

AMERICAN BAR ASSOCIATION
TORT TRIAL AND INSURANCE PRACTICE SECTION
FAMILY LAW SECTION
COMMISSION ON DOMESTIC & SEXUAL VIOLENCE

RESOLUTION

- 1 RESOLVED, That the American Bar Association urges all federal, state, local, territorial
2 and tribal governments to enact legislation and/or support judicial processes that protect
3 individuals by protecting their pets in family law and civil restraining order proceedings
4 and increase access to justice for all persons by:
5
6 1. Making provisions for the safety, well-being, and best interest of pets in domestic
7 relations proceedings, including considering any existence or prior history of family
8 violence and/or animal cruelty, when entering orders and/or assigning ownership
9 of pets in domestic relations cases;
10
11 2. Protecting victims of domestic and other violence by including protections for pets
12 in civil protection orders issued in response to domestic violence, dating violence,
13 sexual assault, stalking, child abuse, and/or for protection of the elderly and/or
14 orders issued in response to other forms of abuse; and
15
16 3. Removing barriers to victims seeking safety for themselves and their pets through
17 promoting greater emergency and transitional shelter and housing options as well
18 as improving access to pro bono legal services to facilitate safe housing and legal
19 representation of victims with pets.

REPORT

I. INTRODUCTION

Pet ownership has spiked in the United States over the last few decades;¹ today, 66% of American households have at least one pet.² Our attitude towards our pets has, correspondingly, changed. A recent Pew Research Center study found that ninety-seven percent of pet owners consider their pets to be family members, with about half saying that their pets are as much a part of their family as a human member.³ People throw their pets birthday parties,⁴ purchase pet insurance,⁵ and cook homemade meals for their pets.⁶ In short, people consider their pets to be family members in the United States and in many places around the world.⁷

Because pets hold an important place in the lives of their human families, legal advancements such as those discussed in this Report increasingly recognize this special role. Moreover, it is precisely because of the close bond between humans and their pets, that pets are often targeted when there is abuse occurring within a household or within an intimate partner relationship. We can protect people by protecting pets.

As discussed more fully below, numerous studies demonstrate the strong correlation between violence against human victims and violence against their pets, otherwise known as “the Link.”⁸ Violence or threats of violence against intimate partners, children, or the elderly or other vulnerable individuals indicate that pets in the home are also in danger. Likewise, an abused or neglected pet may be a signal of violence against their humans.

¹ Michelle Megna & Korrena Bailie, *Pet Ownership Statistics 2024*, Forbes Advisor (Jan. 25, 2024), <https://www.forbes.com/advisor/pet-insurance/pet-ownership-statistics/> (last visited Sep. 28, 2024).

² *Id.*; See also Mark Penn, *Microtrends: The Small Forces Behind Tomorrow's Big Changes*, 107-111 (2007) (discussing that Americans adore their pets and the important role of pets in society).

³ Anna Brown, *About half of U.S. pet owners say their pets are as much a part of their family as a human member*, The Pew Research Center, (July 7, 2023), <https://www.pewresearch.org/short-reads/2023/07/07/about-half-us-of-pet-owners-say-their-pets-are-as-much-a-part-of-their-family-as-a-human-member> (last visited Sep. 28, 2024).

⁴ Brittany Kasko, *Dog Owners Reveal Why They Spend Hundreds of Dollars on Their Pets' Birthday Parties*, N.Y. Post (Sept. 28, 2023), <https://nypost.com/2023/09/28/dog-owners-reveal-why-they-spend-hundreds-of-dollars-on-their-pets-birthdays/> (last visited Sep. 28, 2024).

⁵ Megna & Bailie, *supra* note 1.

⁶ Samantha Storey, *A Sniff of Home Cooking for Dogs and Cats*, N.Y. Times (Jan. 18, 2011), <https://www.nytimes.com/2011/01/19/dining/19pets.html> (last visited Oct. 3, 2024).

⁷ Brinda Jegatheesan, et al., *Understanding the Link between Animal Cruelty and Family Violence: The Bioecological Systems Model*, 17 Int. J. Env't. Res. and Public Health at 1-2, 4 (April 30, 2020); Nik Taylor, et al., *Companion-animal-inclusive domestic violence practice: Implications for service delivery and social work*, Aotearoa New Zealand Social Work at 26-27 (2020), <https://anzswjournal.nz/anzsw/article/view/791>; See also Washington: American Veterinary Med. Ass'n., 2018: AVMA pet ownership and demographics sourcebook, (99% of people who share their lives with companion animals consider their animals to be “companions” or “family members”).

⁸ National Link Coalition, *What is the Link?* <https://nationallinkcoalition.org/what-is-the-link> (last visited Sept. 28, 2024).

Every United States jurisdiction recognizes that animals are capable of suffering and should be protected from abuse; all 50 states, the District of Columbia, the U.S. territories, and the federal government criminalize animal cruelty, which often involves bans on physical abuse, neglect, and abandonment. Given the growing understanding of the Link, this Resolution provides a roadmap for civil legal tools designed to support families with pets, including protecting victims by protecting their pets, and building upon existing federal and state laws designed to keep victims and their pets safe from abuse.

II. THE RESOLUTION FURTHERS ABA GOALS

Specifically, this Resolution urges all federal, state, local, territorial, and tribal governments to adopt appropriate principles and civil legal protections to meet the needs of people with pets in family law and civil restraining order proceedings. Likewise, this Resolution urges increasing the availability of emergency and transitional housing for abuse survivors with pets, so that victims do not have to fear for the safety of their pets when leaving an abusive relationship, and so they can remain with their pets after they transition to safety. It also encourages pro bono representation to facilitate safe housing and legal services for victims with pets. Finally, this Resolution conceptually follows the approaches already being taken by some state and federal legislation that recognizes that the vast majority of people consider their pets to be members of the family, protects the human-animal bond, and provides for the protection of pets when they are at risk.

American Bar Association (ABA) Goal IV calls for the ABA to “advance the rule of law.”⁹ By assuring that litigants have “meaningful access to justice” and “a fair legal process” to protect their pets and resolve disputes over pets in family law cases, as well as to provide additional civil legal protections for victims with pets where there is the risk of neglect or abuse, that goal is met. By providing clear legal standards regarding how a dispute over a pet should be resolved, this Resolution will also “[i]ncrease public understanding of ... the legal process” such that parties will know their rights and can assess the risk of litigating a dispute including their pets.

A lack of legal clarity unfairly leaves parties to guess about the expected outcome of a dispute over pets in the family court system and deprives them of “access to justice.” For example, under existing law in those jurisdictions without clear statutory guidance, family lawyers are without the necessary information to adequately counsel their clients about the legal standard that will apply to such a dispute and/or the likely outcome in their case.

Moreover, the focus of the Resolution on protecting victims of abuse also promotes ABA Goal II to “eliminate bias” and “advance diversity.”¹⁰ It is well-established that victims of gender-based crimes, such as domestic violence, sexual assault, and stalking have suffered from bias within the justice system.¹¹ Comprehensive civil restraining order laws

⁹ *ABA Mission and Goals*, American Bar Ass’n, https://www.americanbar.org/about_the_aba/aba-mission-goals/ (last visited Sep. 28, 2024).

¹⁰ *Id.*

¹¹ See U.S. Dep’t of Justice, *Improving Law Enforcement Response to Sexual Assault and Domestic Violence by Identifying and Preventing Gender Violence* (2015),

across areas where victims are at risk are essential not only to protect victims, but also to prevent further emotional harm and trauma to victims by providing a legal remedy to shield pets from abuse.

