Generally applicable to all animals
- ❖ Felony
 - ❖ Aggravated cruelty, multiple incidents
 - ❖ Specific type of animal involved (dog/cat)
 - ❖ Note: some states include all animals in felony cruelty law

❖ Animal fighting

- ❖ Fighting activities (fighting, training) are a felony in all 50 states
- ❖ Associated activities (spectators, betting, etc.) vary by state (some misdemeanor, some felony)

Cruelty Statutes in California: Laws Dealing with Animal Neglect and Abandonment



❖ *General neglect*

- ❖ “every person who . . . deprives of necessary sustenance, drink, or shelter . . . or fails to provide **the animal** with proper food, drink, or shelter or protection from the weather . . . is, for each offense, guilty of a crime punishable pursuant to subdivision (d).” CAL. PEN. CODE § 597(b)

❖ *Abandonment or neglect of animals*

- ❖ “every owner, driver, or possessor of **any animal**, who permits the animal to be in any building, enclosure, lane, street, square, or lot, of any city, city and county, or judicial district, without proper care and attention, shall, on conviction, be deemed guilty of a misdemeanor.” CAL. PEN. CODE § 597(f)

❖ *Shelter for confined animals*

- ❖ Every person who keeps **an animal** confined in an enclosed area shall provide it with an adequate exercise area. If the animal is restricted by a leash, rope, or chain, the leash, rope, or chain shall be affixed in such a manner that it will prevent the animal from becoming entangled or injured and permit the animal's access to adequate shelter, food, and water. Violation of this section constitutes a misdemeanor. CAL. PENAL CODE § 597(t) (2013).

Cruelty Statutes in Illinois: Laws Dealing with Animal Neglect and Abandonment



- ❖ *General cruelty and neglect* (510 ILL. COMP. STAT. 70/3.01)
 - ❖ “No person or owner may . . . starve, overwork or otherwise abuse **any animal**. No owner may abandon any animal where it may become a public charge or may suffer injury, hunger or exposure.”
 - ❖ 1st conviction is a Class A misdemeanor
 - ❖ A second or subsequent conviction is a Class 4 felony

Cruelty Statutes in New York: Laws Dealing with Animal Neglect and Abandonment



❖ *General neglect*

- ❖ A person who . . . deprives **any animal** of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink, or causes, procures or permits any animal to be . . . deprived of necessary food or drink . . . is guilty of a class A misdemeanor and for purposes of paragraph (b) of subdivision one of section 160.10 of the criminal procedure law, shall be treated as a misdemeanor defined in the penal law. NY AG & MKTS § 353

❖ *Abandonment of animals*

- ❖ A person being the owner or possessor, or having charge or custody of **an animal**, who abandons such animal, or leaves it to die in a street, road or public place, or who allows such animal, if it become disabled, to lie in a public street, road or public place more than three hours after he receives notice that it is left disabled, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both. NY AG & MKTS § 355

❖ *Shelter for confined animals*

- ❖ Any person who owns or has custody or control of **a dog** that is left outdoors shall provide it with shelter appropriate to its breed, physical condition and the climate.
- ❖ Inadequate shelter may be indicated by the appearance of the housing facility itself, including but not limited to, size, structural soundness, evidence of crowding within the housing facility, healthful environment in the area immediately surrounding such facility, or by the appearance or physical condition of the dog. NY AG & MKTS § 353-b

Cruelty Statutes in Virginia: Laws Dealing with Animal Neglect and Abandonment



❖ *Companion animal neglect* (VA. CODE. ANN. § 3.2-6503(A))

❖ Each owner shall provide for each of his **companion animals**:

1. Adequate feed; 2. Adequate water; 3. Adequate shelter that is properly cleaned; 4. Adequate space in the primary enclosure for the particular type of animal depending upon its age, size, species, and weight; 5. Adequate exercise; 6. Adequate care, treatment, and transportation; and 7. Veterinary care when needed to prevent suffering or disease transmission.

❖ Note: “Companion animal” is defined as “any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person” excluding farm animals, game species, and research animals. VA. CODE. ANN. § 3.2-6500

❖ *Abandonment of an animal* (VA. CODE. ANN. § 3.2-6504)

❖ No person shall abandon or dump **any animal**. Violation of this section is a Class 3 misdemeanor.

