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Comparative Analysis of Animal Welfare Laws Versus Kentucky's Animal Welfare Laws

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**Abstract**

State laws governing animal welfare vary between states. This paper will establish the differentiation in the terminology, the established punishments, and the resulting rates of euthanasia associated with these laws as well as examining local laws that have proven effective. Best practices that are a direct result of the institution of the laws in the states that have been deemed “top tier” by The Animal Legal Defense Fund, the American Veterinary Medical Association, and The United States Department of Agriculture will be examined and compared with the existing practices and laws of Kentucky. Kentucky currently ranks in the bottom tier in The United States of America for effectiveness of animal protection laws. These laws govern the citizens of states in terms of cruelty, neglect, and abuse as well as establishes the limits of legal repercussions associated with each infraction. Clearly defined laws with stronger penalties levied against perpetrators consistently result in lower instances of animal cruelty and lower rates of euthanasia as a result of unwanted pets. Many states govern local shelters in terms of adoption requirements and mandatory spaying and neutering of pets prior to adoption. These states are consistently located in the top tier of states with animal welfare laws. This paper will compare the laws and establish what is considered best practices for further study for state legislators to improve their laws.

*Keywords:* animal cruelty, animal welfare laws, euthanasia, state laws

### **Comparative Analysis of Animal Welfare Laws Versus Kentucky's Animal Welfare Laws**

Laws governing animal welfare has been under scrutiny and continues to be the object of many studies conducted by animal activists. The rationale behind this scrutiny is the discrepancy from one state to another in terms of penalties, definitions, and enforceability of the laws. These discrepancies will be identified and compared between the states in the “top tier” of animal welfare laws and those in the “bottom tier” of animal welfare laws. Organizations such as The Animal Legal Defense Fund and The Humane Society of the United States have established systems to dissect the animal welfare laws in each state to establish those that are the most effective. Supporting documentation from the American Veterinary Medical Association validates these systems utilized by both organizations.

Nationwide, the American Veterinary Medical Association notes that sixty-five percent of all households have either a cat or dog (2018). The total number of dogs are at an estimated seventy-eight million and cats are at eighty-six million (Gagne & Sinski, 2016). Sinski and Gagne reports that approximately eighteen dogs and cats are euthanized each year (2016). In 2012, Kentucky reported that 285,000 dogs and cats were admitted to shelters in the state with a mere fifteen percent returned to the owners (Gagne & Sinski, 2016). Recording is not mandatory for Kentucky shelters so there is limited data on the euthanasia in the state. According to Gagne and Sinski, “in 2010, the Louisville Metro Animal Service department received 14,149 animals.” Of these reportedly 57% were euthanized. Until 2004, no changes had been made to the 1954 animal control statues (Gagne & Sinski, 2016). At this time legislators’ attention was brought to the antiquated laws of the state by animal activist groups. Even with the prodding of these groups, Kentucky remains in the bottom five of the United States regarding animal welfare laws

and the effectiveness of those laws that have been initiated. Matters like cruelty, neglect, and welfare are consistently omitted from the animal statutes of Kentucky. Other states who rank much higher offer more definitive definitions and stiffer punishments than does Kentucky.

The American Legal Defense Fund (ALDF) (2020) identifies Kentucky as number forty-seventh when ranking animal welfare laws throughout the United States in 2019. Illinois, on the other hand, is ranked as number one. One notable difference is that the State of Kentucky remains as the only state to not allow veterinarians to report animal cruelty according to the ALDF (2020). Illinois statute 70/3.0.07 (2019) establishes the legal responsibility of a veterinarian to report “the owner's name, the date of receipt of the animal or animals and any treatment administered, and a description of the animal or animals involved, including a microchip number if applicable,” of any animal who presents for the treatment of “aggravated cruelty.” Illinois’ statute goes further and protects the veterinarian from civil or criminal prosecution because of his or her report. Kentucky revised statute 321.185.3 prohibits a veterinarian practicing in Kentucky from revealing any information about a client or client pet in the care of a veterinarian unless requested by a civil or criminal proceeding. The American Veterinary Medical Association (2020) identifies that most states offer immunity for veterinarians that report animal abuse even when not mandated by law but identifies that there is no such protection in the state of Kentucky. States such as Tennessee do not require reporting but do not have an inclusion in the statute that prohibits it as a veterinarian/client privilege as does Kentucky. Wolf (2017) brings into question reportable issues and questions laws that require this mandatory reporting. This could lead to owners not seeking medical care in fear of being questioned. Veterinarians are given the judgement by some states to discern what is a result of abuse, and in that discernment, they must be aware of legal ramifications if their decision is not

upheld. Legislators must be able to differentiate between what is in the best interest of an animal and what is simply frivolous legal action for the benefit of a pet owner (Wolf, 2017).

One universal omission from state laws governs spaying and neutering of pets. Only one state, Rhode Island, has a law that mandates the spaying and neutering of cats over the age of six months. Specifically Rhode Island statute 4-23-3 (2016) states no owner " shall own or harbor, within the state, any cat over the age of six (6) months which has not been spayed or neutered, unless such person has adopted a cat from a licensed releasing agency as defined by section 4-19-2 and is subject to the spaying and neutering requirements of section 4-19-16 or holds either a license to keep an unaltered cat, or a license and permit for breeding cats issued by the animal control officer for the city or town in which they live, or unless the caretaker states that, due to age, health or illness it would be inappropriate to spay or neuter the cat and having in their possession a letter from a licensed veterinarian stating such, which shall be provided to the animal control officer." As an alternate form of population control within the state, many states have adopted statutes that mandate that animals adopted through public shelters or other public animal agency be sterilized before leaving the shelter or agency. California's statute 30503.(a)(1) states that "no public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group shall sell or give away to a new owner any dog that has not been spayed or neutered." Although some county entities have deemed it appropriate to mandate such a statute for their local shelter, most Kentucky shelters still continue the practice of adopting out unsterilized cats and dogs without repercussions for following through with spay and neuter contracts signed at the time of adoption by the adopter. Kentucky, as a state, has no mandates governing spaying and neutering of pets in public shelters or agencies.

