

Neither Here nor There: Tennessee's Laws Protecting Animals

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THE UNIVERSITY OF
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KNOXVILLE

COLLEGE OF LAW

Animal Protection, Writ Large

“[H]uman beings have to think hard about the **proper treatment of animals** and to **regulate, as we have long done, our interactions with animals**. In sensing our way to the proper balance, we should take into account improvements in technology that lessen our dependence on particular uses of animals, and we should be alert for ways in which we could improve their lot without damaging our own (at least very much).”

Richard A. Epstein, *Animals as Objects, or Subjects, of Rights* (Dec, 2, 2002), at 26, http://ssrn.com/abstract_id=359240

The Nature of Animal Protection

- Federal and state law; local ordinances
- Civil and criminal rules
- Many types of regulation
 - Cruelty/Abuse/Neglect
 - Reporting/Enforcement
 - Court Process
 - Penalties/Damages
- Constant evolution

Animal Protection Rankings

- The Animal Legal Defense Fund ranks each of the 50 states every year based on the strength or weakness of its animal protection laws.
- Which state is best?
- Which is worst?
- Are we content with where we are?

The Best and the Worst

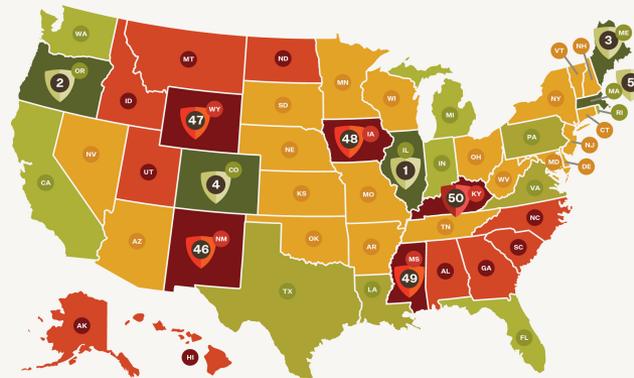
- **Best**
 - Illinois
 - Oregon, Maine, Colorado, and Massachusetts
- **Worst**
 - Kentucky
 - Mississippi, Iowa, Utah, and New Mexico
- **Most Improved**
 - Louisiana (moving up to 7 from 21)
 - Massachusetts (moving up to 5 from 14)

Animal Protection in the U.S.

2018 RANKINGS

United States animal protection laws.

The Animal Legal Defense Fund has published the 13th annual U.S. Animal Protection Laws Rankings Report. It is the longest-running and most authoritative of its kind, assessing the strength of each state's animal protection laws by examining over 3,400 pages of statutes. Each state is ranked based on nineteen different categories of animal protection.



RANKINGS BEST TO WORST

1 ILLINOIS	16 NEVADA	36 NORTH CAROLINA
2 OREGON	17 NEW JERSEY	37 GEORGIA
3 MAINE	18 KANSAS	38 ALABAMA
4 COLORADO	19 NEW HAMPSHIRE	39 ALASKA
5 MASSACHUSETTS	20 DELAWARE	40 SOUTH CAROLINA
6 RHODE ISLAND	21 MINNESOTA	41 HAWAII
7 LOUISIANA	22 WEST VIRGINIA	42 IDAHO
8 CALIFORNIA	23 VERMONT	43 MONTANA
9 WASHINGTON	24 NEBRASKA	44 NORTH DAKOTA
10 INDIANA	25 TENNESSEE	45 UTAH
11 TEXAS	26 ARIZONA	46 NEW MEXICO
12 MICHIGAN	27 CONNECTICUT	47 WYOMING
13 FLORIDA	28 OKLAHOMA	48 IOWA
14 VIRGINIA	29 OHIO	49 MISSISSIPPI
15 PENNSYLVANIA	30 ARKANSAS	50 KENTUCKY
	31 WISCONSIN	
	32 MARYLAND	
	33 NEW YORK	
	34 MISSOURI	
	35 SOUTH DAKOTA	

Where Tennessee Stands

Top Tier

1. Illinois
2. Oregon
3. Maine
4. Colorado
5. Massachusetts
6. Rhode Island
7. Louisiana
8. California
9. Washington
10. Indiana
11. Texas
12. Michigan
13. Florida
14. Virginia
15. Pennsylvania

Middle Tier

16. Nevada
17. New Jersey
18. Kansas
19. New Hampshire
20. Delaware
21. Minnesota
22. West Virginia
23. Vermont
24. Nebraska
25. Tennessee
26. Arizona
27. Connecticut
28. Oklahoma
29. Ohio
30. Arkansas
31. Wisconsin
32. Maryland
33. New York
34. Missouri
35. South Dakota

Bottom Tier

36. North Carolina
37. Georgia
38. Alabama
39. Alaska
40. South Carolina
41. Hawaii
42. Idaho
43. Montana
44. North Dakota
45. Utah
46. New Mexico
47. Wyoming
48. Iowa
49. Mississippi
50. Kentucky

The Criteria

Felony penalties available: Cruelty (C), Neglect (N), Fighting (F), Abandonment (A), Sexual Assault (S)	Mandatory reporting of suspected cruelty by veterinarians and/or select non-animal-related agencies/professionals
Adequate definitions/ standards of basic care	Police officers have an affirmative duty to enforce animal protection laws
Full range of statutory protections (cruelty, neglect, abandonment, sexual assault, fighting)	Broad measures to mitigate and recover costs of care for abused pets seized by animal welfare agencies
Increased penalties for repeat abusers and/or animal hoarders	Court may restrict ownership of animals after a conviction
Increased penalties when abuse is committed in the presence of a minor	Mental health evaluations and/or counseling for offenders
Courts may order forfeiture of abused animals	Animals may be included in domestic violence protective orders
Mandatory forfeiture of animals upon conviction	Animal cruelty is an abatable civil nuisance
Courtroom Animal Advocate Program	“Hot car” law

Group Activity #1

- Turn to your “neighbors.”
- In groups of 3-5, discuss the following:
 - Where does Tennessee do well?
 - Where does Tennessee do less well?
- Make notes on your responses.
- Be prepared to report on your group’s conversations.
- Take ten minutes (or so) to complete this exercise.