Cruelty Statutes in California: Laws Dealing with Animal Abuse and Cruelty



❖ *General cruelty*

- ❖ “every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills **any animal**, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of **any animal**, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for each offense, guilty of a crime punishable pursuant to subdivision (d).” CAL. PEN. CODE § 597(b)

❖ *Aggravated animal cruelty*

- ❖ “every person who maliciously and intentionally maims, mutilates, tortures, or wounds **a living animal**, or maliciously and intentionally kills an animal, is guilty of a crime punishable pursuant to subdivision (d).” CAL. PEN. CODE § 597(a)

Cruelty Statutes in California: Laws Dealing with Animal Fighting



❖ *Animal fighting*

- ❖ Dogfighting and related activities (owning, possessing or training a dog with the intent to fight the dog) activities are felonies under California law. CAL. PEN. CODE § 597.5(a).
- ❖ Attending a dogfight as a spectator is a misdemeanor. CAL. PEN. CODE § 597.5(b).

Cruelty Statutes in Illinois: Laws Dealing with Animal Cruelty and Abuse



- ❖ **General cruelty** (510 ILL. COMP. STAT. 70/3.01)
 - ❖ “No person or owner may beat, cruelly treat, torment, starve, overwork or otherwise abuse **any animal**.”
 - ❖ 1st conviction: Class A misdemeanor; subsequent conviction: Class 4 felony.
- ❖ **Aggravated cruelty** (510 ILL. COMP. STAT. 70/3.02) (felony)
 - ❖ (a) No person may intentionally commit an act that causes a **companion animal** to suffer serious injury or death.
 - ❖ Note: “Companion animal” is defined as “an animal commonly considered to be, or to be used as, a pet” and “includes but is not limited to canines, felines, and equines.” 510 ILL. COMP. STAT. 70/2.01a.
- ❖ **Animal Torture** (510 ILL. COMP. STAT. 70/3.03) (felony)
 - ❖ A person commits animal torture when that person without legal justification knowingly or intentionally tortures **an animal**. For purposes of this Section, and subject to subsection (b), "torture" means infliction of or subjection to extreme physical pain, motivated by an intent to increase or prolong the pain, suffering, or agony of the animal.

Cruelty Statutes in Illinois: Laws Dealing with Animal Fighting



❖ *Animal fighting* (720 ILCS 5/26-5)

- No person may own, capture, breed, train, or lease any dog which he or she knows is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between the dog and any other animal or human, or the intentional killing of any dog for the purpose of sport, wagering, or entertainment.
 - (b) No person may promote, conduct, carry on, advertise, collect money for or in any other manner assist or aid in the presentation for purposes of sport, wagering, or entertainment of any show, exhibition, program, or other activity involving a fight between 2 or more dogs or any dog and human, or the intentional killing of any dog.
 - (c) No person may sell or offer for sale, ship, transport, or otherwise move, or deliver or receive any dog which he or she knows has been captured, bred, or trained, or will be used, to fight another dog or human or be intentionally killed for purposes of sport, wagering, or entertainment.
 - (c-5) No person may solicit a minor to violate this Section.
 - [Sections (d)-(f) prohibition on possession or sale of dog fighting equipment, facilities]
 - (g) No person may attend or otherwise patronize any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog for purposes of sport, wagering, or entertainment
- ❖ *Prohibitions re: fighting involving animals other than dogs: 510 ILL. COMP. STAT. 70/4.01*

Cruelty Statutes in New York: Laws Dealing with Animal Abuse and Cruelty



❖ *General animal cruelty provision*

- ❖ A person who overdrives, overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills **any animal**, whether wild or tame, and whether belonging to himself or to another . . . permits any animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed . . . or in any way furthers any act of cruelty to any animal, or any act tending to produce such cruelty, is guilty of a class A misdemeanor... NY AG & MKTS § 353

❖ *Aggravated animal cruelty (Felony cruelty provision)*

- ❖ A person is guilty of aggravated cruelty to animals when, with no justifiable purpose, he or she intentionally kills or intentionally causes serious physical injury to a **companion animal** with aggravated cruelty. For purposes of this section, "aggravated cruelty" shall mean conduct which: (i) is intended to cause extreme physical pain; or (ii) is done or carried out in an especially depraved or sadistic manner. NY AG & MKTS § 353-a
- ❖ Note: "Companion Animal" defined as "any dog or cat, and shall also mean any other domesticated animal normally maintained in or near the household." The definition expressly excludes farm animals. NY Ag & Mkts § 350. *See also People v. Garcia*, 777 N.Y.S.2d 846 (N.Y. 2004) (finding a child's goldfish to be a "companion animal").