Words and phrases and their definitions within state mandates also limit the effectiveness of the laws governing animal welfare. Identifying living conditions in terms of adequacy presents discrepancy between states. Rhode Island statute 4-1-1 a(5) identifies “adequate living conditions” shall mean a sanitary environment which is dry and free of accumulated feces and free of debris and garbage that may clutter the environment, pose a danger or entangle the animal. The environment in which the animal is kept must be consistent with federal regulatory requirements, where applicable or generally recognized professional standards, where applicable, or otherwise be of sufficient size so as not to inhibit comfortable rest, normal posture or range of movement, and suitable to maintain the animal in a good state of health.” Maine’s statutes 1035, 1036, and 1037 (2019) provide in depth definitions for sustenance, medical attention, and proper shelter. Statute 1037 (2019) defines both indoor and outdoor sheltering as follows:

“1. Indoor standards. Minimum indoor standards of shelter shall be as follows.

A. The ambient temperature shall be compatible with the health of the animal.

B. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animal at all times.

2. Outdoor standards. Minimum outdoor standards of shelter shall be as follows.

A. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, “caged” does not include farm fencing used to confine farm animals.

B. Except as provided in subsections 5, 5-A and 7, shelter from inclement weather must be provided according to this paragraph.

(1) An artificial shelter, with a minimum of 3 sides and a waterproof roof,

appropriate to the local climatic conditions for the species and breed of the animal must be provided as necessary for the health of the animal.

(2) If a dog is tied or confined unattended outdoors under weather conditions that adversely affect the health of the dog, a shelter must be provided in accordance with subsection 7, paragraph A to accommodate the dog and protect it from the weather and, in particular, from severe cold. Inadequate shelter may be indicated by the shivering of the dog due to cold weather for a continuous period of 10 minutes or by symptoms of frostbite or hypothermia. A metal barrel is not adequate shelter for a dog.”

Kentucky statutes includes no definition for adequate living conditions and no legislation mandating pet owners provide minimum care for their pets. Tennessee statute (TCA) 44-8-408(2019): identifies “cruelty to animals” as an offense if a person “fails unreasonably to provide necessary food, water, care or shelter for an animal in the person's custody.” This statute is open to interpretation of law enforcement, because it does not clearly define shelter. In Tennessee, one could assume that a metal barrel would suffice as shelter, whereas Maine left no question that a metal barrel was not adequate shelter. Local governments have taken a stance by defining adequate food, water, and shelter in local ordinances in an effort to limit subjective interpretation. Hopkinsville, Kentucky has adopted an ordinance that clearly identifies shelter and shade as separate but necessary requirements for adequate care for dogs or cats. By definition, Hopkinsville finds that:

“ADEQUATE SHELTER. For dogs, means an appropriate, durable, enclosed, permanent structure, or a structure manufactured to serve primarily as an outdoor shelter

for a dog, with a roof, four sides, and a floor raised at least two inches above the ground and constructed in a manner to protect a dog's feet and legs from injury, with dimensions appropriate for breed and size. The shelter shall provide the dog adequate protection and shelter from heat and cold and from the direct effect of wind, rain, and snow, and be of proportional size to allow the natural body heat of the dog to be retained in cold weather. The shelter must have an entry-way to allow the dog to easily enter and exit. The shelter shall have a sufficient amount of clean bedding to keep the dog warm and dry. Metal drums shall not be considered shelter. For all other animals, ADEQUATE SHELTER means an appropriate structure that provides the animal adequate protection and shelter, as determined by the animal's species, from heat and cold and from the direct effect of wind, rain, and snow.”

Hopkinsville further identifies shade as a necessity for animal welfare and is defined as:

“ADEQUATE SHADE. For dogs, means one or more separate outside areas of shade, large enough to contain all dogs at one time and to protect them from the direct rays of the sun. A doghouse shall not constitute adequate shade. For all other animals that, as determined by species, require shade, ADEQUATE SHADE means one or more outside areas of shade large enough to protect all the animals present from the direct rays of the sun.”

This offers law enforcement finite limits with which to ensure animals are given adequate care, and to prosecute violators when these standards are not met. The state of Kentucky has no such provisions in the statutes which means in areas of the states where local governments have not intervened, there is no punishment for not having shelter for an animal.

Another discrepancy within the states' statutes on animal welfare is the utilization of words that represent the person in possession of an animal. Specifically, the controversy surrounding the owner versus guardian title. Rhode Island statute 4-1-1 (4) (2016) identifies a guardian as "a person(s) having the same rights and responsibilities of an owner, and both terms shall be used interchangeably. A guardian shall also mean a person who possesses, has title to or an interest in, harbors or has control, custody or possession of an animal and who is responsible for an animal's safety and well-being." Finkelstein (2005) establishes this terminology could shift the responsibility from the pet owner to people who may only be temporarily caring for the pet such as pet sitters or family members who have temporarily assumed responsibility for the animal. Finkelstein (2005) established that according to Dr. Charlotte Lacroix, DVM, veterinarians could be held responsible for care given in the absence of the owner with the permission of the "guardian." Should the owner decide that the care was not essential, charges may not be paid (Finkelstein, 2005). The American Veterinary Medical Association (AMVA) (2005) published concerns over the terminology and the ramifications it could have for the care given to pets. The AMVA (2005) further identifies that the administration of vaccinations may come under scrutiny which could result in an increase in diseases that have been somewhat contained for responsible pet owners. Kentucky has not adopted this terminology and continues to acknowledge pets as possessions. It is this acknowledgement that has radical animal activists pushing for the change to refer to themselves as guardians.