This Resolution also promotes ABA Goal II¹² as it will “improve our profession” and “promote pro bono and public service” by raising awareness regarding the link between domestic violence and animal cruelty and by improving access to legal pro bono services to facilitate safe housing and legal services for victims with pets. This Resolution will also “apply the knowledge and experience of the profession by promoting the public good,” one of the ABA’s constitutional purposes.¹³

III. INTERPERSONAL VIOLENCE AND ANIMAL ABUSE

A. RESEARCH CONFIRMING THE CONNECTION

Domestic violence (DV), also sometimes referred to as intimate partner violence (IPV), is “a pattern of behaviors used by one partner to maintain power and control over another partner in an intimate relationship.”¹⁴ The dynamics of abuse are complex, and may include physical, emotional, economic, psychological, sexual, and animal abuse.¹⁵ The statutory legal definition of “domestic violence” varies by jurisdiction.

DV exists regardless of the victim’s gender identity, race, national origin, sexual orientation, socio-economic status, education status, religious beliefs, or geography, and it impacts people of all abilities.¹⁶ Victims who identify as Black, indigenous, or as a person of color may face additional barriers to safety, including: interlocking systems of oppression, concern over immigration status, distrust or fear of police, and a desire for anti-carceral approaches to DV.¹⁷

<https://www.justice.gov/ovw/page/file/1509451/dl>, at 1 (stating that “Too often and for too long, gender bias within the justice system has thwarted investigations, caused further harm to victims, and allowed perpetrators to evade accountability and continue to commit crimes.”).

¹² *ABA Mission and Goals*, *supra* note 9.

¹³ American Bar Association, *Constitution and Bylaws: Rules of Procedure House of Delegates (2023-24)*, § 1.2 available at:

https://www.americanbar.org/content/dam/aba/administrative/house_of_delegates/constitution-and-bylaws/constitution-and-bylaws.pdf (last visited Sep. 28, 2024).

¹⁴ Domestic violence may refer to violence within the household where the abuser is not the intimate partner of the victim. Intimate Partner Violence refers to abuse directed against a romantic, or formerly romantic, partner, whether or not they are living together. In this Report, we use the more general term, “Domestic Violence”, or DV. To learn more about the dynamics of abuse, visit the National Domestic Violence Hotline, formerly the National Coalition Against Domestic Violence, <https://www.thehotline.org/identify-abuse/understand-relationship-abuse/>.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Natalie Sokoloff & Ida Dupont, *Domestic Violence at the Intersections of Race, Class, and Gender: Challenges and Contributions to Understanding Violence Against Marginalized Women in Diverse Communities*, 11 *VIOLENCE AGAINST WOMEN* 38 (2005), <https://doi.org/10.1177/1077801204271476>. (last visited Sep. 28, 2024).

There is a strong correlation between DV and animal abuse. Abuse of a pet is one of the four most significant risk factors associated with someone committing DV.¹⁸ According to one study, women living in DV shelters were 11 times more likely to report that their partner hurt or killed a pet, compared with women who had not experienced DV.¹⁹ More recent research has found that between 75–89% of victims with pets in abusive relationships reported that their pets were threatened, harmed, or killed by their abuser.²⁰

This connection extends to other groups of vulnerable people. Pets belonging to seniors and adults with disabilities are also frequently victimized, causing emotional harms to their owners. Since many elderly and disabled adults are vulnerable to abuse or neglect by their caregivers, their pets are also at risk. In one study, more than 35% of Adult Protective Services (APS) workers reported that their clients talked about their animals being threatened, injured, killed, or neglected by a caregiver.²¹ In another study, 45% of APS caseworkers witnessed signs of intentional animal abuse or neglect on a home visit.²²

The pets of stalking victims are likewise frequently targeted by abusers. Stalking is defined as a pattern of behavior directed against a particular person that would cause a reasonable person to feel fear for their safety or otherwise cause emotional distress.²³ One in three women and one in six men in the United States report being stalked by intimate partners, acquaintances, or complete strangers at some point in their lifetime.²⁴ Many stalking perpetrators also target an individual's loved ones, including their pets, to frighten a victim or to retaliate against the victim for not returning their unrequited feelings. The National Crime Victimization Survey found that, during one 12-month period, stalking victims reported receiving over 87,000 threats to harm pets from stalkers threatening to harm the victims' pets.²⁵

¹⁸ Betty Jo Barrett et al., *Animal Maltreatment as a Risk Marker of More Frequent and Severe Forms of Intimate Partner Violence*, 26 J. INTERPERSONAL VIOLENCE 5131 (2020).

¹⁹ Frank Ascione et al., *Battered Pets and Domestic Violence: Animal Abuse Reported by Women Experiencing Intimate Violence and by Nonabused Women*, 13 VIOLENCE AGAINST WOMEN 354 (2007).

²⁰ Barrett et al., *supra* note 18; Shelby McDonald et al., *Intimate Partner Violence Survivors' Reports of Their Children's Exposure to Pet Maltreatment: A Qualitative Study*, 34(13) J. INTERPERSONAL VIOLENCE 2627 (2019). See also Michelle Cleary et al., *Animal abuse in the context of adult intimate partner violence: a systematic review*, 61 AGGRESSION & VIOLENT BEHAVIOR 101676 (2021) (Studies show that the prevalence of animal abuse in households with intimate partner violence ranges from 21% to 89%).

²¹ HUMANE SOCIETY OF THE U.S. & STATE OF WIS. DEPT. OF HEALTH & FAM. SERV., DIV. OF DISABILITY & ELDER SERV., BUREAU OF AGING & LONG TERM CARE RESOURCES, CREATING SAFER COMMUNITIES FOR OLDER ADULTS AND PETS (2003).

²² JANET HOY-GERLACH & SCOTT WEHMAN, HUMAN-ANIMAL INTERACTION: A SOCIAL WORK GUIDE 16 (2017).

²³ SPARC, *What is Stalking?: Definition and FAQs*, <https://www.stalkingawareness.org/definition-faqs/> (last visited Sep. 28, 2024).

²⁴ SHARON G. SMITH, KATHLEEN C. BASILE, & MARCIE-JO KRESNOW, THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2016/2017 REPORT ON STALKING—UPDATED RELEASE (Atlanta, Georgia: Ctrs. for Disease Ctrl. & Prev., 2022), <https://www.cdc.gov/nisvs/documentation/nisvsStalkingReport.pdf>. (last visited Sep. 28, 2024).

²⁵ KATRINA BAUM, SHANNAN CATALANO, & MICHAEL RAND, NATIONAL CRIME VICTIMIZATION SURVEY: STALKING VICTIMS IN THE UNITED STATES (Washington, DC: Bureau of Justice Statistics, 2009), <https://www.justice.gov/sites/default/files/ovw/legacy/2012/08/15/bjs-stalking-rpt.pdf>. (last visited Sep. 28, 2024).