The Good

- Multiple cruelty statutes that may result in felony penalties
- Prohibition of sexual assault on animals
- Absence of “ag-gag” legislation
- Absence of breed-specific legislation
- Inclusion of animals in protective orders
- Good Samaritan rules relating to dogs in hot cars

The Fair

- Permissive, rather than mandatory or prohibited, **veterinary reporting of animal cruelty**
- Permissive, rather than mandatory or nonexistent, court-ordered **psychiatric evaluations for animal abuse offenders**
- Permissive, rather than mandatory or nonexistent, **post-conviction bans on the ownership/possession of animals by offenders**

Advocates - Connecticut Law

Conn. Gen'l Stat. § 54-86n. Appointment of advocate in proceeding re the welfare or custody of a cat or dog. Advocate's duties. Department of Agriculture to maintain list of eligible advocates

(a) In any prosecution under section 53-247, or in any court proceeding pursuant to section 22-329a or in the criminal session of the Superior Court regarding **the welfare or custody of a cat or dog**, the court may order, upon its own initiative or upon request of a party or counsel for a party, that a separate advocate be appointed to represent the interests of justice. If a court orders that an advocate be appointed to represent the interests of justice, the court shall appoint such advocate from a list provided to the court by the Commissioner of Agriculture A decision by the court denying a request to appoint a separate advocate to represent the interests of justice shall not be subject to appeal. . . .

Advocates - Connecticut Law

Conn. Gen'l Stat. § 54-86n. Appointment of advocate in proceeding re the welfare or custody of a cat or dog. Advocate's duties. Department of Agriculture to maintain list of eligible advocates

(b) The advocate may: (1) Monitor the case; (2) consult any individual with information that could aid the judge or fact finder and review records relating to the condition of the cat or dog and the defendant's actions, including, but not limited to, records from animal control officers, veterinarians and police officers; (3) attend hearings; and (4) present information or recommendations to the court pertinent to determinations that relate to the interests of justice, provided such information and recommendations shall be based solely upon the duties undertaken pursuant to this subsection.

Hot Cars – Tennessee Law

Tenn. Code Ann. § 29-34-209. Forcible entry of a motor vehicle for purposes of removing a minor or an animal

(a) A person whose conduct conforms to the requirements of subsection (b) shall be immune from civil liability for any damage resulting from the forcible entry of a motor vehicle for the purpose of removing a minor or an animal from the vehicle. . . .

Treat Animals as Humans?

“Legal repercussions for abusing animals have become more serious, but actual sentencing and enforcement has remained inferior. Integrating the connection between animal abuse and human violence into animal cruelty laws, sentencing guidelines, and enforcement schemes would bridge the current gap between the desire to provide better animal welfare and the inherently more important priority of preventing human violence. . . . [I]ntertwining the ramifications of animal cruelty with those for human violence will not only better protect victims, but will also help to **elevate the legal protection provided to animals to a level approaching that of protection provided to humans.**”

Rebecca L. Bucchieri, *Bridging the Gap: The Connection Between Violence Against Animals and Violence Against Humans*, 11 J. ANIMAL & NAT. RESOURCE L. 115, 116-17 (2015)

Group Activity #2

- Turn again to your “neighbors.”
- In groups of 3-5, discuss the following:
 - What aspects of your work involve treating animals as humans? Does that seem right to you?
 - What aspects of your work would benefit from treating animals as humans? Why?
- Reflect on the laws we have covered today, if that’s useful.
- Be prepared to share your observations.
- Take ten minutes (or so) to complete this exercise.

Opinion: Anthropomorphism and Our Pets

We're all guilty, but most of us don't even know what it is.

By [Jenna Stregowski, RVT](#)  | Updated 01/12/19

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Opinion // We Need to Stop Treating Animals Like Humans

Our enlightened era displays enormous sensitivity toward animal rights, but there's also a big danger in our attempts to strip the animal world of its animality

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Oct 09, 2017 5:48 PM

Animals deserve to be treated humanely but not as humans

By MADILYNNE CLARK | Aug 29, 2017 

BLOG



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Animals Matter: A Biologist Explains Why We Should Treat Animals with Compassion and Respect

BY MARC BEKOFF

Animals should be treated with respect



SCMP Reporter

Published: 12:00am, 21 Sep, 2009



Some people say human beings differ from animals because we have culture and we have conscience. They also say animals are unable to exercise free choice. But are we really so different?



I think there isn't such a large difference between human beings and animals. It is true we have the ability to make choices, and some of us are highly intelligent. But many scientific studies have shown that animals, such as the octopus and the dolphin, are also very clever. They can make decisions based on the information they have. Perhaps humans are intelligent enough to control animals, but that does not mean animals completely lack intelligence.

The Role of Law

- Law ↔ Society
 - Law establishes standards of behavior that help found and guide our lives with each other.
 - Social norms help found and guide law.
- This is a constant conversation.
- Tennessee's role in establishing animal protection laws is part of that.
- Maybe it's OK to be in the middle?

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Certain of my papers can be accessed on the Social Sciences Research Network (SSRN) at

<http://ssrn.com/author=353099>