



525 East Cotati Avenue
Cotati, California 94931

T 707.795.2533
F 707.795.7280

info@aldf.org
aldf.org

April 24, 2024

Representative Robert E. Craven, Chair
Representative Carol Hagan McEntee, First Vice Chair
Representative Jason Knight, Second Vice Chair
House Committee on Judiciary
Rhode Island General Assembly
82 Smith Street, Providence, RI 02903

Re: Support for HB 7970 re considering the best interests of a companion animal in divorce or separation proceedings

Chair Craven, First Vice Chair McEntee, Second Vice Chair Knight, and honorable members of the House Committee on Judiciary,

On behalf of the Animal Legal Defense Fund and our supporters in Rhode Island, thank you for this opportunity to support for *An Act Relating To Domestic Relations -- Divorce And Separation* (HB 7970), which would ensure that the best interest of the animal are considered in awarding sole or joint custody of a companion animal during divorce or separation. We thank Representaive Charlene Lima for introducing this legislation with Representatives Knight, Costantino, Solomon, Baginski, J. Brien, Fenton-Fung, Hull, Biah, and DeSimone. We are grateful to the General Assembly for your ongoing commitment to animal protection.

The Animal Legal Defense Fund is the nation's preeminent legal advocacy organization for animals. Our mission is to protect the lives and advance the interests of animals through the legal system. We advocate for stronger legal protections for animals from cruelty.

The Animal Legal Defense Fund releases an annual year-end report ranking the animal cruelty laws of all fifty states based on twenty different categories of animal protection. Rhode Island ranks in the top tier of states for its strong animal protection laws (aldf.org/rankings). This positioning reflects the General Assembly's ongoing commitment to preventing cruelty to animals.

We strongly support HB 7970, which would require the court to consider, in awarding sole or joint custody of a domestic companion animal in a divorce or separation procedure, the best interests of the animal. Specifically, it would incorporate into Chapter 15-5, *Domestic Relations – Divorce and Separation*, a new section, 15-5-30, *Custody of Domestic Companion Animals – Pets* that includes certain enumerated factors for the court to consider relating to the best interests of the animal.

In recent years, custody battles over animals have been on the rise, reflecting the important role that animals play in people's lives and families. Sometimes called "pet custody laws," this common-sense type of legislation seeks to protect animals — who are distinct from property in so many ways — as well as protect the people involved in the proceedings.

All our clients are innocent

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The framework established through this type of legislation can be particularly important in situations involving domestic violence, a serious concern especially during this pandemic and related isolation, social and physical distancing, and changes in the availability of resources.

Most of us consider our animal companions our family. So it's no wonder that, when we split up with our significant others or move out of our shared family home, disputes can arise about with whom the animal(s) stay.ⁱ

Currently, judicial processes determining companion animal custody in the wake of divorce or separation is a source of great strain for many families, and it's a process that treats animals strictly like property — a view that most people have abandoned.ⁱⁱ People are losing thousands in legal fees over disputes regarding custody of companion animals, in some instances draining their life's savings.ⁱⁱⁱ Beyond monumental legal costs, these conflicts can monopolize a great deal of courts' time and inhibit victims of domestic abuse from escaping dangerous environments.

In response to this issue, several states have found solutions in ensuring the court considers the best interests of the animal in awarding custody in a divorce or separation. In 2016, Alaska was the first state to enact pet custody legislation that allowed the courts to consider companion animals' best interests in awarding custody.^{iv} At the time, requiring consideration of animals' well-being when deciding their legal ownership was both groundbreaking and unique. Even though judges throughout the US could (and can) already choose, in their discretion, to consider an animal's best interests, no other state legislature had required judges to do so when adjudicating property distribution upon the dissolution of a marriage. Since then, Illinois (2018),^v California (2018),^{vi} New Hampshire (2019),^{vii} and Maine (2021)^{viii} have passed similar pet custody laws, and other state legislatures considering related legislation.

Animals are distinct from “property.” They are living, feeling beings who need and deserve a legal status that reflects who they are.

For the last two decades, the Animal Legal Defense Fund has filed amicus briefs in custody cases throughout the country, asking courts to consider the best interests of the animal. In these briefs, we do not favor either side in the dispute, instead arguing that courts have the authority to treat animals more like dependents than property and should do so. Although not mandated to consider an animal's well-being in most states or to otherwise treat the animal differently from property that must be fairly divided after a relationship ends, a handful of cases have acknowledged that people have a special relationship with their companion animals that sets them apart from other types of property.