B. VICTIMS SUFFER ADDITIONAL HARM WHEN THEIR PETS ARE ABUSED

The connection between animal abuse and various forms of interpersonal violence is not a coincidence. Many studies hypothesize—and victims directly report—that abusers threaten, physically harm, neglect, or even kill animals in the home in order to exert power and control. Perpetrators abuse animals in order to make their victims feel fear, demand compliance with their will, remind victims that they are in control, “punish” victims for perceived transgressions, or coerce victims into staying or returning to a violent relationship.²⁶ In one study, 50% of children who lived in homes with DV reported that the abuser threatened to harm or kill a pet in order to maintain control over their human victims.²⁷ Another study found that 71% of abused women reported that their partners hurt, killed, or threatened their pets to control them and their children.²⁸ In the context of elder abuse, a caregiver may threaten to harm the victim’s pet in order to extort the victim’s money or other assets.²⁹

Since adults and children overwhelmingly consider their pets to be family members,³⁰ violence or threats of violence against pets causes substantial emotional distress. Numerous studies have documented the close emotional bond between people (especially DV victims) and their animals, as well as the traumatic impact humans experience after the abuse of a beloved pet.³¹ Harm to a pet can be especially stressful for elderly victims, who may view their animals as their only companions, their last link to a deceased spouse, or their motivation to engage in healthy habits like exercising.³² Their

²⁶ See generally The National Link Coalition, <https://nationallinkcoalition.org/> (last visited Sep. 28, 2024); Brinda Jegatheesan, et al., *supra* note 8, at 3, 4, 8, 15; Daniel Mota-Rojas, et al., 12 (997) *Animal Abuse as an Indicator of Domestic Violence: One Health, One Welfare Approach*, ANIMALS, 2, 4-6, 14, 15, (2022), <https://doi.org/10.3390/ani12080977>; Jasmine Montgomery, et al., *A Scoping Review of Forced Separation Between People and Their Companion Animals*, 37 (2) *Anthrozoös*, at 259 (2024), <https://doi.org/10.1080/08927936.2023.2287315>; Sarah Deer & Liz Murphy, *Animals May Take Pity On Us: Using Traditional Tribal Beliefs to Address Animal Abuse and Family Violence Within Tribal Nations*, 43 MITCHELL HAMLIN L. REV. 703, 736, 741 (2017); Nathaniel M. Fields & Katie Ray-Jones, Urban Resource Institute and National Domestic Violence Hotline, *PALS Report and Survey, Domestic Violence and Pets: Breaking Barriers to Safety and Healing*, 6, 10-11, 14-15 (2021) <https://urinc.org/download/urban-resource-institute-and-the-national-domestic-violence-hotline-survey-finds-pets-are-critical-priority-for-survivors-seeking-safety/> (last visited Sep. 28, 2024); Amy J. Fitzgerald, “They gave me a reason to live”: *The protective effects of pets on the suicidality of abused women*, 31 HUMANITY & SOCIETY 355-378, 372 (2007), <https://doi.org/10.1177/016059760703100405>. (last visited Sep. 28, 2024).

²⁷ Shelby Elaine McDonald et al., *Children’s Experiences of Pet Maltreatment in Households Characterized by Intimate Partner Violence*, 50 CHILD ABUSE & NEGLECT 116 (2016).

²⁸ Frank R. Ascione, *supra* note 19, at 119 (2007).

²⁹ PHIL ARKOW, ELDER ABUSE AND ANIMAL ABUSE: IMPLICATIONS AND STRATEGIES FOR ADULT PROTECTIVE SERVICES (Nat’l Adult Protective Svcs. Ass’n, 2012), <https://www.napsa-now.org/wp-content/uploads/2012/06/Elder-Abuse-and-Animal-Abuse-Implications-and-Strategies-for-Adult-Protective-Services.pdf>. (last visited Sep. 28, 2024).

³⁰ Washington: American Veterinary Med. Ass’n., *supra* note 7.

³¹ See, e.g., Frank R Ascione, et al. *supra* note 19; Elizabeth A. Collins, et al., *A template analysis of intimate partner violence survivors’ experiences of animal maltreatment: implications for safety planning and intervention* 24(4) VIOLENCE AGAINST WOMEN, 452 (2018).

³² Arkow, *supra* note 29.

strong emotional attachments to pets often lead victims to stay in dangerous situations to protect their pets. As discussed *infra*, multiple studies have found that DV victims often either delay leaving or return to abusive partners to protect their animals.³³ Elderly or disabled individuals may likewise delay long-term care or hospital stays.³⁴

Co-occurring animal cruelty and IPV may signal an escalating danger to human victims. A recent study concluded that women who reported animal cruelty in the home were themselves significantly more likely to experience more frequent and severe forms of DV, including sexual abuse, than women who did not report animal cruelty.³⁵

Children, too, are at risk when animal cruelty persists in the home. Children frequently witness DV and thus also frequently witness co-occurring animal abuse and neglect. One study estimated that between 62–76% of animal cruelty in a home occurs in the presence of a child.³⁶ These children are also frequently abused themselves, both psychologically and physically.³⁷ According to the National Sheriff's Association, 60% of families under investigation for any form of child abuse, and 88% of those specifically investigated for physical child abuse, also reported instances of animal cruelty.³⁸ Studies demonstrate that children often intervene to protect their animals from violence, putting them at risk of physical beatings for defying the will of their abusers.³⁹ In one of the largest U.S. studies of its kind involving interviews of 242 children at 22 domestic abuse shelters in Colorado, approximately 38% of the children relayed that someone had hurt or killed their pet, 27% reported that someone had threatened to harm/kill their pet, and 35% reported both threats and actual harm/killing of that pet.⁴⁰ Nearly 78% of these children also stated that they had taken preemptive action to protect their pet.⁴¹

Witnessing animal cruelty causes children psychological trauma and negatively impacts their development. One study found that children who witness both animal cruelty and family violence are more likely than other children to experience depression and anxiety.⁴² These children may also eventually commit violence themselves. According to Roshni Trehan Ladny, and Laura Meyer, “[w]itnessing animal cruelty may cause desensitization,

³³ See, e.g., Barrett et al., *supra* note 18 (finding that approximately one-third of women studied reported delaying their escape out of fear for their animals); see also Catherine A. Faver & Elizabeth B. Strand, *To Leave or To Stay? Battered Women's Concern for Vulnerable Pets*, 18 J. INTERPERSONAL VIOLENCE 1367, 1374 (2003).

³⁴ Phil Arkow, *supra* note 29.

³⁵ Betty Jo Barrett et al., *supra* note 18, at 18.

³⁶ Catherine A. Faver & Elizabeth B. Strand, *supra* note 33.

³⁷ Karianne Muri, Else-Marie Augusti, Margun Bjørnholt, & Gertrude Sofie Hafstad, *Childhood experiences of pet abuse and its co-occurrence with domestic abuse: evidence from a national youth survey in Norway*, 37(23-24) J. INTERPERSONAL VIOLENCE 22627 (2022).

³⁸ NATIONAL SHERIFF'S ASS'N, ANIMAL CRUELTY AND CHILD ABUSE, <https://www.sheriffs.org/animal-cruelty-and-child-abuse> (last visited Sep. 26, 2024).

³⁹ Shelby Elaine McDonald et al., *supra* note 27.

⁴⁰ *Id.* at 7.

