Restraining the (Real) Beast: Protective Orders and Other Statutory Enactments to Protect the Animal Victims of Domestic Violence in Rhode Island

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*Cruelty to brute animals is another means of destroying moral sensibility . . . I am so perfectly satisfied of the truth of a connection between morals and humanity to brutes, that I shall find it difficult to restrain my idolatry for that legislature, that shall first establish a system of laws to defend them from outrage and oppression.¹

INTRODUCTION

Animal abuse is a long-recognized societal problem,

¹ Benjamin Rush, An Inquiry into the Influence of Physical Causes upon the Moral Faculty: Delivered Feb. 27, 1786 before The American Philosophical Society, Philadelphia, Medical Inquiries and Observations 22, (1839).
transcending time, place, and culture. Instances of animal abuse have been documented in the United States and abroad for centuries while the subject of animal abuse has appeared frequently in literary works and historical anecdotes.\(^2\) Despite this long and well-known history of animal abuse, there has been relatively little progress with respect to protecting animal victims from the hands of their human abusers.

Although the subject of animal abuse represents a broad and far-reaching field, this article will focus specifically on the link between domestic violence and animal abuse, a link with strong statistical and abundant anecdotal support, and which has received increasing acceptance and attention nationwide. Concentrating specifically on the link between domestic violence and animal abuse, this article will elucidate the magnitude of the effect animal abuse has in a domestic relationship and on the victims of domestic violence. Further, this article will describe current legislative efforts enacted across the country that are aimed at quelling animal abuse and providing peace of mind for victims of domestic violence. With respect to Rhode Island, this article will propose draft legislation targeted at preventing animal abuse in the domestic violence context in an effort to facilitate legislative changes regarding the seriousness and significance of violence toward animals.

I. DOMESTIC VIOLENCE AND ANIMAL ABUSE: NATIONWIDE EPIDEMICS

A national and aggressive response to abusive treatment of animals is not a distortion of priorities but rather a recognition that the solution to a violent society does not lie in the characterization of the victim but in the characteristics of the offender.\(^3\)

A. Domestic Violence

Both domestic violence and animal abuse are nationwide

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epidemics with widespread consequences. Domestic violence has been defined as “a pattern of behavior in which one intimate partner uses physical violence, coercion, threats, intimidation, isolation, and emotional, sexual or economic abuse to control and change the behavior of the other partner.”\textsuperscript{4} Approximately three million women are assaulted each year in the United States by their male partners.\textsuperscript{5} Studies show that eighty-four percent of spouse abuse victims are female; eighty-six percent of victims of dating partner abuse victims are likewise female.\textsuperscript{6} The National Coalition Against Domestic Violence reports that “[o]ne in every four women will experience domestic violence in her lifetime” and that “85 percent of domestic violence victims are women.”\textsuperscript{7} In a survey concerning intimate partner violence, “[n]early 25 percent of surveyed women and 7.6 percent of surveyed men said they were raped and/or physically assaulted by a current or former spouse, cohabiting partner, or date in some time in their lifetime.”\textsuperscript{8} Historically, women have been most often victimized by someone they knew.\textsuperscript{9}

Although domestic violence victims may seek help privately from friends and family, with a domestic violence shelter, or from other support groups for victims, domestic violence is one of the most chronically underreported crimes.\textsuperscript{10} Despite the availability


\textsuperscript{10} Id. With respect to domestic violence in Rhode Island the numbers are just as high with 9779 incidents of domestic violence being reported in 2009. Domestic Violence in Rhode Island, R.I. COAL. AGAINST DOMESTIC VIOLENCE, available at http://www.ricadv.org/images/stories/PDFs/Domestic_Violence_In_Rhode_Island_2010.pdf.
of the above-cited statistics, it is likely that domestic violence is even more prevalent.11 "Most intimate partner victimizations are not reported to the police. Approximately one-fifth of all rapes, one-quarter of all physical assaults, and one-half of all stalkings perpetrated against female respondents by intimates were reported to the police."12

Of note, Rhode Island experiences a proportionate share of domestic violence incidents. In 2009, 9779 incidents of domestic violence were reported.13 The National Coalition Against Domestic Violence reports that "on any given day in Rhode Island, the domestic violence crisis hotlines receive 46 calls, 59 women and children spend the night in a shelter, and 28 people seek domestic violence community services."14

A common civil remedy available to victims of domestic violence is a civil restraining order or protective order (also known as a temporary restraining order or temporary protective order). A restraining order or protective order is: "[a] court order prohibiting or restricting a person from harassing, threatening, and sometimes even contacting or approaching another specified person. This type of order is issued most commonly in cases of domestic violence."15 Although each state has its own protective order legislation, generically speaking, such orders permit the court to order the abuser to stay away from the petitioner and her home and to cease all further contact for a stated period of time ("cease contact" order). These orders may also direct the respondent to cease all abusive or threatening behavior toward the petitioner ("cease abuse" order). If the abuser violates a protective order, it can be enforced by the court or the police; violation of the order results in a penalty to be determined by the court. A protective order does not preclude a victim from filing criminal charges against the batterer.

Despite the availability of restraining orders in every United States jurisdiction and the relative ease with which one can obtain

12. Tjaden & Thoennes, supra note 8, at v.
15. BLACK'S LAW DICTIONARY 1315 (7th ed. 1999).
such a court order, only 17.1 percent of women who have been physically assaulted by an intimate partner actually obtain a restraining order against the perpetrator of the violence.\textsuperscript{16} A recent study found that victims of domestic violence rarely seek a restraining order as a form of early intervention at the initial onset of the abuse; rather, it is more common for victims to seek a restraining order after having experienced multiple incidences of violence or after the violence has escalated.\textsuperscript{17} Notably, "[r]eports indicate some 86 [percent] of the women who received a protection order state the abuse either stopped or was greatly reduced."\textsuperscript{18}

B. Animal Abuse

For purposes of this article, animal abuse is defined broadly as any cruel and unwarranted treatment of an animal, including but not limited to the intentional infliction of physical pain or injury (beating, hitting, kicking, shooting, drowning, throwing an animal, throwing an object at an animal, making an animal fight, engaging in sexual acts with an animal, excessive confinement, allowing an animal to live in unsanitary conditions, exposing an animal to extreme conditions). The most common victims of animal abuse are small animals, most commonly dogs and cats, but also rabbits, birds, rodents, and reptiles.\textsuperscript{19}

Like domestic violence, the number of reported instances of animal abuse is relatively low in comparison to the actual incidence of animal abuse; this disconnect between actual occurrences and reported occurrences can be explained in large part by the following reasons: (1) many incidents of animal abuse occur privately and behind closed doors, with no human witnesses, and therefore no one is available to report on the abuse; (2) by their nature, animals have no voice and as such the reporting of

\textsuperscript{16} Tjaden & Thoennes, supra note 8, at 52.


such abuse must be made by a third party on the animals’ behalf; (3) since the victim is an animal and considered to some as property, it can be easier to ignore; and (4) those who are aware of the animal abuse may be fearful that the perpetrator’s aggression will be transferred to them or to another human victim and therefore choose to remain silent about the abuse. For these reasons, and because many of the known occurrences of animal abuse are told anecdotally rather than reported officially, it is incredibly difficult to attach an accurate number to the precise prevalence of animal abuse in the United States.