Cruelty Statutes in New York: Laws Dealing with Animal Fighting



❖ *Animal fighting* (NY AG & MKTS § 351)

- ❖ For purposes of this section, the term “animal fighting” shall mean any fight between cocks or other birds, or between dogs, bulls, bears or any other animals, or between any such animal and a person or persons, except in exhibitions of a kind commonly featured at rodeos. (§ 351(1))
- ❖ Any person who engages in [animal fighting] is guilty of a felony. (§ 351(2)(a))
- ❖ Any person who trains, breeds, sells or offers to sell an animal for animal fighting purposes is guilty of a felony (§ 351(2)(b-c)).
- ❖ The knowing presence as a spectator at any place where an . . . exhibition of animal fighting is being conducted [is a misdemeanor] (§ 351(5)(b))

Cruelty Statutes in Virginia: Laws Dealing with Animal Abuse and Cruelty



- ❖ *General cruelty provision* (VA. CODE ANN § 3.2-6570(A))
 - ❖ Any person who: (i) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills **any animal**, whether belonging to himself or another; (ii) deprives **any animal** of necessary food, drink, shelter or emergency veterinary treatment; (iii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; (iv) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to **any animal**; (v) carries or causes to be carried by any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (vi) causes any of the above things, or being the owner of such animal permits such acts to be done by another is guilty of a Class 1 misdemeanor.

Cruelty Statutes in Virginia: Laws Dealing with Abuse and Cruelty



- ❖ *Aggravated animal cruelty resulting in death* (VA. CODE ANN. § 3.2-6570 (B))
 - ❖ Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, mutilates or kills **any animal** whether belonging to himself or another; (ii) sores any equine for any purpose . . . ; (iii) maliciously deprives any companion animal of necessary food, drink, shelter or emergency veterinary treatment; (iv) instigates, engages in, or in any way furthers any act of cruelty to any animal set forth in clauses (i) through (iv); or (v) causes any of the actions described in clauses (i) through (iv), or being the owner of such animal permits such acts to be done by another; and has been within five years convicted of a violation of this subsection or subsection A, is guilty of a Class 6 felony if the current violation or any previous violation of this subsection or subsection A resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian . . . [as] a direct result of a violation of this subsection or subsection A.

Cruelty Statutes in Virginia: Laws Dealing with Abuse and Cruelty



- ❖ *Cruelty, resulting in death, to companion animal dog or cat* (VA. CODE ANN. § 3.2-6570(F))
 - ❖ Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation or cruelly and unnecessarily beats, maims or mutilates any **dog or cat that is a companion animal** whether belonging to him or another; and (ii) as a direct result causes the death of such dog or cat that is a companion animal, or the euthanasia of such animal on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, is guilty of a Class 6 felony.

Cruelty Statutes in Virginia: Laws Dealing with Animal Fighting



❖ *Misdemeanor animal fighting offenses*


- ❖ Engaging in, preparing for, aiding and abetting or serving as a spectator at an animal fight is a Class 1 misdemeanor. VA CODE ANN. § 3.2-6571(A).

❖ *Felony animal fighting offenses*

- ❖ Engaging in, preparing for, aiding and abetting or serving as a spectator at a dog fight is a Class 6 felony. VA CODE ANN. § 3.2-6571(B).