Traditionally, animals have been treated as mere property in divorce or separation proceedings, to be divvied up alongside nonliving items — furniture, cars, and a house. However, more legislatures and courts are recognizing the flaws with this status quo and are beginning to consider animals' well-being following their guardians' divorce or separation.

The human connection between people and their companion animals far exceeds a monetary value.^{ix} In fact, eighty percent of pet owners in the U.S. consider animals to be a part of their family.^x In some instances, people are putting their lives at risk to protect their companions — nearly half of survivors who refused to evacuate for the incoming Hurricane Katrina cited their companion animals as the reason they stayed.^{xi}

While the increase in custody battles over companion animals demonstrates their evolving social importance as family members, in most jurisdictions, courts continue to resolve these disputes based overwhelmingly on which party is considered the more 'rightful owner' under the law. This is often determined by who may have initially paid fees associated with acquiring the animal (i.e., the animal's adoption or purchase fee), which may not be the guardian best suited to meet the animal's needs.

Situations can also get murky when significant others have been jointly caring for an animal for years and sharing the financial costs of veterinary care, food, and other custodial expenses as well as the more intangibles of quality of time spent and bond formed with the animal.

Determining custody of companion animals in terms of their best interests would more accurately reflect Rhode Islanders' views. Pet custody laws effectively codify the otherwise inconsistently applied acknowledgement that animals are fundamentally different from other forms of property in a divorce or separation, and they can standardize factors to guide a court in determining the best interests of the animal.

Importantly, effective pet custody laws can also help ensure survivors are able to escape unsafe circumstances with their companion animals.

Dozens of studies document the strong link between animal cruelty and violence against humans,^{xii} such as intimate partner violence and child abuse, which has prompted a societal shift toward crimes against animals being taken more seriously by law enforcement, judges, and policymakers.

Recognizing this, Rhode Island passed a 2019 bill protecting companion animals in domestic violence situations by ensuring survivors could include pets in protective orders.^{xiii} Survivors of abuse should never have to make the difficult decision to leave their beloved companion animal in the hands of their abuser to escape a dangerous relationship. This was a driving factor for the passage of Alaska's companion animals in divorce law.

Abusers often use finances, important documents, and the safety of companion animals to control their victims. Abusers may have been the one to pay initial fees associated with acquiring an animal and/or for expenses associated with the animal. They may have the animal's veterinary records filed or dog license registered under their name.

In recognizing the best interest of animals when determining custody, courts will be empowered in situations involving domestic abuse to help prevent the animal's circumstance from being used to manipulate a domestic abuse survivor or deter their safe transition as well as to help remove the companion animal from a dangerous, abusive home.

Research clearly shows that offenders of domestic violence often have a pattern of abuse involving all members of the household – including pets, who are often caught in the crossfire. Nearly three-quarters of pet-owning women entering women's shelters reported that their abuser had threatened, injured, maimed, or killed family pets for revenge or to psychologically control victims; one in three reported their children had hurt or killed animals.^{xiv}

A domestic abuse victim should not be faced with the difficult decision of potentially giving up a pet when trying to leave an already dangerous and emotionally difficult situation. Not only are pets likely to be the target of abuse, but people who are the victims of abuse often refuse to seek shelter for fear of abandoning their pets. In fact, nearly half of domestic violence victims have delayed leaving their abuser out of fear of harm to their animals^{xv}, and as many as one in four domestic violence survivors have reported returning to an abusive partner out of concern for their pet.

Passing HB 7970 is a logical next step for Rhode Island, particularly after passing legislation to facilitate pet protective orders in 2019.^{xvi}

The current legal framework for determining custodial rights over companion animals creates an environment in which domestic abuse, monumental legal fees, and overcrowded courts are nightmarish parts of proceedings that are already hard enough for families.

Importantly, HB 7970 includes the animal's best interests as well as specific enumerated factors for the court to consider in awarding sole custody or joint custody of a companion animal. For example, when assessing the best interest of the animal, the court shall consider factors such as who has

assumed what caregiving responsibilities, how much time each party spent with the animal, as well as children and their relationship with and responsibility for the animal. When considering joint custody, the court shall consider factors such the amount of time the animal would stay with each party, the management of veterinary visits and costs, assumption of certain caregiving responsibilities, as well as additional criteria relevant to the care and custody of the animal.

HB 7970 has the potential to expedite companion animal custody decisions — saving the court time and resources — by providing a consistent legal framework for judges.