A recent study of animal cruelty revealed that 22.9 percent of participants reported exposure to some form of animal cruelty with 21.6 percent reporting actually having witnessed animal cruelty.20 Approximately 31.1 percent of those who responded affirmatively reported witnessing a parent or other family member harm or kill an animal; most of these instances involved hitting, beating, kicking, or throwing an object at a companion animal.21

When animal cruelty cases are made public, they receive a substantial amount of attention from the public in light of the prevalence of companion animals in American households. There are approximately 77.5 million owned dogs and 93.6 million owned cats in the United States.22 Thirty-nine percent of American households have at least one dog and thirty-three percent of households have at least one cat.23 The view that animals are more than mere personal property has increasingly widespread acceptance in the United States. Only two percent of pet owners consider their pet as “property”; fifty-one percent consider their pets to be “companions”; and forty-seven percent consider their pets as “members of the family.”24 Indeed, the California

21. Id.
23. Id.
24. AM. VETERINARY MED. ASS’N, U.S. Pet Ownership and Demographics Sourcebook, 2002 (Schaumburg, IL).
Supreme Court has recognized that “human beings have long enjoyed an abiding and cherished association with their household animals.” Likewise, a New York Civil Court has stated that a pet is not just a thing . . . [a]n heirloom while it might be the source of good feelings is merely an inanimate object not capable of returning love and affection. It does not respond to human stimulation; it has no brain capable of displaying emotion which in turn causes a human response . . . [b]ut a dog—that is something else. To say it is a piece of personal property and no more is a repudiation of our humaneness.

Although the public has long-recognized that animals are more than personal property, only recently have legislative bodies begun to enact laws aimed at protecting the interests of animals. Nevertheless, most of these laws are reactionary in nature and serve as a form of punishment for the abuser, with minimal penalty, rather than provide preventative measures.

II. ANIMAL ABUSE IN RHODE ISLAND

Rhode Island may be the country’s smallest state, but the nationwide epidemic of animal abuse remains representatively present. Fortunately, it is not necessary to entirely extrapolate the incidence of animal abuse in Rhode Island from national statistics. In 2004, Ronald C. Desnoyers, currently a law student at Michigan State University College of Law, conducted a statistical analysis concerning animal cruelty cases in Rhode Island as they were processed in the state’s legal system. His research revealed that in Rhode Island Superior Court “[b]etween 1980 and 2004, [eighty-nine] defendants were charged with 102 counts of animal cruelty in violation of Rhode Island General Law” section 4-1-5, a statute aimed to punish those who have maliciously injured or killed an animal. This statute, which is

27. See infra Sections III and V(B).
29. Ronald C. Desnoyers, What We Can Learn about Animal Cruelty Cases from Rhode Island: Research and Perspective, ANIMAL L. SEC. NEWSL.,
part of a chapter on animal cruelty, provides:

§ 4-1-5. Malicious injury to or killing of animals

(a) Every person who cuts out the tongue or otherwise dismembers any animal, maliciously, or maliciously kills or wounds any animal, or maliciously administers poison to or exposes any poisonous substance with intent that the poison shall be taken or swallowed by any animal, or who maliciously exposes poisoned meat with intent that the poisoned meat is taken or swallowed by any wild animal, shall be imprisoned not exceeding two (2) years or be fined not exceeding one thousand dollars ($1,000), and shall, in the case of any animal of another, be liable to the owner of this animal for triple damages, to be recovered by civil action. In addition, any person convicted under this section is required to serve ten (10) hours of community restitution. The community restitution penalty shall not be suspended or deferred and is mandatory.

(b) This section shall not apply to licensed hunters during hunting season or a licensed business killing animals for human consumption.

Of the defendants charged with violating the above-cited statute, the vast majority (93.3 percent) was male and most cases involved companion animals (78.4 percent). Sixty-four of the eighty-nine defendants were found guilty, four were found not guilty, and twenty-one cases were dismissed. Of those found guilty, most defendants (fifty-five) received probation, ranging in duration from six to thirty-six months, with an average probation sentence of 18.2 months. Only nineteen defendants were incarcerated, with prison sentences ranging from ten days to two years, with an average prison sentence of 220 days. Eighteen defendants were ordered to serve community service (ranging

30. Id.
31. Id.
32. Id. at 5.
33. Id.
from 10 to 125 hours).\textsuperscript{34} Other penalties included restitution and fines and a handful of defendants were court ordered to participate in mental health programs.\textsuperscript{35}

Desnoyers recognized that an important limitation of his study was the fact that he examined only those animal cruelty cases prosecuted in the Rhode Island Superior Court in violation of section 4-1-5 of the Rhode Island General Laws.\textsuperscript{36} Certainly, the number of animal abuse cases in Rhode Island is far greater since, according to Desnoyers, this study did not include incidents reported to the “[Rhode Island Society for the Prevention of Cruelty to Animals], local police departments, animal control officers, or other law enforcement agencies in which no charges were filed, nor does it account for incidents of animal cruelty brought to the attention of authorities but addressed through some alternative mechanism.”\textsuperscript{37} Additionally, his study could not possibly include the undoubtedly large number of animal abuse instances that remain unreported to any agency. Nevertheless, despite the known limitations of this study, the insight remains incredibly important and confirms that most abusers of animals in Rhode Island are male and the abuse most often is inflicted upon companion animals. Not only is Desnoyers’s study the only one of its kind in Rhode Island, it demonstrates that the problem of animal abuse is quite real in Rhode Island.