Some states have lengthy, involved statutes concerning dog fighting. California statute 597.5 is one of those laws and leaves little room for indecisiveness:

- (a) Any person who does any of the following is guilty of a felony and is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, or two or

three years, or by a fine not to exceed fifty thousand dollars (\$50,000), or by both that fine and imprisonment:

(1) Owns, possesses, keeps, or trains any dog, with the intent that the dog shall be engaged in an exhibition of fighting with another dog.

(2) For amusement or gain, causes any dog to fight with another dog, or causes any dogs to injure each other.

(3) Permits any act in violation of paragraph (1) or (2) to be done on any premises under his or her charge or control, or aids or abets that act.

(b) Any person who is knowingly present, as a spectator, at any place, building, or tenement where preparations are being made for an exhibition of the fighting of dogs, with the intent to be present at those preparations, or is knowingly present at that exhibition or at any other fighting or injuring as described in paragraph (2) of subdivision (a), with the intent to be present at that exhibition, fighting, or injuring, is guilty of an offense punishable by imprisonment in a county jail not to exceed one year, or by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine.

Kentucky, on the other hand, in statute 525.125 (1) (b) (2016) simplifies the definition: “Dog fight” or “dog fighting” means any event that involves a fight conducted or to be conducted between at least two (2) dogs for purposes of sport, wagering, or entertainment, except that the term “dog fight” or “dog fighting” shall not be deemed to include any activity the purpose of which involves the use of one (1) or more dogs in hunting or taking another animal.” The statute proceeds to identify this act as a cruelty to animal in the first degree with the following wording:

“The following persons are guilty of cruelty to animals in the first degree:

(a) Whenever a dog is knowingly caused to dog fight for pleasure or profit:

1. The owner of the dog;
2. The owner of the property on which the fight is conducted if the owner knows of the dog fight; and
3. Anyone who participates in the organization of the dog fight; and

(b) Any person who knowingly owns, possesses, keeps, trains, sells, or otherwise transfers a dog for the purpose of dog fighting.”

Dog fighting has now become a felony in all fifty states, but even so, in some states including Kentucky attendance at a dog fight remains a misdemeanor. Under Kentucky Statute 525.130 (2016), a spectator is charged with cruelty to animals in the second degree and is considered a Class A misdemeanor which is punishable by up to a year in jail and \$500 fine. Federal law entitled Animal Fighting Spectator Prohibition Act was signed into law in 2014 makes attending an animal a federal offense, and the act adds additional punishment if the spectator brings a child under sixteen years of age to the fight (Gibson, 2014).

Another form of animal fighting that continues to be recognized by animal welfare organization is cock fighting. Kentucky does not identify this type of fighting as punishable by a felony but with the Animal Fighting Spectator Prohibition Act, attendance at such an event is considered a federal offense (Gibson, 2014). Kentucky is one of thirteen states that first time offenders of cock fighting receive a misdemeanor (Griffin, 2014). As cited in the previous paragraph, Kentucky identifies a person that causes any other animal than a dog to “fight for pleasure or profit” to be guilty of cruelty to animals in the second degree, a class A misdemeanor. Other states that consider cock fighting a misdemeanor include Alabama, Georgia, Hawaii, Idaho, Kansas, Kentucky, Mississippi, Missouri, North Carolina, South Carolina, South

Dakota and Utah (Griffin, 2014). Again, the lack of unilateral, consistent animal welfare laws offers offenders states where such activity is treated much like a traffic offense. California offers a specific statute directed to the use of birds for fighting as follows:

§ 597j. Persons who own, possess or keep or train any bird or other animal with intent that it be used or engaged in fighting exhibition; penalties

(a) Any person who owns, possesses, keeps, or trains any bird or other animal with the intent that it be used or engaged by himself or herself, by his or her vendee, or by any other person in an exhibition of fighting as described in Section 597b is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed ten thousand dollars (\$10,000), or by both that imprisonment and fine.

(b) This section shall not apply to an exhibition of fighting of a dog with another dog.

(c) A second or subsequent conviction of this section is a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year or by a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that imprisonment and fine, except in unusual circumstances in which the interests of justice would be better served by the imposition of a lesser sentence.

Another area of concern with state animal welfare laws is animals being left in hot cars without a source of ventilation. Although surrounding states include a good Samaritan law which

allows a citizen to rescue an animal left in a hot car unattended, Kentucky has no provision for the welfare of these animals (ALDF, 2019). According to the report compiled by the ALDF in 2019, fourteen states have the good Samaritan law enacted and these citizens are protected if they first call law enforcement. Fifteen states allow law enforcement to remove an animal from a hot car without repercussions from the vehicle owner. West Virginia and New Jersey have laws that make leaving a dog in a hot vehicle a crime, but unlike the other twenty-nine listed before, no one can save the animal from the conditions. The remaining states have no laws protecting animals left in cars. Nevada statute 574.195 (2015) is a model example for those states who allow law enforcement to remove an animal from a car:

574.195. Allowing cat or dog to remain unattended in motor vehicle during period of extreme heat or cold unlawful; removal of animal; exceptions; immunity from liability; penalty

1. Except as otherwise provided in subsection 3, a person shall not allow a cat or dog to remain unattended in a parked or standing motor vehicle during a period of extreme heat or cold or in any other manner that endangers the health or safety of the cat or dog.