⁴¹ *Id.*

⁴² Albert Girardi & Joanna Pozzulo, *Childhood Experiences with Family Pets and Internalizing Symptoms in Early Adulthood*, 28 ANTHROZOËS 421 (2015).

decreased empathy, learned maladaptive coping mechanisms and other negative behaviors, and unresolved feelings of anger, fear, and resentment—which may, in turn, lead to perpetrating violence.”⁴³ This violence can take many forms in adolescence and adulthood, including but not limited to DV, sexual assault, and animal abuse.⁴⁴

At the same time, maintaining relationships with pets on whom children have become dependent during the stress of DV can foster the children’s recovery and healing.⁴⁵ Research has shown that children experiencing DV who have close relationships with pets derive social support from those pets that can protect them from developing traumatic numbing.⁴⁶ Researchers have further found that the development of programs that allow families to ensure the safety of their pets may decrease animal cruelty and may be important in reducing the development of post-traumatic stress disorder (PTSD) and callous unemotional traits (lack of empathy) in children who have depended upon pets when experiencing the extreme stress of DV.⁴⁷

The effects of DV and/or stalking are not limited to humans. Pets themselves experience both physical and emotional trauma. Physical abuse against animals may include: kicking, punching, stomping and other blunt force trauma; shooting; stabbing; strangulation; burning (by fire or by chemicals); drowning; poisoning; and sexual abuse.⁴⁸ Pets are also deeply affected emotionally when they suffer or witness violence.⁴⁹ For example, surviving chronic abuse can mean that pets develop a “fatalistic acceptance” of the abuse and a need to be on high alert in order to anticipate and change their behavior

⁴³ Roshni Trehan Ladny & Laura Meyer, *Traumatized Witnesses: Review of Childhood Exposure to Animal Cruelty*, 13 J. CHILD & ADOLESCENT TRAUMA 527 (2019).

⁴⁴ *Id.*; Laura M. Wauthier and Joanne M. Williams, *Understanding and conceptualizing childhood animal harm: a meta-narrative systematic review*, 35(2) ANTHROZOËS 165 (2022); Andrew M. Campbell et al., *Intimate Partner Violence and Pet Abuse: Responding Law Enforcement Officers’ Observations and Victim Reports from the Scene*, 36(5-6) J. INTERPERSONAL VIOLENCE 1 (2018).

⁴⁵ See Shelby Elaine McDonald, et al., *supra* note 27, at 14,16 (in which researchers concluded that pets are important to children and may be important “resiliency agents providing comfort and consistency for children who are exposed to high levels of fear and uncertainty” and that a pet relationship can present a “powerful opportunity to promote self-esteem, encourage the development of empathic concerns and encourage positive social interaction in children subject to psychosocial risk.”)

⁴⁶ Jennifer L. Murphy, et al., *Positive Engagement with Pets Buffers the Impact of Intimate Partner Violence on Callous-Unemotional Traits in Children*, 37 J. INTERPERSONAL VIOLENCE 20 NP17205-NP17226, NPI7215, 2022, <https://doi.org/10.1177/08862605211028301> (last visited Sep. 28, 2024); see also McDonald et al. *supra* note 27, Ascione, et al., *supra* note 19, at 364-66, Montgomery, et al., *supra* note 26, at 259.

⁴⁷ *Id.*

⁴⁸ See Randall Lockwood & Phillip Arkow, *Animal Abuse and Interpersonal Violence: The Cruelty Connection and Its Implications for Veterinary Pathology*, VET. PATH. 910-18, (March 2, 2016), <https://doi.org/10.1177/0300985815626575> (last visited Sep. 28, 2024); Nik Taylor & Heather Fraser, *Companion Animals and Domestic Violence, Rescuing Me, Rescuing You, Foregrounding Companion Animals’ Experience of Domestic Violence*, Chapter 5, 123-151, Palgrave Studies in Animals and Social Problems (2019), https://doi.org/10.1007/978-3-030-04125-0_5 (last visited Sep. 29, 2024); (London: Palgrave Macmillan, 2019)); Ascione, et al., *supra* note 19, at 361.

⁴⁹ Taylor & Fraser, *supra* note 48, at 129-35; see Lockwood and Arkow, *supra* note 48, at 5-7; Jegatheesan, et al., *supra* note 7, at 4.

in an attempt to avoid the abuse.⁵⁰ Emotional trauma from abuse manifests in various behaviors, including: hiding, cowering, aggression, fleeing, generalized anxiety, excitability, attention-seeking, and a generalized fear of men.⁵¹ In addition, pets may suffer stress-related health problems as a result of abuse, such as painful skin rashes.⁵² This can be exacerbated by the forced separation of pets and victims or by pets being left with abusers.⁵³ Such separation or abandonment can lead to dire consequences for the pet, including more severe injury or death at the hands of the abuser, failed rehoming, long animal shelter stays, and euthanasia.⁵⁴ As discussed throughout, harm and suffering of companion animals have profound negative impacts on the people who love them.

IV. CIVIL LEGAL TOOLS TO PROTECT THE HUMAN-ANIMAL BOND

A. CONSIDERING PETS IN FAMILY LAW PROCEEDINGS

While pets are overwhelmingly considered members of the family, pets have historically been treated in family law disputes like inanimate assets to be divided by the parties—if they are considered at all in some jurisdictions. Despite the importance of pets to their human families, they are sometimes relegated to a status even below that of other property. In the absence of legislative guidance, courts have taken an array of approaches to disputes involving pets.⁵⁵ The failure to consider pets in family law proceedings is a disservice to litigants that can easily be corrected, and a growing number of states are doing so through the passage of legislation.

In a 2014 survey by the American Academy of Matrimonial Lawyers, more than a quarter of attorneys said they had seen increases in disputes about pets over the previous five years.⁵⁶ Nearly a quarter of the attorneys surveyed reported that courts were more frequently allowing pet custody claims, and 20% cited an increase in courts deeming pets to be an asset during a divorce.⁵⁷ Courts have increasingly acknowledged the importance of giving these disputes an appropriate forum for resolution, with a New York Appellate Court noting that:

[M]atrimonial judges spend countless hours on other disputes that do not rise to a level of importance anywhere near that of children. If judicial

⁵⁰ Taylor & Fraser, *supra* note 48, at 130.

⁵¹ *Id.* at 132.

⁵² *Id.* at 130.

⁵³ *Id.* at 132-135.

⁵⁴ *Id.*; Montgomery et al., *supra* note 26, at 246-47, 259; Taylor, et al., *supra* note 7, at 31.

⁵⁵ See e.g., *Bennett v. Bennett*, 655 So. 2d 109, 110 (Fla. 1st Dist. App. 1995); *In re The Marriage of Stewart*, 356 N.W.2d 611, 613 (Iowa App. 1984); *Houseman v. Dare*, 966 A. 2d 24, 27-28 (N.J. Super App. Div. 2009).

⁵⁶ Pamela Babcock, Are Pets Assets or Part of the Family? States Are Passing Laws That Give Judges a Longer Leash in Divorce Custody Proceedings, ABA JOURNAL (June 1, 2019), <https://www.abajournal.com/magazine/article/pets-assets-family-divorce-custody> (last visited Sep. 28, 2024).

⁵⁷ *Id.*

resources can be devoted to such matters as which party gets to use the Escalade as opposed to the Ferrari, or who gets to stay in the Hamptons house instead of the Aspen chalet, there is certainly room to give real consideration to a case involving a treasured pet.⁵⁸

New York subsequently joined the growing number of states that have passed statutes reflecting our changed attitudes towards pets as members of the family by directly considering pets in the context of marriage dissolution.⁵⁹

Between 2017 and October 2024, Alaska, California, Delaware, Illinois, Maine, New Hampshire, New York, Rhode Island, and the District of Columbia have passed legislation to address this issue.⁶⁰ These statutes vary in their level of detail, with the California, Delaware, Maine, and Rhode Island laws being the most comprehensive and clear in providing the courts and litigants guidance.⁶¹

All nine statutes reference the well-being, best interests, or care of pets in terms of how a court might assign ownership to one or both of the parties in a family law dispute.⁶² Maine's law *expressly* states that courts may contemplate DV as a relevant factor in assigning pet ownership to a single party.⁶³ A history of animal abuse,⁶⁴ the ability to provide adequate care for the animal,⁶⁵ and the emotional attachment between the animal and the parties or any children⁶⁶ are other listed factors in the Maine statute.