III. VIOLENCE BEGETS VIOLENCE

_He who is cruel to animals becomes hard also in his dealings with men._\textsuperscript{38}

Animal abuse is a significant social problem and, in modern society, is recognized as uncivilized and contrary to core humanitarian values. Animals constitute a helpless, silent majority of living creatures, and, particularly with respect to small, domesticated animals, serve as an easy target of an abuser’s aggression. But apart from recognizing animal abuse as a moral wrong in and of itself, it also serves as one of the first

\textsuperscript{34} Id.
\textsuperscript{35} Id.
\textsuperscript{36} Id.
\textsuperscript{37} Id.
\textsuperscript{38} IMMANUEL KANT, DUTIES TOWARDS ANIMALS AND SPIRITS IN LECTURES ON ETHICS 240 (Louis Infield, trans., Harper and Row 1963) (1780).
warning signs of a potential for violence against humans, particularly in the home. Scientific efforts have tended to focus on the link between exposure to or perpetration of animal abuse in childhood and subsequent perpetration of adult violence, with far fewer studies directed at the correlation between animal abuse and domestic violence.

However, modernly, society is becoming increasingly aware of the link between domestic violence and animal abuse and the significance of this link cannot be overstated. “Animal abuse is consistent with, and often co-occurs with, the power and control mechanisms frequently present in intimate partner violence.”

Domestic violence and animal abuse do not necessarily have a causal connection, but the increased likelihood of animal abuse in the face of domestic violence is undeniable. Researchers suspect that this link exists because a person who abuses animals may then become desensitized to the pain felt by another living creature, which in turn makes it easier to inflict harm on a human victim.

Animal abuse oftentimes serves as a precursor to imminent domestic violence and a 2007 study by Sarah DeGrue and David K. DiLillo revealed that “abusive males who were also cruel to animals used more forms of violence and employed more controlling behaviors toward their female victims than men who did not abuse their pets.”

The Humane Society of the United States has developed a list of reasons regarding why batterers of humans also inflict harm on animals:

- to demonstrate and confirm power and control over the family; to isolate the victim and children; to eliminate competition for attention; to force the family to keep violence a secret; to teach submission; to retaliate for acts of independence and self-determination; to perpetuate the context of terror; to prevent the victim from leaving or to

41. Id.
42. DeGrue & DiLillo, supra note 20, at 1039.
coerce her/him to return; to punish the victim for leaving; and to degrade the victim through involvement in the abuse.\textsuperscript{43}

Although additional explanations may certainly exist, particularly those more personal to the relationship, this list provides a fairly comprehensive set of rationales for the existence of animal abuse in the domestic violence setting.

The National Coalition Against Domestic Violence (NCADV) has compiled a fact list concerning the link between domestic violence and animal abuse. In explaining why this link matters, the NCADV has issued the following statement: "Pets are not immune to domestic violence. Batters frequently threaten, injure, maim, or kill their partners' or children's pets in conjunction with domestic abuse."\textsuperscript{44} In fact, as many as seventy-one percent of pet owners entering domestic violence shelters have reported that their pets have been threatened, injured, or killed at the hands of their batterer.\textsuperscript{45} "Because victims understand the extent of the harm that their abusers will likely inflict upon their pets, many hesitate to leave violent relationships out of concern for the safety of their pets."\textsuperscript{46} As many as forty percent of domestic violence victims have reported being entirely unable to leave their abusers out of fear for what will happen to their pets after they leave.\textsuperscript{47}

In many of these cases, animal abuse is used as a form of punishment by the batterer to the domestic violence victim who tries to leave her abuser. Quite frequently, the abused animal becomes the primary reason as to why a victim does not leave an abusive household or significantly delays leaving. The threat that a partner will abuse the pet serves as a form of control over the victim, which thereby prevents her from leaving in order to keep the animal safe from harm. Some women do seek the safety of a shelter and leave a pet (or pets) behind, only to return home after

\textsuperscript{45} Id.
\textsuperscript{46} Id.
\textsuperscript{47} Id.
a short time out of fear that the animal left behind will be tortured or killed.48

In 1997, Frank R. Ascione, Claudia V. Weber, and David S. Wood authored a final report entitled “Animal Welfare and Domestic Violence,” which assessed animal violence experienced by women seeking refuge in battered women shelters versus a community sample of women who had not been abused.49 Fifty-two percent of shelter women responded that their partners had threatened to hurt their pets, whereas 16.7 percent of non-shelter women reported violent threats toward their pets.50 Of the shelter women, 69.2 percent of women who had children reported that their partners had hurt or killed one of their pets and 44.3 percent of shelter women without children responded affirmatively to the same question.51 In contrast, only 7.1 percent of non-shelter women said their partners had hurt or killed a pet.52 The women who reported animal violence described instances where their pets had been hit, kicked, or shot; however, the more deplorable and shocking examples of animal abuse were inflicted upon the pets of shelter women, including, among others, stories where the “pet was drowned, pet was nailed to the woman’s bedroom door, pet was given alcohol and poison, pet’s entire fur coat was shaved during the winter, and pet was thrown out of a moving car.”53 Nearly three-quarters of shelter women with children, and more than half of shelter women without children, reported multiple incidents of animal abuse by their partners.54 In most instances (83.3 percent of shelter women with children, 89.9 percent of shelter women without children), the women said they were “very close” to the harmed animal.55 Nearly all shelter women reported feeling “numb” or “terrible” after their pets were threatened, hurt, or killed by their

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50. Id.
51. Id.
52. Id.
53. Id.
54. Id.
55. Id.
partners.\textsuperscript{56}

The shelter women who reported animal abuse were asked whether concern for the pet prevented them from seeking help at a shelter at some earlier time.\textsuperscript{57} Approximately twenty-five percent of all shelter women responded affirmatively to this question.\textsuperscript{58} Thirty-five percent of shelter women with children said that if their pets had been threatened, they delayed entering the shelter; 25.9 percent of shelter women with children said they delayed entering the shelter if their pet had been hurt.\textsuperscript{59} Similar figures were reported among shelter women without children.\textsuperscript{60} Data has not been collected regarding the number of battered women who share this concern for their companion animals but never leave their home to seek help at a women's shelter.