2. Any:

(a) Peace officer;

(b) Officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040;

(c) Animal control officer;

(d) Governmental officer or employee whose primary duty is to ensure public safety;

(e) Employee or volunteer of any organized fire department; or

(f) Member of a search and rescue organization in this State that is under the direct supervision of a sheriff, may use any force that is reasonable and necessary under the circumstances to remove from a motor vehicle a cat or dog that is allowed to remain in the motor vehicle in violation of subsection 1.

Sexual assault on an animal is another area where laws are lacking. Four states do not have any laws prohibiting sexual assault with animals. These states are Hawaii, New Mexico, West Virginia, and Wyoming (ALDF, 2016). Kentucky enacted a law effective June 27<sup>th</sup>, 2019 that reads as follow:

525.137 Sexual crimes against an animal

(1) As used in this section:

(a) “Animal” means any nonhuman creature; and

(b) “Sexual contact” means any act committed between a person and an animal for the purpose of sexual arousal, sexual gratification, abuse, or financial gain involving:

1. Contact between the sex organs or anus of one and the mouth, sex organs, or anus of another;

2. The insertion of any part of the animal's body into the vaginal or anal opening of the person; or

3. The insertion of any part of the body of a person or any object into the vaginal or anal opening of an animal without a bona fide veterinary or animal husbandry purpose.

(2) A person is guilty of sexual crimes against an animal if he or she:

(a) Engages in sexual contact with an animal;

(b) Advertises, solicits, offers, or accepts the offer of an animal, or possesses, purchases, or otherwise obtains an animal, with the intent that the animal be subject to sexual contact; or

(c) Causes, aids, or abets another person to engage in sexual contact with an animal.

(3) Sexual crimes against an animal is a Class D felony.

Some other states incorporated the act as part of their aggravated cruelty to animal statutes. Colorado is one of those states with this statute:

“18-9-202. Cruelty to animals--aggravated cruelty to animals--service animals

(1) (a) A person commits cruelty to animals if he or she knowingly, recklessly, or

with criminal negligence overdrives, overloads, overworks, torments, deprives

of necessary sustenance, unnecessarily or cruelly beats, allows to be housed in a manner that results in chronic or repeated serious physical harm, carries or

confines in or upon any vehicles in a cruel or reckless manner, engages in a

sexual act with an animal, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink, or protection from the weather consistent with the species, breed, and type of animal involved, or abandons an animal.”

In comparison, Kentucky’s statute does a better job of defining specifically the limits of the laws and the act of sexual assault definition. Identifying this act as a felony sets Kentucky above other states in this one area of animal welfare.

Washington D.C. is presently pursuing the passage of the Animal Care and Control Omnibus Act Of 2019. Filing a dog’s teeth to make them weapons in a fight requires a specific tool. Building muscles on a dog requires a specific drug, a stringent exercise routine utilizing a modified treadmill, and “practice” on unsuspecting animals. Maintaining a breeding line that will be conducive to reacting aggressively when confrontation arises requires a special breeding ramp to ensure the female is immobile during insemination to prevent injury to the stud dog. A pit that is sufficient to protect onlookers while the barbaric clash of teeth occurs as a fight to the death is observed is necessary for the sport much like the boxing ring is to the prizefighter. All these add up to the implements of torture for the dogs who are trained for the entertainment of a cruel group of criminals. In the Act, Washington is trying to make possession of any of these items a crime. As it stands right now, the proposal is still awaiting passage. This will set the stage for many states to enact similar legislation in their combat against dog fighting. The ALDF (2019) reports that half of the states have laws in place that make possession of “fighting paraphernalia illegal. Some states identify individual items of torture while others leave the determination up to

the judge. Since dogfighting is a form of exploitation, many states have added addendums to their cruelty statutes to add exploitation as a crime.

States have also included humans in their laws governing animals. In California, people that are convicted of hurting an animal is subject to completing mandatory counseling as set forth in the following subsection of the state's animal cruelty statute:

“h) Notwithstanding any other provision of law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 9 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine.

This provision specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment pursuant to subdivision (h) of Section 1170 or county jail when that sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering custody. This subdivision shall not apply to cases involving police dogs or horses as described in Section 600.”

Similarly, Kentucky mandates that a person charged with engaging in sexual activity with an animals must “(c) Attend an appropriate treatment program or obtain psychiatric or psychological counseling, at the person's expense (2019).”

Kentucky has not implemented a shelter law that governs animal shelters and the implementation of spaying and neutering of animals in those shelters. As mentioned before, Rhode Island has implemented a mandatory spaying and neutering of all cats, but as a state Rhode Island is the only state that has broached this for citizens. Other states have initiated mandatory spaying and neutering of animals before adoption from a government shelter. California is one of those states. On a local level in California, Johnson et al (2014) identified a pilot program at San Jose Animal Care and Services where a spay and neuter program of feral intakes was established. 10,080 cats were spayed or neutered through the program in just over four years. The result was an astounding ninety-nine percent decrease in the euthanasia of cats due to upper respiratory illness (Johnson et al, 2014). Another marked decrease was in the number of intakes of cats and kittens during the same period. This decrease was twenty-nine

percent (Johnson et al, 2014).