Examples of Animal Neglect and Cruelty

Common Indicators of Neglect



- **Poor body condition**
 - Severe fur matting and/or filthy coat
 - Congested eyes or ears
 - Flea/tick infestation
 - Underweight with visible bones
 - Limping or inability to stand or walk normally
 - Animal in obvious physical distress, in need of veterinary care

Common Indicators of Neglect



- **Lack of Food or Water**

- The animal has no obvious sources of food/water
- Underweight with visible bones
- The animal may exhibit extreme behavior (aggression or lethargy) due to starvation/thirst

- **Lack of Sanitation**

- Feces/debris covers the animal's living area
- More animals at a property than can be properly cared for

Common Indicators of Neglect



- **Lack of Adequate Shelter**
 - Animal is contained in an area fully exposed to inclement weather or constant sun
- **Abandonment**
 - Animal is left in a house or yard that appears empty
 - A dog howling or barking for several hours may be a sign of abandonment

Common Indicators of Abuse and Cruelty



- **Signs of Physical Abuse**
 - Open wounds
 - Scars
 - Missing fur
 - Missing limbs or body parts
 - Burn marks
 - Aggression or fear (e.g., cowering, hiding, fear-biting)

Common Indicators of Abuse and Cruelty



- **Animal is improperly caged or restrained**
 - The animal has little room to move, and/or is unable to stand or turn
 - The animal is restrained by a chain, rope or other device for extended periods of time
 - Chains, or ropes around or embedded into the animal's neck

Common Indicators of Abuse and Cruelty



- **Evidence of Dog Fighting**
 - **Training implements**
 - ex. treadmills, spring poles, restraining devices
 - **Obvious signs of trauma**
 - Scars, open wounds, infections, missing body parts
 - **Fighting paraphernalia**
 - Fighting ring
 - Blood stains
 - Dog fighting publications

Enforcement of Animal Cruelty Laws



- ❖ Police officers (mandatory)
- ❖ Peace officers (permissive)
- ❖ Humane law enforcement/local SPCA (permissive)
- ❖ *E.g.*, NY Ag & Mkts § 371
 - ❖ A constable or police officer **must**, and any agent or officer of any duly incorporated society for the prevention of cruelty to animals **may** issue an appearance ticket pursuant to section 150.20 of the criminal procedure law, summon or arrest, and bring before a court or magistrate having jurisdiction, any person offending against [any animal cruelty provision] Any officer or agent of any of said societies may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in his presence.

Resources and Actions to be Taken if Animal Abuse or Neglect is Suspected



Report Suspected animal abuse or neglect

- ❖ **911** for urgent situations throughout the country
- ❖ General reporting lines for suspected animal cruelty or neglect
 - ❖ Local police
 - ❖ Local animal control/SPCA

Attorney Ethics and Reporting Animal Abuse/Neglect



- ❖ Attorney Competence
 - ❖ What constitutes animal abuse/neglect in your state?

- ❖ Zealous Representation
 - ❖ Responsibility of an attorney to flag suspected animal cruelty in a family violence context
 - ❖ In many states, animal cruelty itself may constitute child neglect or domestic violence
 - ❖ Attorney should consider reporting suspected animal cruelty to authorities and utilizing animal cruelty evidence in vigorously representing family violence clients

Assessment of Animal Cruelty in Evaluating Child Abuse and Domestic Violence Situations

Observations to Make and Why



Are there visible signs of animal abuse or neglect in the home?

- Is there a dead animal in or around the home?
- Is there an injured animal in or around the home?
 - ❖ Ex. Cuts, open wounds, bruises, broken bones, limp/inability to walk or get up, burns, missing fur, collar embedded in animal's neck?
- Do animals appear to have adequate food and water?
 - ❖ Does the animal look extremely thin/underweight with ribs protruding?
 - ❖ Is there evidence of food and water?
- Do animals have appropriate shelter and sanitary conditions?
 - ❖ Exposure to extreme weather (heat, cold, rain, etc.)?
 - ❖ Clean living areas?
 - ❖ Infestation with parasites, Fur matted and dirty?

Observations to Make and Why



Are there visible signs of animal abuse or neglect in the home?

- Have you witnessed abusive behavior toward the animal?
 - ❖ Hitting, kicking, pushing the animal?
 - ❖ Yelling at the animal or threatening physical harm?

- Does the animal cower or behave aggressively toward anyone in the home?

Questions to Ask About Animal Neglect



- ❖ Have you or your family ever had a pet?
- ❖ Who feeds and cares for the pet? Where does the pet live?
- ❖ Has a pet ever been sick/injured? Lost or given away? Has a pet died?
- ❖ Has the animal ever bit or harmed anyone in the home?
- ❖ *Such inquiries provide useful information about family function and identifying patterns of neglect and others who may be at risk*

Questions to Ask About Animal Abuse



- ❖ Have you or your family ever had a pet?
- ❖ Has a pet ever been hurt? Has a pet died? Taken away/given away?
- ❖ Has anyone ever threatened to hurt the pet?
- ❖ If the animal does something wrong, what happens?
- ❖ Do you worry about something bad happening to your pet?
- ❖ Have you ever heard about or seen someone hurt an animal (in the home/outside the home)?