An important finding from the Ascione et al. 1997 study is that in a significant number of cases, a woman's concern for her pet's welfare results in a delay from leaving the home and seeking help in a battered women's shelter.\textsuperscript{61} Also noteworthy is the suggestion that threats of harm or actual abuse to a pet is another form of trauma inflicted upon women in a domestic violence situation.\textsuperscript{62}

A previous study by Frank R. Ascione, Ph.D., of a small sample of thirty-eight women at a battered women's shelter in Utah revealed that seventy-one percent of these women reported that their partner had threatened to hurt their pet; fifty-seven percent of these women reported actual harm or killing of a pet by a partner.\textsuperscript{63} Examples from this study regarding threats made to these women included "threats to put a kitten in a blender, bury a cat up to its head and 'mow' it, starve a dog, and shoot and kill a cat."\textsuperscript{64} Examples of actual harm committed upon an animal

\textsuperscript{56} Id.
\textsuperscript{57} Id.
\textsuperscript{58} Id.
\textsuperscript{59} Id.
\textsuperscript{60} Id. Approximately 25.8 percent of shelter women without children delayed entering the shelter if their pet had been threatened; 29.6 percent delayed if their pet had been hurt. Id.
\textsuperscript{61} Id.
\textsuperscript{62} Id.
\textsuperscript{63} Frank R. Ascione, Battered Women's Reports of Their Partners' and Their Children's Cruelty to Animals, 1 J. OF EMOTIONAL ABUSE 119, 122 (1998).
\textsuperscript{64} Id.
included “slapping, shaking, throwing, or shooting dogs and cats, drowning a cat in a bathtub, and pouring lighter fluid on a kitten and igniting it.”65 Approximately eighteen percent of these women said that their fear for their pets’ safety prevented them from seeking shelter sooner than they would have absent threats of harm or actual harm to their pets by an abusive partner.66

More recently, a 2009 study of 860 college students in the West and Midwest revealed that those participants who were victims of family violence were significantly more likely to report having witnessed or perpetrated animal cruelty than those who were not the victims of family violence.67 Likewise, participants who either had witnessed or perpetrated animal abuse also were more likely to report experiencing some form of family violence when compared to those who had not been exposed to animal cruelty.68

Because many of these battered women have well-founded concerns for the lives and safety of their pets if left in the hands of an abusive partner, the welfare of their animals serves as a significant obstacle for women trying to leave a violent home. The vast majority of domestic violence shelters do not allow women to bring pets into their facility. A study conducted in 1999 by Frank R. Ascione, Ph.D. revealed that only 14.3 percent of the domestic violence agencies he interviewed were capable of housing companion animals at their facility.69 Ascione noted that “[t]he difficulty of keeping pets at the domestic violence shelter was related to concerns over potential staff and client allergies, a premium on space where a kennel might displace part of the children’s play area, or the fact that the shelter was a public building and therefore prohibited animals.”70 It is essential to acknowledge the importance of the attachment these women have to their pets, hence the difficulty they have in leaving the pets behind, especially in the hands of an abusive partner, in order to seek refuge at a domestic violence shelter. In further support of

65. Id.
66. Id.
68. Id. at 1046-47.
70. Id.
the obstacle posed by animal abuse in a relationship with domestic violence, the American Humane Association has reported that “battered women have been known to live in their cars with their pets for as long as four months until an opening was available at a pet-friendly safe house.”

IV. STATE OF CURRENT RHODE ISLAND LEGISLATION

A. Domestic abuse prevention legislation

In Rhode Island, one remedy available to a victim of domestic violence is a civil restraining order which can be obtained by the victim to protect him or her against the abuser. The restraining order is issued by a judge in either the district court or the family court, depending on the nature of the relationship with the abuser. Section 15-15-1(2) of the Rhode Island General Laws defines domestic abuse as the occurrence of one or more of the following acts: (1) attempting to cause or actually causing physical harm; (2) acting in such a way that places the victim in fear of immediate serious physical harm; (3) forcing sexual relations against the victim’s will; (4) stalking through either harassment or following the victim; or (5) cyberstalking. If any of the above actions take place between co-habitants, defined as two people who have lived together in the last three years that are not related and do not have a child together, the victim must seek a restraining order from the district court. The victim’s remedy lies within the family court if any of the following relationships exist: (1) present/former family member; (2) present/former spouse; (3) parent/step-parent; (4) child/step child; (5) relationship by blood or marriage; or (6) have been in a serious dating relationship or engagement relationship during the past year.

If the restraining order is needed at a time when the court is closed for business, the victim can seek an ex parte order through

73. Id. § 8-8.1-1(1).
74. Id. § 15-15-1(2); §15-15-2(a).
the local police department if immediate protection is necessary. A judge can grant an emergency order over the phone to the police officer. This order expires at the close of business the next day; in order for a restraining order to remain in place against the abuser, the victim must go to court during business hours and apply for a temporary restraining order. A temporary restraining order provides emergency protection for a victim of domestic abuse for up to twenty-one days. The applicant must show that immediate and irreparable injury, loss, or damage would result before notice can be served and a hearing held on this matter. When the temporary restraining order expires, the victim must apply for a final order which requires a full court hearing, requiring the presence of both the abuser and the victim so that both sides may present evidence and testimony. A restraining order issued after a full hearing can last up to three years.

B. Animal cruelty legislation

Rhode Island has a chapter in its statutory code regarding acts against animals that constitute animal cruelty. Section 4-1-5 of the Rhode Island General Laws, set forth in section III of this article, pertains to the malicious injury to or killing of an animal. Those who violate this statute can be imprisoned for a sentence not to exceed two years or fined no more than $1000.00. Those convicted for violating section 4-1-5 are required to serve ten hours of community service in addition to these penalties. The community service element is the only required penalty in this statute. As well, Rhode Island’s statutory code has a section prohibiting unnecessary cruelty to animals, section 4-1-3, which imposes a penalty of no more than eleven months imprisonment or

76. Id.
77. Id.
78. Id. § 15-15-4(a)(2).
79. Id.
80. Id.
81. Id. § 15-15-3(h)(2).
82. Id. § 4-1-5.
83. Id.
a fine of not less than $50.00 and not more than $500.00.\textsuperscript{84} There is also a section prohibiting overwork, mistreatment, or failure to feed animals, section 4-1-2, which imposes the same penalties as section 4-1-3 discussed above.\textsuperscript{85}