At the same shelter in San Jose, Johnson et al(2014) identified a grant given by Petsmart charities as a way to reduce the primary reason for canine intakes. Chihuahuas and Chihuahua mixes comprise forty percent of the canine intakes at that shelter, and upon implementing a spay and neuter program geared at these dogs, the shelter was able to reduce the number of intakes in just under a year's time (Johnson et al, 2014). After a steady increase for over a decade, this precipitated the first increase. This lends support a law mandating animals being spayed or neutered before adoption at government ran shelters (Johnson et al, 2014). According to Kartal and Rowan (2018), “n 1984, the state of New Jersey was the first in the country to address its pet overpopulation problem with a statewide low-income, low-cost, spay/neuter program and continues to provide these services. The number of dogs impounded dropped by seventy-five percent from 1984 to 2014, while the number of dogs euthanized has dropped by over ninety percent over the same period.” Kartal and Rowan (2018) also identified that reporting makes a difference in the data available. Michigan established every Michigan shelter has to be licensed and has to report their shelter data annually under the Pet Shop, Dog Pounds, and Animal Shelters Act, 1996. This reporting has shown a decrease in the rate of euthanasia from 5.69 dogs per 1000 people in 2005 to 2.3 dogs per 1000 people in 2013 (Kartal & Rowan, 2018). Few states have mandatory reporting laws but one can see that with the implementation of such, shelter employees have become more proactive in the placement and rehabilitation of the animals in their care.

Another California county, Los Angeles County, has been acknowledged by American Veterinary Medical Association to have “one of the nation's toughest laws on pet sterilization (AVMA, 2019).” This law requires that all cats and dogs be sterilized before they turn four

months. A letter from a veterinarian can delay the sterilization until the age of six months. Offenders are exacted fines and community service for failure to comply. These fines start at one hundred dollars and goes up to five hundred dollars (AVMA, 2019). According to the AVMA (2019), thirty-two states and Washington D.C. have enacted statutes that require sterilization of all animals adopted from shelters, rescues, and pounds or a binding, enforced agreement to provide sterilization. These states are Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Iowa, Kansas, Louisiana, Maine, Massachusetts, Michigan, Missouri, Montana, Nebraska, New Jersey, New Mexico, New York, Nevada, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah and West Virginia. Again, conspicuously missing is the state of Kentucky.

Another aspect of shelter law is those that govern the treatment of animals while in care in the shelter. Tuber (1999) identifies training as a feasible method to decrease intakes at local shelters. With legislators mandating training programs provided by government shelter employees before discharge of an animal, Tuber surmises a reduction in the animals being returned to the shelter. Tuber (1999) found that the primary reason for dog intakes into government shelters was the lack of training. Mandating owner training programs would be virtually impossible so the responsibility falls to the local shelter employee. Owner retention would be the positive outcome which would in return reduce canine intakes as county shelters (Tuber, 1999). Regulation would be easier to manage when mandating a facility that is already ran by the government and is held accountable to the government for funding. Shelters would comply simply for the sake of funding (Tuber, 1999).

Johnson et al (2014) also creates a sound basis for another possible mandate for government ran shelters. This stems from a seventy-two hour hold that is placed on every

roaming cat brought into the shelter. This method allows for the employees to be able to assess each cat for their temperament. Often cats arrive afraid and can present as a feral cat simply from fear. With this seventy-two hour evaluation hold, the employees have time to allow the cats to decompress (Johnson et al, 2014). Prior to the establishment of this hold, these cats were simply euthanized. Since establishing the hold, shelter employees have been able to reduce the number of euthanasias on intake to less than thirty two percent down from ninety four percent previously (Johnson et al, 2014).

Tuber, Miller, Caris, Halter, Linden, and Hennessey(1999) identifies the lack of training as a primary reason for intakes at government animal shelters. Johnson et al(2014) identifies the overpopulation of dogs and cats as a primary reason for shelter intakes. Tuber et al (1999) identifies the need for a mandated training program to be established in government ran shelters and governed by the state laws. Regardless of the rationale, shelter laws mandated by the state will provide for adequate care for the animals in those shelters.

Gaines and Jermier(2000) establishes a different question concerning the wording of laws governing animal welfare. They bring to light the lack of including laws that govern the use of animals for personal gain. The authors discuss animals used in the entertainment industry or the science and education industry (Gaines & Jermier, 2000). Texas leads the country by establishing “laws governing standards for the humane treatment of circus animals but specifically exempts circuses from regulation if they are licensed by the USDA and if the circus provides proof of (mandatory) inspection at least once a year (Niedrich, 2010).” According to Niedrich (2010) another stipulation of Texas law is “circus animals cannot enter the state unless they have been certified tick- and disease-free and obtain a certificate of such status.” Kentucky, again has no statutes to protect animals used for financial gain in terms of circus and public

entertainment. According to Niedrich's (2010) compilation of statute, only two cities in Kentucky have laws enacted concerning circus animals: "Georgetown, Kentucky requires circuses to be licensed, keeps and exercises the option to inspect them and charges nominal fees for a permit to operate. Lexington-Fayette, Kentucky also exempts circuses from cruelty laws and prohibitions on keeping dangerous wild animals. Illinois has an extensive statute protecting animals used for entertainment:

70/4.01. Animals in entertainment

§ 4.01. Animals in entertainment. This Section does not apply when the only animals involved are dogs. (Section 48-1 of the Criminal Code of 2012, rather than this Section, applies when the only animals involved are dogs.)

(a) No person may own, capture, breed, train, or lease any animal which he or she knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between such animal and any other animal or human, or the intentional killing of any animal for the purpose of sport, wagering, or entertainment.

(b) No person shall promote, conduct, carry on, advertise, collect money for or in any other manner assist or aid in the presentation for purposes of sport, wagering, or entertainment, any show, exhibition, program, or other activity involving a fight between 2 or more animals or any animal and human, or the intentional killing of any

animal.