The other eight statutes implicitly contemplate the consideration of DV by addressing the well-being or best interests of an animal, with the California, Delaware and Rhode Island statutes being more comprehensive.⁶⁷ All three of those statutes enumerate specific factors for a court to consider in assigning pet ownership, and the existence of DV would likely affect a court's evaluation of the listed factors, as discussed below.⁶⁸

⁵⁸ *Travis v. Murray*, 977 N.Y.S.2d 621 (S. Ct. N.Y. 2013).

⁵⁹ N.Y. Dom. Rel. Law § 236(B)(5)(d)(15)(effective 2021).

⁶⁰ See Alaska Stat. § 25.24.200(f) (effective 2017); 750 Ill. Comp. Stat. 5/503(n) (effective 2019); Cal. Fam. Code § 2605 (effective 2019); N.H. Rev. Stat. § 458:16-a(I)–(II) (effective 2019); Me. Stat. tit. 19-A, § 953(10) (effective 2021); N.Y. Dom. Rel. Law § 236(B)(5)(d)(15) (effective 2021); Del. Code tit. 13, § 1513(g) (effective 2023); D.C. Code § 16-910(a)(3)(B) (effective 2023); R.I. Gen. Laws § 15-5-30 (effective 2024).

⁶¹ Cal. Fam. Code § 2605; Me. Stat. tit. 19-A, § 953(10); Del. Code tit. 13, § 1513(g).

⁶² *Id.*

⁶³ Me. Stat. tit. 19-A, § 953(10)(F).

⁶⁴ Me. Stat. tit. 19-A, § 953(10)(G).

⁶⁵ Me. Stat. tit. 19-A, § 953(10)(A)–(C). It is essential that family law judges understand the dynamics of domestic violence to properly evaluate these factors because an abuser may exercise financial or other coercive control over a victim that deprives the victim of the ability to care for a pet.

⁶⁶ Me. Stat. tit. 19-A, § 953(10)(D)–(E).

⁶⁷ Cal. Fam. Code § 2605; Del. Code tit. 13, § 1513(g).

⁶⁸ *Id.*

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The California statute specifies that when assigning sole or joint ownership, a court's consideration of the "care" of the pet includes contemplating the prevention of acts of animal cruelty, as well as the provision of "safe and protected shelter" for the pet.⁶⁹

The Delaware statute allows a family court to consider the parties' abilities to care for a pet,⁷⁰ their bond with the pet,⁷¹ and the time and effort invested in the pet during the marriage⁷² in "award[ing] ownership of and responsibility for" the pet to one or both parties in alignment with the pet's well-being.⁷³ In addition, if a Delaware family court awards "shared interest" in the pet, a party may petition for sole ownership "based upon the welfare of the pet and the totality of the circumstances" upon a "substantial change of circumstances."⁷⁴ This legal option would allow a party to request sole ownership if new concerns related to the pet's safety arise after the court's initial determination.

The Rhode Island statute provides a list of enumerated factors for the court to evaluate in considering the best interests of the pet, including, importantly, the relationship between the pet and children in the family and the attachment of children to their pet.⁷⁵

The fate of a pet is an important consideration during divorce proceedings due to the close bond shared with a pet, but the stakes are higher, and the consequences of failing to consider pets in divorce proceedings more dire, when the case involves abuse. Since adults and children overwhelmingly consider their pets to be family members, violence or threats of violence against pets causes them substantial emotional distress.

This Resolution, thus, urges the enactment of laws like those in the nine jurisdictions highlighted above, that authorize courts to make provisions for the safety, well-being, and best interest of pets, including considering any existence or prior history of family violence and/or animal cruelty, when entering orders and/or assigning ownership of pets in domestic relations cases. The Resolution leaves legislatures to consider the varying approaches taken by the states discussed above as they relate to other relevant factors.

B. PROTECTING VICTIMS VIA CIVIL PROTECTION ORDERS INCLUDING PETS

Given the strong correlation between DV and other forms of human and animal abuse, when a victim seeks protection from the courts via a civil restraining order, it is essential that the order protect at-risk pets as well. Jurisdictions throughout the country have recognized the link between animal cruelty and interpersonal violence and have sought to end this web of abuse through the enactment of state and federal laws that allow for the inclusion of pets in civil protection orders (POs):

⁶⁹ Cal. Fam. Code § 2605(c)(1).

⁷⁰ Del. Code tit. 13, § 1513(g)(2)(a).

⁷¹ Del. Code tit. 13, § 1513(g)(2)(b).

⁷² Del. Code tit. 13, § 1513(g)(2)(c).

⁷³ Del. Code tit. 13, § 1513(g).

⁷⁴ Del. Code tit. 13, § 1513(g)(3).

⁷⁵ R.I. Gen. Laws § 15-5-30(a)(6).

- As of December 2024, at least 41 states and the District of Columbia, and several U.S. territories, have statutes allowing protections for pets to be included in DV POs, with the specific terms of these laws varying between jurisdictions.⁷⁶
- The federal Pet and Women Safety (PAWS) Act allows federal prosecutors to enforce PO violations committed in interstate commerce against pets.⁷⁷
- Federal law and many state legislatures have expanded the definition of stalking to include actions that cause a victim to fear serious injury or death to their pets.⁷⁸
- At least 12 states and D.C. mandate or permit child protection and social work officials to report suspected animal abuse, while 11 states and D.C. mandate or permit humane and animal control officers to reported suspected child or elder abuse.⁷⁹

When courts consider the safety and well-being of pets when issuing POs, victims may be more inclined to report abuse and leave dangerous situations where they and their pets might otherwise face severe harm or death. By disrupting DV and associated animal cruelty, POs can also limit children’s exposure to these harmful experiences, which may contribute to better psychological and behavioral outcomes in the long term.

The ABA has a chance to demonstrate forward-thinking leadership and build upon the progress of existing laws by urging governments to enact laws permitting courts to protect victims by including pets in POs in cases involving DV, dating violence, sexual assault, child abuse, elder and other vulnerable adult abuse, and stalking. Such laws have the potential to disrupt complex patterns of interpersonal violence and safeguard the well-being of humans and animals alike.

C. EXPANDING SHELTER AND HOUSING OPTIONS FOR VICTIMS WITH PETS

As described above, the human-animal bond serves the well-being of both human abuse victims and their pets.⁸⁰ Pets are “uniquely situated” to provide emotional support to

⁷⁶ Animal Legal Defense Fund, *Laws That Include Animals in Protection Orders*, <https://www.aldf.org/project/animals-included-in-protection-orders/> (last visited Sep. 29, 2024). See, e.g., Cal. Welf. & Inst. Code § 15657.03(b)(5)(A) (Multiple jurisdictions also allow pets to be included in stalking protection orders and protection orders for elder and vulnerable adults); Colo. Rev. Stat. § 13-14-105(1)(h); Ryan Graphius, Bipartisan bill protecting pets in domestic violence cases signed into Pennsylvania law, WJAC, <https://wjactv.com/news/local/bipartisan-bill-protecting-pets-domestic-violence-cases-signed-into-pennsylvania-law-abuse-pfa-animals-legislation> (last visited Dec. 11, 2024).

⁷⁷ 18 U.S.C. § 2262.

⁷⁸ 18 U.S.C. § 2261(a); Ariz. Rev. Stat § 13-2923(A)(1)(b)(ii),(A)(2)(a); Conn. Gen. Stat. § 53a-181d(b)(1); Me. Rev. Stat. tit. 17-A, § 210-A (1)(A)(5).