Dr. Charlotte Lacroix, who received both her Doctorate of Veterinary Medicine and her Juris Doctor degree, conducted a thorough analysis of animal cruelty statutes and determined that such laws were insufficient with respect to protecting animals from abuse in the domestic violence context.\textsuperscript{86} She found four primary problems with the current state of animal cruelty laws generically, although her findings can be applied with ease to Rhode Island animal cruelty laws.\textsuperscript{87} First, the accepted attitude toward animals is that they are property with no legal status and, as such, they are not a priority among legislators particularly when problems such as crime, violence, and poverty plague modern society.\textsuperscript{88} Second, there is some confusion regarding how to define animal abuse or animal cruelty.\textsuperscript{89} Thus, unless the act is extreme, it may not be found violative of an otherwise amorphous statutory provision.\textsuperscript{90} Third, the penalties for animal cruelty are weak and most states recognize animal cruelty as a misdemeanor.\textsuperscript{91} With this categorization, prosecutors will be more apt to spend their limited time and resources on prosecuting felonies.\textsuperscript{92} Lastly, there is some confusion among state law enforcement and local agencies such as humane societies about which entity should enforce animal cruelty statutes, not to mention the lack of funding and resources at the local agency level.\textsuperscript{93}

Although Rhode Island has laws regarding both domestic violence and animal cruelty, the statutory provisions fail to provide assistance to domestic violence victims with respect to offering a legal mechanism through which they can safely remove

\textsuperscript{84} R.I. GEN. LAWS § 4-1-3.
\textsuperscript{85} Id. § 4-1-2.
\textsuperscript{86} Lacroix, \textit{supra} note 3, at 16-20.
\textsuperscript{87} Id. at 16.
\textsuperscript{88} Id. at 16-17.
\textsuperscript{89} Id. at 17.
\textsuperscript{90} Id.
\textsuperscript{91} Id. at 18.
\textsuperscript{92} Id.
\textsuperscript{93} Id. at 19.
their pets and place them in a safe environment outside the reach of abusers. As the state of these laws currently exist, neither statutory scheme addresses the particular problem of animal abuse in the domestic violence context; hence, neither provides a remedy with respect to protecting animals that fall victim to marital or other family violence. To bridge this gap, Rhode Island must develop an innovative solution that incorporates considerations of animal abuse into domestic violence legislation; this would provide victims of domestic abuse with a legal remedy so their companion animals do not need to remain in the hands of an abusive partner and so that domestic violence victims do not need to remain under the same roof as their partners.

V. GROWING TREND TO INCLUDE ANIMALS IN RESTRAINING ORDERS AND OTHER DOMESTIC VIOLENCE LEGISLATION

*The greatness of a nation and its moral progress can be judged by the way its animals are treated.*

Despite the clear link between domestic violence and animal abuse, the laws in most states do not protect animals in situations of domestic abuse, leaving them with no voice under the law. Moreover, most laws governing domestic violence do not provide the victims with a way to protect their pets from their abusers, resulting in a large number of women remaining in an abusive home for fear of leaving their pets in the hands of a batterer. As discussed in greater depth above, although women have the option to seek refuge in domestic violence shelters, very few of these shelters allow victims to bring a companion animal, citing health and safety concerns as well as a lack of available space. In fact, in a 2007 article authored by Phil Arkow and Tracy Coppola, it was noted that “twelve independent surveys reported that between 18 percent and 48 percent of battered women have delayed their decision to leave, or have returned to their batterer, out of fear for the welfare of their pets or livestock.”

Including animals in domestic violence protective orders

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95. See ASCIONE, SAFE HAVENS, *supra* note 69, at 8.
bridges an important gap in providing for the safety of both animal and human victims of domestic violence. If a companion animal is not specifically included in a protective order, the abusive partner may claim co-ownership of the animal, thereby allowing him to maintain possession of the pet. Although many protective orders typically contain a generic provision that allows a victim to remove “personal effects” from the home, companion animals may not necessarily be considered by the court as falling within the category of “personal effects.” As such, animals must be recognized as separate and apart from other personal property and protective orders should include a distinct provision with regard to animals in a domestic violence situation.

Legislatures nationwide are beginning to recognize the need to extend legal protection to animals that suffer as a result of domestic violence. In April 2006, the Maine legislature became the first in the country to pass a law allowing judges to include companion animals in protective orders. Enacting a law of this nature was first considered after Anne H. Jordan, a Maine attorney and former prosecutor, held a program for the state bar discussing the connection between domestic violence and animal abuse. She drew on her experience prosecuting domestic violence cases, and she worked with the Animal Welfare Advisory Council in Maine to draft proposed legislation.

At the public hearing before the Maine legislature regarding this proposed legislation, Maine citizen Susan Walsh explained that she was unable to leave her husband numerous times because he retaliated against her by harming the family’s companion animals and livestock. Walsh said that “she had wanted many times to take her two children and leave her husband” but out of fear for the harm he would do to these animals, she remained in an abusive home. Her husband had run over her dog with a car, shot two sheep, and wrung the neck of

99. Id.
101. Id.
a prized turkey, all as a means of retaliating against her when she tried to leave him.102 “It wasn’t just the cats and the dogs I had, it was the sheep and the chickens — I was terrified for their welfare. I knew if I were to leave, he wouldn’t hesitate to kill them. He had done it before.”103

The new language in Maine’s domestic relations laws specifies that a court may enter an order “directing the care, custody or control of any animal owned, possessed, leased, kept or held by either party or a minor residing in the household.”104 It also provides for penalties including fines and jail time for those in violation of these protective orders.105

Since the passage of this law, there has been a significant surge in the number of animal protection provisions in domestic violence legislation as sister states have begun to include companion animals among those specifically protected in restraining orders. Shortly after Maine’s legislature passed a law to include pets in protective orders, the Vermont and New York legislatures enacted similar legislation.106 Vermont was the second state to amend its domestic violence laws to specifically protect animals that were at risk of abuse from batterers.107 Vermont’s statutory amendment now allows a judge to issue a protective order that includes “an order concerning the possession, care and control of any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household.”108 In response to the passage of this law, Vermont resident Amy Messina spoke of her personal experience with domestic violence and animal abuse:

‘I had no idea where Max [Messina’s dog] was for nearly two months. I was devastated,’ she stated. Law

102. Id.
103. Id.
105. Id. § 4007(3).
enforcement could not assist her in retrieving her dog. Max was eventually returned to her but had clearly been abused during his absence, she said. Messina stated that she hopes the new law will afford protection to other victims who may find themselves in similar situations, fearing for the safety of their animals.¹⁰⁹