(c) No person shall sell or offer for sale, ship, transport, or otherwise move, or deliver or receive any animal which he or she knows or should know has been captured, bred, or trained, or will be used, to fight another animal or human or be intentionally killed, for the purpose of sport, wagering, or entertainment.

(d) No person shall manufacture for sale, shipment, transportation or delivery any device or equipment which that person knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more animals, or any human and animal, or the intentional killing of any animal for purposes of sport, wagering or entertainment.

(e) No person shall own, possess, sell or offer for sale, ship, transport, or otherwise move any equipment or device which such person knows or should know is intended for use in connection with any show, exhibition, program, or activity featuring or otherwise involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal for purposes of sport, wagering or entertainment.

(f) No person shall make available any site, structure, or facility, whether enclosed or not, which he or she knows or should know is intended to be used for the purpose of conducting any show, exhibition, program, or other activity involving a fight between 2

or more animals, or any animal and human, or the intentional killing of any animal.

(g) No person shall knowingly attend or otherwise patronize any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal for the purposes of sport, wagering or entertainment.

(h) (Blank).

(i) Any animals or equipment involved in a violation of this Section shall be immediately seized and impounded under Section 12 by the Department when located at any show, exhibition, program, or other activity featuring or otherwise involving an animal fight for the purposes of sport, wagering, or entertainment.

(j) Any vehicle or conveyance other than a common carrier that is used in violation of this Section shall be seized, held, and offered for sale at public auction by the sheriff's department of the proper jurisdiction, and the proceeds from the sale shall be remitted to the general fund of the county where the violation took place.

(k) Any veterinarian in this State who is presented with an animal for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the animal was engaged in or utilized for a fighting event for the purposes of sport, wagering, or entertainment shall file a report with the Department and cooperate by

furnishing the owners' names, dates, and descriptions of the animal or animals involved. Any veterinarian who in good faith complies with the requirements of this subsection has immunity from any liability, civil, criminal, or otherwise, that may result from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of the veterinarian shall be rebuttably presumed.

(l) No person shall solicit a minor to violate this Section.

(m) The penalties for violations of this Section shall be as follows:

(1) A person convicted of violating subsection (a), (b), or (c) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent offense involving the violation of subsection (a), (b), or (c) of this Section or any rule, regulation, or order of the Department pursuant thereto is a Class 3 felony.

(2) A person convicted of violating subsection (d), (e), or (f) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent violation is a Class 3 felony.

(3) A person convicted of violating subsection (g) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4

felony for the first offense. A second or subsequent violation is a Class 3 felony.

(4) A person convicted of violating subsection (1) of this Section is guilty of a

Class 4 felony for the first offense. A second or subsequent violation is a Class

3 felony.

Tennessee which borders Kentucky fails to include statutes governing animals in entertainment.

Comparison of laws in states bordering Kentucky raises surprising discrepancies. Illinois, for example, has a statute 70/4 that makes it illegal to “sell, offer for sale, barter, or give away as a pet or a novelty any rabbit or any baby chick, duckling or other fowl which has been dyed, colored, or otherwise treated to impart an artificial color thereto. Baby chicks or ducklings shall not be sold, offered for sale, bartered, or given away as pets or novelties. Rabbits, ducklings or baby chicks shall not be awarded as prizes. A person convicted of violating this Section is guilty of a Class B misdemeanor. A second or subsequent violation is a Class 4 felony, with every day that a violation continues constituting a separate offense.” Tennessee offers a more finite law governing this offense:

39-14-204. Dyed baby fowl or rabbits

(a) (1) It is unlawful for any person to:

(A) Sell, offer for sale, barter or give away baby chickens, ducklings or

goslings of any age, or rabbits under two (2) months of age, as pets,

toys, premiums or novelties, if those fowl or rabbits have been colored,

dyed, stained or otherwise had their natural color changed; or

(B) Bring or transport such fowl or rabbits into the state for the purposes mentioned in subdivision (a)(1)(A).

(2) This section shall not be construed to prohibit the sale or display of baby chickens, ducklings, or other fowl or rabbits in proper facilities by breeders or stores engaged in the business of selling for purposes of commercial breeding and raising or laboratory testing.

(3) Each baby chicken, duckling, other fowl or rabbit sold, offered for sale, bartered or given away in violation of this section constitutes a separate offense.

(b) A violation of this section is a Class C misdemeanor.”

Again, Kentucky has no statute governing this action.

Up to this point, companion animals have been the focus, but animal welfare also involves livestock. Tennessee has an extensive statute protecting the welfare of livestock as follows:

39-14-217. Aggravated cruelty to livestock

(a) As used in this section only, “livestock” means all equine as well as animals which are being raised primarily for use as food or fiber for human utilization or consumption, including, but not limited to, cattle, sheep, swine, and goats.

(b) Except as provided in subsections (d) and (e), a person commits aggravated

cruelty to a livestock animal who, in a depraved and sadistic manner, intentionally engages in any of the conduct described in subdivisions (c)(1)--(12), the conduct results in serious bodily injury to the animal or the death of the animal, and is without justifiable or lawful purpose.

(c) The following conduct constitutes aggravated cruelty to livestock animals if accomplished in the manner described in subsection (b):

- (1) Setting an animal on fire;
- (2) Burning an animal with any hot object;
- (3) Cutting or stabbing an animal with any object;
- (4) Causing blunt force trauma to an animal;
- (5) Securing an animal to a vehicle and dragging it;
- (6) Blinding an animal;
- (7) Applying acid or other caustic substance or chemical to any exposed area of an animal or forcing the animal to ingest the substance;
- (8) Hanging a living animal;
- (9) Skinning an animal while it is still alive;
- (10) Administering electric shock to an animal;
- (11) Drowning an animal; or

(12) Shooting an animal with a weapon.