We respectfully request a friendly amendment to incorporate one additional factor in consideration for awarding sole or joint custody related to animal abuse and interpersonal violence:

“Any history of animal abuse, domestic violence, elder abuse, child abuse, interpersonal violence, or other unsafe conditions in the household of either party.”

Rhode Island, known as a leader in animal protection, has the opportunity to address protect companion animals, help domestic violence survivors and save the courts time and resources by establishing this framework for judges to consider companion animals’ best interests when determining custody in divorce and separation proceedings. We respectfully request that you advance HB 7970.

Thank you for your time and consideration.

Sincerely,

Stephanie J. Harris

Senior Legislative Affairs Manager

Animal Legal Defense Fund

sharris@aldf.org

617-955-7500



ⁱ “What to Do If You’re Involved In A Custody Battle Over Your Companion Animal,” **Animal Legal Defense Fund** <<https://aldf.org/article/what-to-do-if-you-are-involved-in-a-custody-battle-over-your-companion-animal/>>.

ⁱⁱ Katie Burns, “Pet ownership stable, veterinary care variable,” **American Veterinary Medical Association** (December 31, 2018) <<https://www.avma.org/javma-news/2019-01-15/pet-ownership-stable-veterinary-care-variable>>.

ⁱⁱⁱ “When Couples Divorce, Who Gets to Keep the Dog? (Or Cat.),” **New York Times** (March 23, 2017) <<https://www.nytimes.com/2017/03/23/us/divorce-pet-custody-dog-cat.html>>.

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- iv “Alaska Legislature Becomes First to Require Consideration of Animals’ Interests in Custody Cases,” **Animal Legal Defense Fund** (January 20, 2017) <<https://aldf.org/article/alaska-legislature-becomes-first-to-require-consideration-of-animals-interests-in-custody-cases/>>; AS § 25.24.160.
- v Nicole Pallotta, “Illinois Becomes Second State to Require Courts to Consider Well-being of Companion Animals in Custody Disputes,” **Animal Legal Defense Fund** (March 20, 2018) <<https://aldf.org/article/illinois-becomes-second-state-require-courts-consider-wellbeing-companion-animals-custody-disputes/>>; 750 Ill. Comp. Stat. Ann. 5/502.
- vi Nicole Pallotta, “California’s New “Pet Custody” Law Differentiates Companion Animals from Other Types of Property,” **Animal Legal Defense Fund** (November 5, 2018) <<https://aldf.org/article/californias-new-pet-custody-law-differentiates-companion-animals-from-other-types-of-property/>>; Cal. Fam. Code §2605.
- vii Carolyn S. Garvey, “Who Gets the Family Pets in a Divorce?” **Douglas, Leonard & Garvey P.C.** (July 25, 2019) <<https://www.nhlawoffice.com/our-blogs/2019/july/who-gets-the-family-pets-in-a-divorce-/>>; N.H. Rev. Stat. § 458:16-a.
- viii “Creating a Companion Animal Custody Law (Maine),” **Animal Legal Defense Fund** (June 20, 2021) <<https://aldf.org/project/creating-a-companion-animal-custody-law-maine/>>; ME. REV. STAT. ANN. tit. 19-A, § 953, (10).
- ix Melissa Batchelor Warnke, “Your Marriage Is Over—Who Gets Custody of the Pets?” **Glamour** (November 26, 2018) <<https://www.glamour.com/story/who-gets-pet-custody-divorce>>; Melissa Chan, “Pets Are Part of Our Families. Now They’re Part of Our Divorces, Too,” **TIME** (January 22, 2020) <<https://time.com/5763775/pet-custody-divorce-laws-dogs/>>.
- x Katie Burns, “Pet ownership stable, veterinary care variable,” **American Veterinary Medical Association** (December 31, 2018) <<https://www.avma.org/javma-news/2019-01-15/pet-ownership-stable-veterinary-care-variable>>.
- xi Karin Brulliard, “How the chaos of Hurricane Katrina helped save pets from flooding in Texas,” **The Washington Post** (August 31, 2017) <<https://www.washingtonpost.com/news/animalia/wp/2017/08/31/how-the-chaos-of-hurricane-katrina-helped-save-pets-from-flooding-in-texas/>>.
- xii “The Link Between Cruelty to Animals and Violence Toward Humans,” **Animal Legal Defense Fund** <<https://aldf.org/article/the-link-between-cruelty-to-animals-and-violence-toward-humans/>>; “Women with pets more likely to endure domestic abuse, study finds,” **CBC News** (June 8, 2017) <<https://www.cbc.ca/news/canada/windsor/women-with-pets-more-likely-to-endure-domestic-abuse-study-finds-1.4151113>>; **National Link Coalition** <<http://nationallinkcoalition.org>>.
- xiii “An Act Relating To Domestic Relations -- Domestic Abuse Prevention (S.225/H.5023),” **State of Rhode Island General Assembly** (2019); “2019 - PASSED: A bill protecting household pets in domestic abuse situations,” **RI Coalition Against Domestic Violence** (2019) <<http://www.ricadv.org/en/what-we-do/policy/past-policy-projects-progress>>.
- xiv “Domestic Violence and Pets,” **Red Rover** <<https://redrover.org/domestic-violence-and-pets/>>; “Pets and Domestic Violence,” **National Coalition Against Domestic Violence** <<http://www.hope-eci.org/documents/petsanddv.pdf>>.
- xv Michael Roguski, “Pets as Pawns: The Co-existence of Animal Cruelty and Family Violence,” **National Link Coalition** (March 21, 2012) <<http://nationallinkcoalition.org/wp-content/uploads/2013/01/DV-PetsAsPawnsNZ.pdf>>.
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO DOMESTIC RELATIONS -- DIVORCE AND SEPARATION