In July 2006, New York passed an amendment to its Family Court Act allowing companion animals owned by a petitioner or a minor child residing in the household to be included in protection orders. Specifically, the law allows a protection order to include language restraining the respondent from “intentionally injuring or killing, without justification, any companion animal the respondent knows to be owned, possessed, leased, kept, or held by the petitioner or a minor child residing in the household.”¹¹⁰ That same month, a five-year old dog named Bebe in Queens, New York became the first animal in the nation to receive the benefit of a domestic violence protective order.¹¹¹ On July 20, 2006, Derek Lopez, Bebe's guardian, left the dog with Frederick Fontanez, who he was dating.¹¹² When Lopez returned home, the dog had bruises and welts on its body, which, according to a veterinarian, were caused by a violent beating.¹¹³ Lopez took advantage of New York's newly amended domestic violence legislation and obtained a court order mandating Fontanez to stay at least 100 yards away from him and his dog.¹¹⁴

From 2007 to the present, eighteen jurisdictions have enacted some form of legislation regarding a provision to include pets in domestic violence protection orders. Aside from the Maine, Vermont, and New York laws discussed above, the relevant provisions of these domestic violence animal protection laws provide as follows:

Arizona

Title 13. Criminal Code. Chapter 36. Family Offenses. § 13-
3602. Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction.

G. If a court issues an order of protection, the court may do any of the following: (7) [g]rant the petitioner the exclusive care, custody or control of any animal that is owned, possessed, leased, kept or held by the petitioner, the respondent or a minor child residing in the residence or household of the petitioner or the respondent, and order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect in violation of section 13-2910 or otherwise disposing of the animal.115

California

(b) On a showing of good cause, the court may include in a protective order a grant to the petitioner of the exclusive care, possession, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent. The court may order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.116

Colorado

116. CAL. FAMILY CODE § 6320 (Deering 2010).
(1) "Domestic violence" means an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship. "Domestic violence" also includes any other crime against a person, or against property, including an animal, or any municipal ordinance violation against a person, or against property, including an animal, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.117

Connecticut

(a) Any family or household member as defined in section 46b-38a who has been subjected to a continuous threat of present physical pain or physical injury by another family or household member or person in, or has recently been in, a dating relationship who has been subjected to a continuous threat of present physical pain or physical injury by the other person in such relationship may make an application to the Superior Court for relief under this section.

(b) The application form shall allow the applicant, at the applicant's option, to indicate whether the respondent holds a permit to carry a pistol or revolver or possesses one or more firearms. The application shall be accompanied by an affidavit made under oath which includes a brief statement of the conditions from which relief is sought. Upon receipt of the application the court shall order that a hearing on the application be held not later than

117. COLO. REV. STAT. § 18-6-800.3 (2010).
fourteen days from the date of the order. The court, in its discretion, may make such orders as it deems appropriate for the protection of the applicant and such dependent children or other persons as the court sees fit. Such order may include temporary child custody or visitation rights and such relief may include but is not limited to an order enjoining the respondent from (1) imposing any restraint upon the person or liberty of the applicant; (2) threatening, harassing, assaulting, molesting, sexually assaulting or attacking the applicant; or (3) entering the family dwelling or the dwelling of the applicant. The court, in its discretion, may make such orders as it deems appropriate for the protection of any animal owned or kept by the applicant including, but not limited to, an order enjoining the respondent from injuring or threatening to injure such animal. If an applicant alleges an immediate and present physical danger to the applicant, the court may issue an ex parte order granting such relief as it deems appropriate. If a postponement of a hearing on the application is requested by either party and granted, the order shall not be continued except upon agreement of the parties or by order of the court for good cause shown.\textsuperscript{118}

\textbf{Hawaii}


(a) The ex parte temporary restraining order may also enjoin or restrain both of the parties from taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court.\textsuperscript{119}

\textsuperscript{118} \textit{CONN. GEN. STAT. §46B-15 (2010).}

\textsuperscript{119} \textit{HAW. REV. STAT. § 586-4 (2010).}
Illinois


(11.5) Protection of animals. Grant the petitioner the exclusive care, custody, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent and order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, harming, or otherwise disposing of the animal.\textsuperscript{120}

Louisiana


A. Upon good cause shown in an ex parte proceeding, the court may enter a temporary restraining order, without bond, as it deems necessary to protect from abuse the petitioner, any minor children, or any person alleged to be an incompetent. Any person who shows immediate and present danger of abuse shall constitute good cause for purposes of this Subsection. The order may include but is not limited to the following:

(7) Granting to the petitioner the exclusive care, possession, or control of any pets belonging to or under the care of the petitioner or minor children residing in the residence or household of either party, and directing the defendant to refrain from harassing, interfering with, abusing or injuring any pet, without legal justification, known to be owned, possessed, leased, kept, or held by either party or a minor child residing in the residence or household of

\textsuperscript{120} 725 ILL. COMP. STAT. 5/112A-14 (2010).
either party.121

Minnesota
Domestic Relations. Chapter 518B. Domestic Abuse. 518B.01.
Domestic Abuse Act
Subd. 6. Relief by court.

(a) Upon notice and hearing, the court may provide relief as follows:

(14) direct the care, possession, or control of a pet or companion animal owned, possessed, or kept by the petitioner or respondent or a child of the petitioner or respondent; and

(15) direct the respondent to refrain from physically abusing or injuring any pet or companion animal, without legal justification, known to be owned, possessed, kept, or held by either party or a minor child residing in the residence or household of either party as an indirect means of intentionally threatening the safety of such person.122

Nevada

1. Domestic violence occurs when a person commits one of the following acts against or upon his spouse, former spouse, any other person to whom he is related by blood or marriage, a person with whom he is or was actually residing, a person with whom he has had or is having a dating relationship, a person with whom he has a child in common, the minor child of any of those persons, his minor child or any person who has been appointed the custodian or legal guardian for his minor child:

122. MINN. STAT. § 518B.01 (2010).
(e) A knowing, purposeful or reckless course of conduct intended to harass the other. Such conduct may include, but is not limited to:

(7) Injuring or killing an animal.\textsuperscript{123}

North Carolina


(a) If the court, including magistrates as authorized under G.S. 50B-2(c1), finds that an act of domestic violence has occurred, the court shall grant a protective order restraining the defendant from further acts of domestic violence. A protective order may include any of the following types of relief:

(8) Provide for possession of personal property of the parties, including the care, custody, and control of any animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.\textsuperscript{124}

Oklahoma


Protective order – Petition – Complaint requirement for certain stalking victims - Fees.