⁷⁹ Animal Legal Defense Fund, *Animal Cruelty’s Link to Other Forms of Violence* (East Cotati, CA: Animal Legal Defense Fund, 2022), <https://aldf.org/wp-content/uploads/2022/01/Animal-Legal-Defense-Fund-Link-Factsheet.pdf>. (last visited Sep. 29, 2024).

⁸⁰ Taylor et al., *supra* note 7, at 29-34; Montgomery, et al., *supra* note 26, at 259-60; Fields & Ray-Jones, *supra* note 26; Jessie L. Krienert, et al., *Examining the Nexus Between Domestic Violence and Animal Abuse in a National Sample of Service Providers*, 27 *Violence and Victims*, 280-295, 291-293, (2012),

abuse victims and “can even serve a protective function against suicidality.”⁸¹ Surveyed victims and their children have reported that they are emotionally close to their pets and were psychologically traumatized by the abuse their pets suffered (including by witnessing that abuse).⁸² In a 2019 National Domestic Violence Hotline (NDVH) survey, 86% of respondents reported that emotional support from pets is significant for their ability to survive and heal.⁸³

The deep bond between victims and their pets often results in victims sacrificing their own safety to protect their pets from abuse. This can quite literally be a life-or-death decision. Scholars and service professionals alike consider the intimate partners of animal abusers to be at significant risk of serious injury or death.⁸⁴ This resolution strives to reduce barriers to safety and to increase access to pro bono legal services to facilitate safe housing and legal representation of victims with pets.

1. Removing Barriers to Safety for Victims as Well as Their Pets

The lack of safe emergency shelter for pets is especially concerning because victims are more likely to remain in an abusive environment out of concern for a pet’s safety. In 2019, The NDVH and the Urban Resource Institute conducted a survey with the intent of gaining the most comprehensive U.S. data available about how the presence of pets affects DV victims’ options and decision-making.⁸⁵ In the survey, 2,840 abuse victims were interviewed when they were reaching out for shelter. Fifty percent of respondents reported that they would not consider entering shelter if they could not take their pet with them; 81% stated that it was extremely important to keep their pets with them.⁸⁶

Despite the wide recognition that victims stay in harm’s way to protect their pets, most DV programs are currently not able to include pets in emergency housing.⁸⁷ While progress is increasingly being made, more resources are greatly needed to create, incentivize, and/or continue programs with options such as co-sheltering pets with victims and/or foster housing and boarding at local animal shelters, kennels and veterinary clinics.⁸⁸

doi: 10.1891/0886-6708.27.2.280; (last visited Sep. 29, 2024); Ascione, et al., *supra* note 19, at 365; Murphy, et al., *supra* note 46.

⁸¹ Fitzgerald, *supra* note 26, at 355, 360, 371; Fields & Ray-Jones, *supra* note 26; Krienert et al., *supra* note 80; Taylor et al., *supra* note 7, at 29-34.

⁸² Taylor et al., *supra* note 7, at 29-30; Jegatheesan et al., *supra* note 7, at 3,4,8,15; Montgomery et al., *supra* note 26, at 259.

⁸³ Fields & Ray-Jones, *supra* note 26, at 57.

⁸⁴ See e.g., Andrew M. Campbell, Shannon L. Tompson, Tara L. Harris, and Sarah E. Wiehe, *Intimate partner violence and pet abuse: responding law enforcement officers’ observations and victim reports from the scene*, 36 (5-6) J. Interpersonal Violence 2353–2372 (2018).

⁸⁵ Fields & Ray-Jones, *supra* notes 52-60.

⁸⁶ *Id.*

⁸⁷ Jegatheesan et al., *supra* note 7, at 4; Deer and Murphy, *supra* note 26, at 741; Montgomery et al., *supra* note 26, at 261.

⁸⁸ Hillary L. Pearce, et al., *A novel corporate-community partnership model provides safe housing for pets of domestic violence victims*, 262 J Am Vet Med Ass’n, 685-691 (2024) <https://doi.org/10.2460/javma.23.12.0716> (last visited Sep. 29, 2024); Taylor et al., *supra* note 7, at 143.

Co-sheltering options for victims with pets should be prioritized where feasible because protecting the human-animal bond is essential to preventing further emotional harm to both victims and their pets. For example, in 2024 Australian researchers performed a review of global peer-reviewed literature that presented research on adults who had strong emotional bonds with pets during DV.⁸⁹ The researchers found that, for victims who felt responsible for their pets, the forced separation from their pets had deleterious effects on their health, well-being, and safety.⁹⁰ Those effects included: decreased psychosocial functioning; debilitated family function; increased psychological trauma, acute stress, and peri-traumatic dissociation (i.e., significant predictors of Post-Traumatic Stress Disorder); homelessness; and increased worry, trauma, and guilt for their pets.⁹¹ The authors concluded that the failure of programs to provide for the deep connection between victims and their pets, including by not providing sufficient support for victims to stay with their pets, hinders the recovery process and may thereby negatively impact health and animal welfare sectors as well as the wider community.⁹²

In the United States, approximately 1,000 domestic abuse shelters are addressing pet sheltering needs by providing on-site emergency shelter, fostering, or boarding services, or by providing referrals for such services.⁹³ One non-profit source campaigning for co-sheltering, Red Rover, estimates that 19% of all U.S. DV shelters (approximately 365 shelters) provide on-site sheltering for pets.⁹⁴ This number has risen from 3% in 2012.⁹⁵ To increase these numbers, more must be done to address the numerous structural and economic barriers that prevent more DV programs from being able to shelter victims' pets.

Challenges facing pet sheltering programs include: fundraising; modification of facilities or new construction of space for pets; recruiting and training volunteers; reimbursing volunteers for costs like fuel, veterinary care, and pet supplies and food; and outreach and education (for victims, medical personnel, social workers, vets, and DV shelters).⁹⁶

Once discharged from emergency shelter, DV survivors face significant ongoing challenges in securing transitional housing. DV is a leading cause of homelessness for women and their children, with between 22-57% of homeless women reporting that DV

⁸⁹ Montgomery et al., *supra* note 26, at 259.

⁹⁰ *Id.* at 260.

⁹¹ *Id.* at 247, 260.

⁹² *Id.*

⁹³ Safe Havens Mapping Project <https://www.safehavensforpets.org/> (last visited Sep. 29, 2024).

⁹⁴ Katie Campbell, President and CEO, Red Rover, *Empowering Progress—Our 25 by 2025 First Year Update*, July 2, 2024 Empowering Progress – Our 25 by 2025 Year Update -)(Red Rover's campaign goal is to have 25% of all U.S. domestic violence shelters co-sheltering by 2025) RedRover.org (last visited Sep. 29, 2024); Animal Welfare Institute, *An Examination of Safe Haven Deserts, Identifying Areas That Lack Sheltering Services for Pets of Domestic Violence Survivors*, 2021, *An Examination of Safe Haven Deserts* | Animal Welfare Institute. <https://awionline.org/content/examination-safe-haven-deserts> (last visited Sep. 29, 2024).

⁹⁵ *Id.*

⁹⁶ Pearce et al., *supra* note 88, at 686.

was the immediate cause of their homelessness.⁹⁷ Having a pet can exacerbate these challenges. Thus, not only emergency shelter, but also transitional shelter and housing that is pet-friendly, is the key to ensuring that victims, children, and their pets can stay together after they have found safety from an abuser.