**Such inquiries provide useful information about family functioning and identify patterns of violence and others who may be at risk.*

Resources and Actions to be Taken in Family Violence Situations With Animals



- ❖ **Orders of protection for family pets.**
- ❖ **Using evidence of animal abuse as basis for child abuse/neglect petition or domestic violence injunction.**
- ❖ **Sheltering programs for people and pets.**
- ❖ **Counseling and rehabilitation (for victims and abusers).**
- ❖ **Recovery for damages associated with pet abuse.**

Utilizing Evidence of Animal Cruelty as a Basis for Child Neglect



**Animal cruelty or neglect may be
the basis of a child neglect or
abuse petition.**

Child Neglect Petitions Based on Animal Cruelty or Neglect



Definitions of Child Neglect Include Psychological Harm and Risk of Physical Harm

NY law defines Child Neglect to include impairment or risk of impairment of “**physical, mental or emotional condition**” due to parent’s failure to exercise a minimum degree of care by inflicting harm or a substantial risk of harm by “**any other acts of a similarly serious nature requiring the aid of the court.**” *See* FCA §1012(f)(i)(B).

Exposure of Children to Domestic Violence Constitutes Child Neglect

Courts interpret this “catch all” phrase to mean that exposing children to domestic violence is a basis for child neglect. *See, e.g., Nicholson v. Scoppetta*, 3 N.Y.3d 357, 371 (2004).

Rationale: Exposure of children to such violence creates emotional harm and may also signify a potential risk of physical injury to the children themselves.

Child Neglect/Abuse Petitions Based on Animal Cruelty or Neglect



Exposing Children to Animal Abuse May Constitute Child Neglect

- ❖ **Witnessing animal cruelty has similar emotional impact and present the same risk of physical harm as domestic violence**
 - ❖ Emotional harm from witnessing violence against a family pet
 - ❖ Abuser may harm animals as a means of terrorizing children or partners
 - ❖ See *In the matter of Evelyn "X"*, 290 A.D.2d 817, 821 (3rd Dep't 2002) (Child neglect found where parent purposefully let child's dog run in the street (and be hit and killed in traffic) as punishment for not getting up on time for school and then "taunted the child with a mocking comment about the dead animal," telling the child "that it was his fault the dog died because he did not get up when told.").
- ❖ **Risk of physical injury to children**
 - ❖ Parent violent with animals may be violent with children
 - ❖ Abused animals more aggressive

Child Neglect/Abuse Petitions Based on Animal Cruelty or Neglect



Exposing Children to Animal Neglect May Be Basis for Child Neglect or Abuse Petitions

- ❖ Exposure of children to the filth and squalor of neglected pets may also present a health hazard to children rising to the level of neglect or abuse.
 - ❖ *See In the matter of Edward A. Carpenter*, 94 A.D.3d 1367, 1367 (3rd Dep't 2012) (affirming finding of child neglect where children kept in a home “littered with garbage, feces and the remnants of a cat’s afterbirth”).

Using Evidence of Animal Cruelty as a Factor in Custodial Decisions



- ❖ Evidence of a parent's acts of violence or threatened violence against animals may be considered a factor in custody determinations.
- ❖ Many states require consideration of any “each parent and adult household member's present and past violent or abusive conduct” in custodial decisions.
 - ❖ *See, e.g.*, 23 Pa. Cons. Stat. § 5303

Utilizing Evidence of Animal Cruelty as a Basis for Domestic Violence Injunction



**Animal cruelty may be the basis
of a domestic violence injunction.**

Domestic Violence Injunctions Based on Animal Cruelty



- ❖ Injuring or killing an animal with the intent to threaten a family member may be considered an act of domestic violence. *See, e.g.*, Ind. Code Ann. § 31-9-2-42 (4).
- ❖ Court may consider abuse or killing of a pet as a factor for a domestic violence injunction. *See, e.g.*, Fla. Stat. § 741.30(3)(b).
- ❖ Violence or threats of violence against a pet may be considered a factor in determining if petitioner is in imminent danger of becoming a victim of domestic violence. *See, e.g.*, Fla. Stat. § 741.30(6)(b)(4).
- ❖ 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 as part of a domestic violence protection order. *See* 23 Pa.C.S. § 6107 (b)(3)(ii)(E)(II)).