E. The person seeking a protective order may further request the exclusive care, possession, or control of any animal owned, possessed, leased, kept, or held by either the petitioner, defendant or minor child residing in the residence of the petitioner or defendant. The court may order the defendant to make no contact with the animal and forbid the defendant from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the

\textsuperscript{123} NEV. REV. STAT. § 33.018 (2010).

\textsuperscript{124} N.C. GEN. STAT. § 50B-3 (2010).
Puerto Rico
Act No. 154, Section 15 - Protection orders

A. In all cases in which a person is accused of domestic violence or child abuse, the court shall, by petition of the party, issue a protection order for the petitioner so that he/she be the sole custodian of the animal. The Court shall order the accused to keep far away from the animal and prohibit contact of any kind.

B. A violation of the protection order shall be considered a fourth-degree felony.126

Tennessee

(1) “Abuse” means inflicting, or attempting to inflict, physical injury on an adult or minor by other than accidental means, placing an adult or minor in fear of physical harm, physical restraint, malicious damage to the personal property of the abused party, including inflicting, or attempting to inflict, physical injury on any animal owned, possessed, leased, kept, or held by an adult or minor, or placing an adult or minor in fear of physical harm to any animal owned, possessed, leased, kept, or held by the adult or minor.127

Washington

125. OKLA. STAT. tit. 22, § 60.2 (2010).
126. P.R. LAWS ANN. tit. 5 § 1678 (2010).
127. TENN. CODE ANN. § 36-3-601 (2010).
(1) Upon notice and after hearing, the court may provide relief as follows:

(k)(l) Order possession and use of essential personal effects. The court shall list the essential personal effects with sufficient specificity to make it clear which property is included. Personal effects may include pets. The court may order that a petitioner be granted the exclusive custody or control of any pet owned, possessed, leased, kept, or held by the petitioner, respondent, or minor child residing with either the petitioner or respondent and may prohibit the respondent from interfering with the petitioner's efforts to remove the pet. The court may also prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance of specified locations where the pet is regularly found.128

West Virginia


The terms of a protective order may include: (13) Awarding the petitioner the exclusive care, possession, or control of any animal owned, possessed, leased, kept or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent and prohibiting the respondent from taking, concealing, molesting, physically injuring, killing or otherwise disposing of the animal and limiting or precluding contact by the respondent with the animal.129

Additionally, Indiana and Oregon have enacted animal cruelty laws that recognize animal abuse in the domestic violence

context as a distinct form of animal cruelty. Section 35-46-3-12.5 of Indiana’s statutory code was enacted in 2007 and provides that “a person who knowingly or intentionally kills a vertebrate animal with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member commits domestic violence animal cruelty, a Class D felony.”\(^{130}\) In Oregon, the state legislature has promoted animal abuse to a first-degree felony if it is committed in front of a minor child or if the perpetrator previously was convicted of a domestic violence offense.\(^{131}\)

In sum, twelve of the eighteen jurisdictions that have enacted legislation concerning the safety and welfare of animals in regard to a domestic violence restraining order have included a provision granting exclusive care of the animal to the petitioner.\(^{132}\) Eleven of these jurisdictions order the respondent to stay away from the animal and to refrain from threatening or harming the animal.\(^{133}\) Eight jurisdictions include both a provision bestowing exclusive care of the animal to the petitioner in addition to a cease contact/abuse order against the respondent.\(^{134}\) Three states, Colorado, Nevada, and Tennessee, amended their definition of domestic violence to specifically include threats against or harm to a companion animal as a specific form of domestic abuse. Connecticut’s statutory scheme contains a catch all provision that allows a judge to make any and all orders he or she deems appropriate to protect an animal in the context of domestic violence.

VI. SOME PROPOSED RHODE ISLAND LEGISLATION

*Experience plainly demonstrates the inefficacy of mere morality to prevent aggression, and the necessity of coercive laws for the security of rights. I therefore propose,*

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130. IND. CODE § 35-46-3-12.5 (2010).
132. These jurisdictions include: Arizona, California, Illinois, Louisiana, Maine, Nevada, Oklahoma, Oregon, Puerto Rico, Vermont, Washington, and West Virginia.
133. These jurisdictions include: Arizona, California, Hawaii, Illinois, Louisiana, Minnesota, New York, Oklahoma, Puerto Rico, Washington, and West Virginia.
134. These jurisdictions include: Arizona, California, Illinois, Louisiana, Minnesota, Puerto Rico, Washington, and West Virginia.
that the Rights of Beasts be formally acknowledged by the state, and that a law be framed upon that principle, to guard and protect them from acts of flagrant and wanton cruelty, whether committed by their owners or others. 135

The link between animal abuse and domestic violence is now widely recognized and supported by statistical data, survey-based accounts, and anecdotal measures. In light of this connection, the Rhode Island legislature should consider the presence of animal abuse as a strong indicator of other problems in a violent household. Currently, Rhode Island has restraining order legislation aimed at providing assistance to domestic violence victims. As discussed at length above, animal abuse is an ever-present element of a significant percentage of domestic violence episodes. Nevertheless, there is no statutory provision in Rhode Island that addresses companion animals with regard to restraining orders in the domestic violence context despite the clear link between human victims and their animals. In fact, there are no laws in Rhode Island that protect animals in the domestic violence context. While victims can take their pets with them when they leave the abuser, the vast majority of family violence shelters do not accommodate companion animals primarily because of health and safety concerns.

In Rhode Island, the framework for a restraining order that protects animals is already in place; the General Assembly need only amend existing domestic violence laws, a straightforward, relatively simple step for the legislature, yet, at the same time, an important step toward protecting both human and animal victims of family violence. To provide the fullest protection for both animals and humans, the following four amendments are necessary: (1) amending the definition of domestic violence to include harming or threatening to harm a pet or companion animal; (2) amending the restraining order provision to allow a judge in both district court and family court to grant exclusive care and custody of a pet or companion animal to the petitioner when drafting a restraining order; (3) amending the restraining order provision to allow a judge in both district court and family

135. John Lawrence, A Philosophical and Practical Treatise on Horses, and on the Moral Duties of Man Towards the Brute Creation 123 (T.N. Longman 1796).
court to order the respondent to cease contact with and cease abuse of the companion animal or pet when drafting a restraining order; and (4) adding a catch all provision so that the judge may, in his or her discretion, make any other orders regarding the protection of animals in the domestic violence context.