(d) Subsections (b) and (c) shall not be construed to apply to, prohibit or interfere with the following:

(1) Any provision of title 70, involving fish and wildlife, or any hunting, trapping, or fishing activities lawful under such title;

(2) Activities or conduct that are prohibited by § 39-14-203; or

(3) Dispatching an animal in any manner not prohibited by this section.

(e) The following shall not be construed as aggravated cruelty to a livestock animal as defined in this section:

(1) Dispatching rabid, diseased, sick or injured livestock animals;

(2) Dispatching livestock animals posing a clear and immediate threat to human safety;

(3) Performing or conducting bona fide scientific tests, experiments or investigations within or for a bona fide research laboratory, facility or institution;

(4) Performing accepted veterinary medical practices or treatments;

(5) Engaging, with the consent of the owner of a livestock animal, in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that animal;

(6) Dispatching wild or abandoned livestock animals on a farm or residential real property; or

(7) Applying methods and equipment used to train livestock animals.

(f) In addition to the penalty imposed by subsection (j), the defendant may be held liable to:

(1) The owner of the livestock animal for damages; and

(2) The impounding officer or agency for all costs of impoundment from the time of seizure to the time of proper disposition of the case.

(g) In addition to the penalty imposed by subsection (j), the sentencing court may order the defendant to surrender custody and forfeit all livestock animals, and may award custody of the animals to the agency presenting the case. The court may prohibit the defendant from having custody of other livestock animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of livestock animals as is necessary for the protection of the animals.

(h) In addition to the penalty imposed by subsection (j), the court may require the defendant to undergo psychological evaluation and counseling, the cost to be borne by the defendant. If the defendant is indigent, the court may, where practicable, direct the defendant to locate and enroll in a counseling or treatment program with an

appropriate agency.

(i) This section does not preclude the court from entering any other order of disposition allowed under this chapter.

(j) Aggravated cruelty to a livestock animal is a Class E felony.

Kentucky identifies livestock as one of the top agricultural resources has only limited legislation governing the slaughter of the animals and none that governs the welfare of the animals before slaughter.

Virginia, another bordering state of Kentucky, mirrors Kentucky in the limited phrasing in most of the animal welfare laws of the state. For example, Virginia's animal abandonment statute 3.2-6504 simply states: "No person shall abandon or dump any animal. Violation of this section is a Class 3 misdemeanor. Nothing in this section shall be construed to prohibit the release of an animal by its owner to a public or private animal shelter or other releasing agency. Indiana, on the other hand has a more substantial statute with more definition to the body:

35-46-3-7 Abandonment or neglect of vertebrate animals

(a) A person who:

(1) has a vertebrate animal in the person's custody; and

(2) recklessly, knowingly, or intentionally abandons or neglects the

animal;

commits cruelty to an animal, a Class A misdemeanor. However, except

for a conviction under section 1 of this chapter, the offense is a Level 6

felony if the person has a prior unrelated conviction under this chapter.

(b) It is a defense to a prosecution for abandoning a vertebrate animal under this section that the person who had the animal in the person's custody reasonably believed that the vertebrate animal was capable of surviving on its own.

(c) For purposes of this section, an animal that is feral is not in a person's custody.

Kentucky incorporated abandonment in an obscure statute as follows:

257.100 Destruction of suffering, abandoned, or hopelessly diseased animal --

"Abandonment" defined.

(1) Any peace officer, animal control officer, or any person authorized by the board may destroy or kill or cause to be destroyed or killed, any animal found abandoned and suffering and not properly cared for, or appearing to be injured, diseased, or suffering past recovery for any useful purpose.

(2) Before destroying the animal the officer shall obtain the judgment to that effect of a veterinarian, or of two (2) reputable citizens called by him to view the animal in his presence, or shall obtain consent to the destruction from the owner of the animal.

(3) (a) Any animal placed in the custody of a licensed veterinarian for treatment,

boarding, or other care, which shall be unclaimed by its owner or his agent for a period of more than ten (10) days after written notice by certified mail, return receipt requested, is given the owner or his agent at his last known address, shall be deemed to be abandoned and may be turned over to the nearest humane society or animal shelter or disposed of as the custodian may deem proper.

(b) The giving of notice to the owner, or the agent of the owner of the animal by the licensed veterinarian shall relieve the licensed veterinarian and any custodian to whom the animal may be given of any further liability for disposal.

(4) Abandonment shall constitute the relinquishment of all rights and claims by the owner to the animal.

Little of the statute has to do with the act of abandonment as opposed to the disposition of the animal upon abandonment.

Many pet owners have chosen to implant microchips into their pets to ensure return in case of loss. Tennessee has added a protective statute designed for these owners:

§ 39-14-213. Removal of electronic or radio dog collar or microchip implant; crime and penalty

(a) A person who removes from a dog an electronic or radio transmitting collar or

microchip implant without the permission of the owner of the dog and with the intent to prevent or hinder the owner from locating the dog commits a Class B misdemeanor, punishable by fine only; provided, however, that, if the dog wearing an electronic or radio transmitting collar or microchip implant is lost or killed as the proximate result of the removal of the collar or implant, the person commits a Class A misdemeanor, punishable by fine only.

(b) Upon conviction for a violation of this section, the court shall order that the violator pay as restitution to the owner the actual value of a dog lost or killed as a result of the removal of an electronic or radio transmitting collar or microchip implant from the dog by the violator. The court may also order the violator to pay as restitution to the owner any breeding revenues forfeited due to the loss or death of a dog.