Domestic abuse service providers and, in some cases, abuse victims, may apply for grants that provide for these needs through various national and local non-profits.⁹⁸ Government grant sources include the PAWS Act, under which Congress directed the Department of Agriculture to award grants to programs that provide emergency and transitional shelter and housing for DV victims with pets, including co-locating pets with victims and housing pets elsewhere in the community.⁹⁹ Grantees may use funds to educate victims about the availability of pet protection and to enable victims to find and secure safe housing with or for their pets. Grant money may also be used for pet transportation and pet care services. Fourteen grants totaling \$3,700,000 were awarded in 2023.¹⁰⁰ More grant programs, especially at the state level, would facilitate even greater progress in providing safe shelter for pets, with a focus on co-sheltering when feasible.¹⁰¹

2. Improving Access to Pro Bono Legal Services for Victims with Pets

Another essential need for the success of these programs is improving access to pro bono legal services to support foster and/or co-sheltering programs and victims with pets.¹⁰² Unlike a typical foster program where the animal rescue nonprofit legally owns the animals in their care, a DV victim is typically seeking only temporary care, not a relinquishment of ownership. Legal paperwork should serve as the foundation for the foster program. This paperwork may include documents such as: a temporary shelter agreement, a waiver and liability release, authorizations to share confidential information

⁹⁷ National Network to End Domestic Violence, Domestic Violence and Homelessness', https://nnedv.org/wp-content/uploads/2019/07/Library_TH_2018_DV_Housing_Homelessness.pdf (last visited Sep. 29, 2024).

⁹⁸ U.S. examples include: AKC Humane Fund Women's Shelter Grants, <https://akchumanefund.org> (last visited Oct. 4, 2024), Banfield Foundation Safer Together Grants Safer Together Initiative®, <https://www.banfieldfoundation.org> (last visited Oct. 4, 2024), RedRover Safe Escape Grants Domestic Violence Safe Escape Grants - RedRover, <https://www.redrover.org> (last visited Oct. 4, 2024), Sheltering Animals of Abuse Victims Grants, <https://www.saaavprogram.org> (animal care microgrants are limited to Dane County, Wisconsin)(last visited Oct. 4, 2024).

⁹⁹ H.R. 909, 115 Cong., Pets and Women Safety Act of 2017.

¹⁰⁰ See U.S. Department of Justice, Office of Crime Victims, Emergency and Transitional Pet Shelter and Housing Assistance Grant Program <https://ovc.ojp.gov/funding/opportunities/o-ovc-2024-172145> (last visited Sep. 29, 2024) (where grants from 2021-2024 are available to view).

¹⁰¹ See e.g., New Jersey's Domestic Violence Shelter Pet Grant Program, <https://www.billtrack50.com/billdetail/1704093> (last visited Oct. 2, 2024) (Introduced during the 2024-25 Regular Session. If passed, the Program would, among other things, "provide funds to domestic violence shelters to allow the pets of victims of domestic violence to reside concurrently with their owners within domestic violence shelters.").

¹⁰² Megan A. Senatori & Alison Palmbach, *Lawyers Can Play a Vital Role in Facilitating Refuge for Humans and Animals Impacted by Domestic Violence*, ABA Animal Law Committee Winter/Spring Newsletter (2023), <https://law.lclark.edu/live/files/34801-aba-tips-animal-law-committee-newsletter-spring> (last visited Sep. 29, 2024).

amongst the participating organizations (while keeping applicable privileges intact), consent forms, and foster parent contracts.

Clear legal documents help to stave off misunderstandings with the abuse survivor, as well as to protect the participating organizations from liability. In addition, the participating organizations may need counsel as legal questions inevitably arise. Victims with pets also may require legal representation as part of their transition to safety. By urging the provision of pro bono legal services, the ABA can fill a critical gap that may prevent more shelter programs for pets from being created and improve legal access for victims.

Finally, the training of relevant stakeholders is an important component in creating and incentivizing pet shelter programs, as is recognized in the PAWS Act. There, Congress made grant funding available to train stakeholders regarding the Link, the needs of DV victims, best practices for supporting victims and providing referrals, and confidentiality.¹⁰³

As shown above, more emergency and transitional shelter and housing for abuse victims with pets that, where feasible, prioritizes pet co-sheltering, along with improving access to pro bono legal services for shelter programs and victims with pets, will remove barriers to victims seeking safety and protect the bond between victims and their pets.

V. CONCLUSION

Research confirms that people regard their pets as family members. Given the stark impacts on humans and pets experiencing abuse, more can and should be done to fill existing gaps. This Resolution urges progress and is consistent with the eight states and the District of Columbia which have legislation relating to pets in family law cases;¹⁰⁴ the 41 U.S. states and the District of Columbia, and several U.S. territories that allow for courts to include pets in DV POs;¹⁰⁵ and the federal PAWS Act by urging more options for emergency and transitional shelter and housing that includes the pets of survivors.¹⁰⁶

Respectfully Submitted,

Christopher R. Nolan, Chair
Tort Trial & Insurance
Practice Section

Lyne Ranson, Chair
Family Law Section

Maleaha Brown, Chair
Commission on Domestic
& Sexual Violence

February 2025

¹⁰³ Pets and Women Safety Act of 2017, *supra* note 99.

¹⁰⁴ Babcock, *supra* note 56.

¹⁰⁵ See *Laws That Include Animals in Protection Orders*, Animal Legal Defense Fund, <https://aldf.org/project/animals-included-in-protection-orders/> (last visited Sep. 29, 2024) (providing overview of U.S. states and territories that have passed legislation allowing courts to include animals in protection orders).

¹⁰⁶ Pet & Women Safety Act of 2017, *supra* note 109.

GENERAL INFORMATION FORM

Submitting Entity: Tort Trial & Insurance Practice Section (TIPS)
 Co-Sponsors: Family Law Section
 Commission on Domestic & Sexual Violence

Submitted By: Daina Bray, TIPS Delegate

1. Summary of the Resolution

The Resolution addresses three interrelated issues. First, the Resolution urges the enactment of laws and/or the support of judicial processes that make provisions for the safety, well-being, best interest of pets in domestic relations proceedings, including considering any existence or prior history of family violence and/or animal cruelty, when entering orders and/or assigning ownership of pets. Second, the Resolution urges legislatures to enact laws empowering courts to protect victims with pets by including pets in civil protection orders for cases involving domestic violence, dating violence, sexual assault, stalking, child abuse, and/or for protection of the elderly and/or orders issued in response to other forms of abuse. Finally, the Resolution urges governments (federal, state, local, territorial and tribal) to remove barriers to victims seeking safety for themselves and their pets through promoting greater emergency and transitional shelter and housing options and improving access through pro bono legal services to shelter programs and victims with pets.

2. Indicate which of the ABA's Four goals the Resolution seeks to advance (1-Serve our Members; 2-Improve our Profession; 3-Eliminate Bias and Enhance Diversity; 4-Advance the Rule of Law) and provide an explanation on how it accomplishes this.

ABA Goal IV calls for the ABA to “advance the rule of law.” By assuring that litigants have “meaningful access to justice” and “a fair legal process” to resolve disputes over pets in family law cases and provide civil legal protections for pets where there is family violence and/or the risk of neglect or animal abuse, that goal is met. By providing clear legal standards regarding how a dispute over a pet should be resolved, this Resolution will also “[i]ncrease public understanding of ... the legal process” such that parties will know their rights and can assess the risk of litigating a dispute relating to their pets.