Introduced By: Representatives Lima, Knight, Costantino, Solomon, Baginski, J. Brien, Fenton-Fung, Hull, Biah, and DeSimone

Date Introduced: March 05, 2024

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 15-5 of the General Laws entitled "Divorce and Separation" is hereby
2 amended by adding thereto the following section:

3 **15-5-30. Custody of domestic companion animals -- Pets.**

4 (a) In awarding sole possession or ownership of a domestic companion animal in a divorce
5 or separation proceeding, the court shall consider the best interest of the animal and shall consider,
6 but not be limited to, the following:

7 (1) Which party owned the animal first or whether they purchased or acquired the animal
8 together following marriage;

9 (2) Which party assumed most of the responsibility for tending to the animal's needs
10 including, but not limited to, feeding, walking, grooming, and veterinarian visits;

11 (3) Which party spent more time on a regular basis with the animal;

12 (4) What living arrangement is in the best interest of the animal in question;

13 (5) Who presently wants sole possession or ownership and the proximity of the parties to
14 one another to enable shared custody; and

15 (6) Whether there are children involved in caring for the animal and the nature of their
16 attachment to the animal, including consideration of which parent has custody of the children, and
17 whether it is in the best interests of the children to keep the animal in their domicile for care and
18 affection.

1819 (7) Any history of animal abuse, domestic violence, elder abuse, child abuse, interpersonal
violence, or other unsafe conditions in the household of either party.

1920 (b) In awarding joint possession of a domestic companion animal, the court shall consider,

1 but not be limited to, the following:

2 (1) How long the animal will stay with each party to the animal possession determination;

3 (2) How veterinary visits and costs shall be handled;

4 (3) Who shall be responsible for basic needs of the animal including, but not limited to,
5 food, toys, pet sitting, and daycare expenses while the animal is in each party's home; and

6 (4) Any additional criteria the court determines relevant to the care and possession of the
7 animal.

78 (5) Any history of animal abuse, domestic violence, elder abuse, child abuse, interpersonal
violence, or other unsafe conditions in the household of either party.

89 (c) Either party to a divorce or separation proceeding pursuant to this chapter may petition
910 the court in a form prescribed by the court for the temporary allocation of sole or joint possession
1011 of and responsibility for the companion animal jointly owned by the parties, and at any time prior
1112 to the court's decision, the parties may also enter into an agreement allocating the sole or joint
1213 ownership or responsibility for the companion animal.

1314 (d) If the court finds that a companion animal of the parties is a marital asset, it shall
1415 allocate the sole or joint ownership of and responsibility for a companion animal of the parties. In
1516 issuing an order under this subsection, the court shall take into consideration the well-being of the
1617 companion animal under the standards set forth in this section.

1718 (e) As used in this section, "companion animal" means a domesticated animal or pet and
1819 shall not include assistance animals (also called service animals), which are defined as any animal
1920 that is individually trained to do work or perform tasks for the benefit of an individual with a
2021 disability including a physical, sensory, psychiatric, intellectual, or other mental disability.

2122 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO DOMESTIC RELATIONS -- DIVORCE AND SEPARATION

- 1 This act would create a custody procedure for pets in divorce and separation proceedings
- 2 based on the best interests of the animal. This act would not apply to assistance/service animals.
- 3 This act would take effect upon passage.

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