The definition of domestic abuse is currently defined as follows:

(2) “Domestic abuse” means the occurrence of one or more of the following acts between present or former family members, parents, stepparents, or persons who are or have been in a substantive dating or engagement relationship within the past one year in which at least one of the persons is a minor:

   i. Attempting to cause or causing physical harm;

   ii. Placing another in fear of imminent serious physical harm; or

   iii. Causing another to engage involuntarily in sexual relations by force, threat of force, or duress.

   iv. Stalking or cyberstalking.136

The newly amended definition of domestic abuse would include the following additional designation of domestic abuse:

v. Domestic abuse also includes any injuring or killing or threatening to injure or kill an animal when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.

The other three amendments, regarding exclusive care of the animal, cease contact and abuse order with respect to the animal, and a catch all provision, would be included among the list of options a judge has with respect to issuing a restraining order in the domestic violence context. The chapter in the Rhode Island laws on domestic abuse prevention as well as the chapter on

domestic assault would have to be similarly amended to include each of these changes.

The proposed language in the chapter on domestic abuse prevention is included in the relevant portion of the statute quoted below, with the suggested changes reflected in bold typeface.\footnote{See R.I. GEN. LAWS § 15-15-3. Please note that the entirety of R.I. GEN. LAWS § 15-15-3 has not been reproduced above.}

\section*{§ 15-15-3 Protective orders -- Penalty -- Jurisdiction. -- (a)}
A person suffering from domestic abuse may file a complaint in the family court requesting any order which will protect and support her or him from abuse including, but not limited to, the following:

(1) Ordering that the defendant be restrained and enjoined from contacting, assaulting, molesting, or interfering with the plaintiff at home, on the street, or elsewhere, whether the defendant is an adult or a minor;

(2) Ordering the defendant to vacate the household immediately;

(3) Awarding the plaintiff custody of the minor children of the parties, if any;

(4) After notice to the respondent and a hearing, ordering either party to make payments for the support of a minor child or children of the parties as required by law for a period not to exceed ninety (90) days, unless the child support order is for a child or children receiving public assistance pursuant to chapter 5.1 of title 40. In these cases, legal counsel for the division of taxation, child support enforcement, shall be notified as a party in interest to appear for the purpose of establishing a child support order under a new or existing docket number previously assigned to the parties and not under the protective docket number. The child support order shall remain in effect until the court modifies or suspends the order.

(5) After notice to the respondent and a hearing, the court in addition to any other restrictions, may order the
defendant to surrender physical possession of all firearms in his or her possession, care, custody or control.

(6) The court may also grant the plaintiff exclusive care, custody, possession, or control of any pet or companion animal owned, possessed, leased, kept, or held by the plaintiff, defendant, minor child in the household or residence, or any person alleged to be an incompetent residing in the household or residence. The court may order the defendant to stay away from the pet or companion animal and forbid the defendant from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect, including but not limited to molesting, attacking, striking, threatening, or harming, or otherwise disposing of the animal.

(7) The court may also, in its discretion, make any other such orders as it deems appropriate for the protection of any pet or companion animal owned, possessed, leased, kept, or held by the plaintiff, defendant, minor child, or incompetent residing in the household or residence.

The proposed language in the chapter on domestic assault is included in the relevant portion of the statute quoted below, with the changes reflected in bold typeface.138

§ 8-8.1-3 Protective orders – Penalty – Jurisdiction. – (a) A person suffering from domestic abuse may file a complaint in the district court requesting any order which will protect her or him from the abuse, including but not limited to the following:

(1) Ordering that the defendant be restrained and enjoined from contacting, assaulting, molesting or otherwise interfering with the plaintiff at home, on the street, or elsewhere, whether the defendant is an adult or minor;

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138. See R.I. GEN. LAWS § 8-8.1-3. Please note that the entirety of R.I. GEN. LAWS § 8-8.1-3 has not been reproduced above.
(2) Ordering the defendant to vacate the household forthwith, unless the defendant holds sole legal interest in the household;

(3) Upon motion by the plaintiff, his or her address shall be released only at the discretion of the district court judge;

(4) After notice to the respondent and after a hearing, the court may order the defendant to surrender physical possession of all firearms in his or her possession, care, custody or control.

(5) The court may also grant the plaintiff exclusive care, custody, possession, or control of any pet or companion animal owned, possessed, leased, kept, or held by the plaintiff, defendant, minor child in the household or residence, or any person alleged to be an incompetent residing in the household or residence. The court may order the defendant to stay away from the pet or companion animal and forbid the defendant from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect, including but not limited to molesting, attacking, striking, threatening, or harming, or otherwise disposing of the animal.

(6) The court may also, in its discretion, make any other such orders as it deems appropriate for the protection of any pet or companion animal owned, possessed, leased, kept, or held by the plaintiff, defendant, minor child, or incompetent residing in the household or residence.

The proposed additions to the definition of domestic abuse as well as to the restraining order legislation in the domestic context provide a solid foundation for victims of domestic violence to protect their animals from the abusers. With the suggested amendments to section 15-15-3 and section 8-8.1-3, a court will have the power to specifically order the defendant to stay away from the animal. Moreover, victims will be given custody of the animal, thereby enabling the victim to leave the abuser and take
their pet(s) with them. Also of significance, broadening the definition of domestic abuse to include injuring, killing, or threatening to injure or kill an animal in the domestic violence context provides an additional safeguard for victims since the act toward the animal in and of itself would constitute domestic abuse.

CONCLUSION

As it stands, domestic violence victims in Rhode Island have to choose between their safety and the safety of the animals they love given the established link between domestic violence and animal abuse. Amending Rhode Island's domestic violence legislation with the language proposed above would provide an important step for both domestic violence victims and their companion animals and would serve to benefit the human and animal victims of abuse in the following ways. The availability of a restraining order would give the human victim a strong reason to obtain the restraining order early, before the abuse may transfer to a human victim. A restraining order for a companion animal would provide an additional level of protection from their abuser. The existence of this remedy would allow a woman to leave an abusive home with the assurance that the animal is separately protected under the law. Moreover, these restraining orders would enhance the status of animals and provide an additional, creative approach for animal protection in animal cruelty cases given the low number of animal cruelty cases that are actually prosecuted. The restraining order also provides a means of preventing animal abuse in the future, rather than merely serving as a punitive or reactionary measure to abuse that has already taken place.