Moreover, the focus of the Resolution on protecting victims of abuse also promotes ABA Goal II to “eliminate bias” and “advance diversity.” It is well-established that victims of gender-based crimes, such as domestic violence, sexual assault, and stalking have suffered from bias within the justice system.¹⁰⁷ Comprehensive civil

¹⁰⁷ See U.S. Dep't of Justice, Improving Law Enforcement Response to Sexual Assault and Domestic Violence by Identifying and Preventing Gender Violence (2015), <https://www.justice.gov/ovw/page/file/1509451/dl>, at 1 (stating that “Too often and for too long, gender

restraining order laws across areas where victims are at risk are essential not only to protect victims, but also to prevent further emotional harm and trauma to victims by providing a legal remedy to shield their pets from abuse.

This Resolution also promotes ABA Goal II as it will “improve our profession” and “promote pro bono and public service” by raising awareness regarding the link between domestic violence and animal cruelty and by improving access to legal services to facilitate safe housing for victims with pets. Finally, this Resolution will “apply the knowledge and experience of the profession by promoting the public good,” one of the ABA’s constitutional purposes.

3. Approval by Submitting Entity

TIPS Council voted unanimously to approve the Resolution at its meeting held on October 17, 2024, the Family Law Section Counsel voted to co-sponsor at its meeting held on September 27, 2024, and the Commission on Domestic & Sexual Violence voted to co-sponsor on October 31, 2024.

4. Has this or a similar Resolution been submitted to the House or Board previously?

No.

5. What existing Association policies are relevant to this Resolution and how would they be affected by its adoption?

None.

6. If this is a late report, what urgency exists which requires action at this meeting of the House?

N/A

7. Status of Legislation (If applicable)

As summarized in the Report, eight states and the District of Columbia have statutes that reference the well-being, best interests, or care of pets in terms of how a court might assign ownership to one or both of the parties in a family law dispute. Additionally, at least 41 states and the District of Columbia, and several U.S. territories, have statutes allowing for protections for pets to be included in civil domestic violence protection orders. The federal Pet and Women Safety Act allows for federal enforcement of protection order violations committed in interstate commerce against pets, as well as creates a grant program to provide

bias within the justice system has thwarted investigations, caused further harm to victims, and allowed perpetrators to evade accountability and continue to commit crimes.”).

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for training of stakeholders and expanding emergency and transitional housing options for victims with pets.

8. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.

The Resolution and Report will support legislative efforts and assist decision makers to enact laws that address each of the three components of the Resolution (family law statutes, civil protection order statutes, and transitional and emergency housing for victims with pets), as well as for outreach, education and training of key stakeholders and encourage pro bono assistance by lawyers to victims of domestic abuse with pets and to programs providing them support. TIPS and its co-sponsors will collaborate to facilitate implementation.

9. Cost to the Association. (both direct and indirect costs)

None.

10. Disclosure of Interest. (If applicable)

None.

11. Referrals.

Center on Children and the Law
Commission on Law and Aging
Government and Public Sector Lawyers Division
Section of State and Local Government Law
Senior Lawyers Division
Solo, Small Firm and General Practice
Standing Committee on Pro Bono & Public Service
Young Lawyers Division

12. Name and Contact Information (Prior to the Meeting. Please include name, telephone number and e-mail address.) Be aware that this information will be available to anyone who views the House of Delegates agenda online.)

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13. Name and Contact Information. (Who will present the Resolution with Report to the House?) Please include best contact information to use when on-site at the meeting. Be aware that this information will be available to anyone who views the House of Delegates agenda online.

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EXECUTIVE SUMMARY

1. Summary of the Resolution

The Resolution addresses three interrelated issues to protect individuals by protecting pets. First, the Resolution urges the enactment of laws that authorize courts to make provisions for the safety, well-being, and best interest of pets in domestic relations proceedings, including considering any existence or prior history of family violence, when entering orders and/or assigning ownership of pets in domestic relations proceedings. Second, the Resolution urges legislatures to enact laws empowering courts to protect victims by including pets in civil protection orders for cases involving domestic violence, dating violence, sexual assault, stalking, child abuse, and/or for protection of the elderly and/or orders issued in response to other forms of abuse. Finally, the Resolution urges governments (federal, state, local, territorial and tribal) to remove barriers to victims seeking safety for themselves and their pets through promoting greater emergency and transitional shelter and housing options and improving access to legal services to facilitate safe housing and pro bono legal representation of victims.

2. Summary of the Issue that the Resolution addresses

In the United States, pets have taken on an important role within human families. Studies confirm that people overwhelmingly consider their pets as family members. In situations where the family is facing crisis the human-animal bond is an important, but too frequently neglected, consideration. In divorce proceedings, couples are more frequently litigating claims over disposition of pets. This increased care and concern for pets in family law proceedings has prompted eight states and the District of Columbia to enact legislation to address the well-being, best interests, or care of pets in a family law dispute.

There is, further, a strong correlation between domestic violence, other forms of human violence, and animal cruelty. Abusers threaten, or actively injure and even kill, pets in order to retain control over their human victims. Seniors and other vulnerable adults, who rely on caregivers, frequently see their pets threatened, neglected, or injured or killed. In cases involving stalking, dating violence, sexual assault, and child abuse, abusers similarly, target the victim's pets. Given the close emotional bond between humans and pets, such threats and actual harm to pets cause significant emotional distress to the human victims (more so when the victim is a child) and cause the pets themselves to suffer physical and emotional trauma.

The abuser's threats of harm against a pet, moreover, often proves to be a disincentive for the victim to leave: multiple studies have shown that domestic violence victims either delay leaving, or even return to, their abusers in order to protect their animals. Moreover, allowing abuse victims to remain with their pets has a salutary effect on the human victims, allowing for greater emotional recovery.

This is especially true for child abuse victims: ensuring the safety of the pet often protects the child from traumatic numbing and development of post-traumatic stress disorder (PTSD) and callous unemotional traits that may, in turn, lead to perpetuating violence.

Because of the well-established link between violence to humans and violence to animals, the federal government passed the Pet & Women Safety Act of 2017 to provide for interstate enforcement of protection orders that include pets, as well as to establish a grant program that aims to facilitate more emergency and transitional shelter and housing options for abuse victims with pets and greater training of key stakeholders. This federal law recognizes the emotional and psychological trauma caused by acts of violence or threats of violence against a victim's pets.

3. Please explain how the proposed policy position will address the issue.

In domestic relations cases, the Resolution calls for clearer provisions in the law when courts enter orders and/or assign ownership of pets, with an emphasis on the well-being of the animal. Where there is greater clarity in the law and in court rules, both judges and family law practitioners are better able to resolve these disputes and litigants are enabled to know their legal rights.

For victims of violence, the welfare of their animals should be considered in fashioning civil protection orders. Certainly, animals should be protected from abuse; it is equally vital that the human victims should be assured that their pets will be safe from their abusers. The vast majority of states have enacted some form of legislation allowing for pets to be considered in civil domestic violence protection orders, with the form of those laws varying among states. This Resolution would call for expansion, where necessary, of such legislation to those states that have not yet enacted legislation in domestic violence cases, as well as to include provisions for pets in civil protection orders in cases involving dating violence, sexual assault, stalking, child abuse, or the abuse of the elderly and/or orders issued in response to other forms of abuse.

Finally, the Resolution calls for removing barriers to safety for victims with pets by creating and/or incentivizing emergency and transitional shelter and housing options for abuse victims with pets. Such resources would include both grant and incentive programs and legal protections for shelters that provide care and safe haven for the pets of domestic abuse victims; it would also call on the legal community to provide training of relevant stakeholders and legal services to support such programs and victims with pets.

4. Summary of any minority views or opposition internal and/or external to the ABA which have been identified.

None.