Attorney Ethics and Family Violence Situations Involving Animals



- ❖ Attorney Competence
 - ❖ Does animal abuse/neglect constitute child neglect or domestic violence in your state?
 - ❖ May evidence of animal abuse/neglect be utilized as a relevant factor in custody determinations in your state?

- ❖ Zealous Representation
 - ❖ Responsibility of an attorney to flag suspected animal cruelty in a family violence context and utilize evidence of animal abuse/neglect to obtain orders of protection, restraining orders, initiate child neglect petitions or bolster custody claims where in best interest of the client.

Sheltering Resources for Victims of Family Violence with Pets



- ❖ Pet-friendly domestic violence shelters
 - ❖ *E.g.* NYC's Urban Resource Institute has a pet-friendly domestic violence shelter
- ❖ Dedicated sheltering programs for pets of families escaping domestic violence to shelters where pets are not permitted
- ❖ Searchable national database of resources for family violence victims with pets
 - ❖ National Animal Welfare Institute's Safe Havens Mapping Project:
<http://www.awionline.org/safe-havens>
- ❖ Attorney Ethics
 - ❖ Competence: understanding link will allow you to protect your client and pets from family violence

Counseling and Rehabilitative Resources for Family Abuse Victims With Pets

❖ Psychological counseling and therapy for victims

- ❖ Particularly important for children exposed to animal abuse due to risk of behavioral issues:
 - ❖ Imitation of abusive behaviors – with animals and people
 - ❖ Ex. Children who witness animal abuse in the home are at greater risk for becoming victims or perpetrators of abuse (Osofsky, 1995).
 - ❖ Ex. Children exposed to domestic violence are three times more likely to be cruel to animals than children not exposed to domestic violence (Currie, 2006).
 - ❖ Desensitization to violence; acceptance of violence as part of family dynamic
 - ❖ Damaged sense of safety and confidence in adults

(Lockwood 2007, ASCIONE ET AL., 2007; BALDRY, 2003)

❖ Attorney Ethics

- ❖ Recommending counseling to client who is victim of family violence is in the best interest of client

Counseling and Rehabilitative Resources for Offenders



❖ Psychological counseling (cruelty/abuse)

- ❖ Mandatory psychological counseling for violations of animal cruelty laws
 - ❖ California (CA Penal Code Section 597(g)) (animal cruelty)
 - ❖ Illinois (for felony cruelty: 510 ILL. COMP. STAT. 70/3.03(c))
- ❖ Courts may order psychological counseling for animal cruelty
 - ❖ Illinois (for non-felony cruelty: 510 ILL. COMP. STAT. 70/3.02(c))
 - ❖ New York (N.Y. PEN. LAW § 65.10(2); *see also People v. Letterlough*, 86 NY2d 259 (1995))
 - ❖ Virginia (VA. CODE ANN § 3.2-6570(A))

❖ Animal care and husbandry training (neglect)

❖ Attorney Ethics

- ❖ Encouraging your client to attend counseling even where not mandated is in the best interest of your client to prevent future crimes against animals and people

Recovery for Damages by Family Violence Victims Whose Pets Are Harmed by Abusers

- ❖ A person whose pet is subjected to animal cruelty may have a right of action against abusers for damages associated with the abuse or death of an animal (including veterinary expenses, emotional distress, and punitive damages) via specific statutes or restitution
 - ❖ Alabama law allows recovery of up to \$1,000 (Alabama Code § 3110)
 - ❖ Illinois law allows up to \$25,000 in damages (510 ILCS 70/16.3)
 - ❖ Most states require restitution to victims of crimes
 - ❖ *E.g.*, California law mandates restitution for conviction in all crimes, including animal cruelty (Cal. Penal Code section 1202.4(b))
- ❖ Attorney Ethics
 - ❖ Competence: does your state allow for damages recovery for animal abuse/neglect?
 - ❖ Zealous representation
 - ❖ Seeking enforcement of animal crimes occurring in family violence situation increases protection for your client