In the state of Kentucky, a veterinarian cannot scan a dog brought by a client for a microchip unless asked to do so by the client. In other words, if a veterinarian suspects theft, they are defenseless to do anything or report it.

Kentucky has no statutes governing pet care facilities. Breeders, rescues, and pet stores operate without regulation. Examination of Colorado's statute would offer a good basis for initiation of such a statute in Kentucky. Colorado's statute is as follows:

§ 35-80-105. Pet animal facility--licensure requirements--application--fees

(1) Each applicant for a pet animal facility license shall submit an application providing

all required information in the form and manner required by the commissioner.

(2) Each location of a pet animal facility shall be separately licensed.

(3) If a pet animal facility operates under more than one business name from a single location:

(a) No additional pet animal facility license shall be required for the different business names;

(b) The pet animal facility operator must maintain separate records pursuant to section 35-80-107 for each such business name; and

(c) The name of each business providing services that are related to those of a pet animal facility shall be listed with the commissioner in the form and manner designated. The commissioner may require that a separate fee be paid for each such business name.

(4) Each applicant for a pet animal facility license shall pay an annual license fee in the amount specified by rule of the commissioner, which amount shall not exceed seven hundred dollars per license.

(5) Each pet animal facility license shall expire on a date specified by the commissioner by rule.

(6) Each licensee shall report to the commissioner, in the form and manner the

commissioner shall designate, any change to the information provided in the application or reports previously submitted within fifteen days of any such change.

(7) Licenses issued pursuant to this article shall not be transferable.

(8) Each pet animal facility licensed pursuant to this article shall display in a conspicuous place signage that contains contact information for the office or other appropriate department subdivision that administers this article.

Every state does have some sort of mandatory licensing for individual pet owners. Kentucky has deferred this to the counties of this state in the following statute:

258.135 Establishment of dog licensing program by county or city ordinance.

(1) The governing body of each county may establish an animal licensing program by ordinance. It shall be the responsibility of each county to administer and enforce its licensing program.

(2) In addition to the licensing program provided in subsection (1) of this section, any city may establish an animal licensing program by ordinance. It shall be the responsibility of the city to administer and enforce its licensing program.

Currently, in Christian County, both city and county tags are required for each pet in the owner's possession. Fees are increased for pets that are not spayed or neutered at the time of registration. License can be obtained through the county ran animal shelter or any licensed veterinarian.

### Conclusion

As identified in this text, Kentucky's statutes fall well below the standards set by other states in the United States. It is well worth mentioning that Kentucky has moved from fiftieth in the United States to forty-seventh within the last two years. This is in part to the addition of the sexual assault statute added in June of 2019. Also, noteworthy would be the addition of the dogfighting statute which occurred before the passage of the federal legislation. The inadequacies of Kentucky laws in comparison with states with more effective statutes have been demonstrated. The AVMA identifies Kentucky statutes as ones that need more definition and stiffer penalties. From California to Texas, animal welfare rights have moved forward where there are both more human census and animal population than in Kentucky.

Kentucky legislators should be aware of animal welfare organizations and citizen activists participate in advocacy campaigns to improve the conditions in which the animals of state live. Over the last three years, Kentucky has made some strides to improve the statutes, but by implementing simple legislation, the state could make leaps and bounds. One of these legislations that could potentially improve Kentucky's standing is the mandatory spaying and neutering of animals adopted through government animal shelters (county or district ran animal shelters) before adoption. Mirroring programs like Daviess County Animal Shelter and Hopkins County Animal Shelter, legislators could mandate that if an animal is at the appropriate age for safe sterilization, this sterilization procedure is required. No unsterilized animal shall be adopted from any shelter receiving funding from taxpayers. A simply stated directive that could potentially reduce the rate of euthanasia in counties where this is not the common practice.

Clearer defined expectations for animal welfare in the state statutes could offer the animals of the state live in a less primitive environment. A large percentage of the animals

entering the state's shelters are considered strays. Some of these animals have actually been the victims of abandonment. Dogs and cats left to survive through their own primitive instincts when a family moves or grows tired of the efforts necessary to care for a family pet. Institution of a law similar to Virginia establishing the abandonment of animal as a crime would deter the haphazard way many animals are left to their own defenses in Kentucky. Establishing statewide standards and definitions of what sufficient shelter and living conditions are would encourage pet owners to offer their pet more livable conditions. The legislators could enact a study into some local government mandates such as the one discussed in Hopkinsville. Statutes could utilize the best practices of these local mandates and would result in a law that could be clearly enforced by animal control officers in the state.

As the only state in the United States that denies a veterinarian the ethical responsibility of reporting animal abuse to local law enforcement, Kentucky lawmakers should take time to draft legislation that, at the very minimum, protects veterinarians if they choose to report a client for animal abuse. Many states mandate that veterinarians must report animal abuse. It may take decades for Kentucky to move to this type of legislation, but to prohibit the reporting by veterinarians is antiquated and needs to be revised. The AVMA supports the decisions made by those states that allows reporting by veterinarians. Who better to assist in the drafting of a law than the association that veterinarians respect?

Recent federal legislation defines animal welfare, but it can take time to trickle to the state level for those at the bottom of the animal welfare list. Kentucky's responsibility to the animals of the state is to draft legislations that do a more adequate job of protecting them. These legislations should range from stiffer penalties to more definition. Historically, states who rely on the livestock industry are the last to make changes even to protect pets in the state. Kentucky

remains one of those states who relies heavily on horse breeding and cattle farming, but it is time that Kentucky looks beyond the needs of those groups and to those who desire better animal welfare in the state.

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