

27<sup>TH</sup> ANNUAL  
ANIMAL LAW CONFERENCE

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PORTLAND, OREGON  
OCTOBER 25-27, 2019

# More than Property: Trends in Advancing Animal Status within the Criminal Justice System

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Lora Dunn

Director, Criminal Justice Program  
Animal Legal Defense Fund





# Animal Status & Criminal Law

## 1. How the Law Treats Animals

## 2. New Approaches to Criminal Casework



# Animal Status & Criminal Law

## 1. How the Law Treats Animals

## 2. New Approaches to Criminal Casework



# Animals as Sentient Beings

77th OREGON LEGISLATIVE ASSEMBLY--2013 Regular Session

## Enrolled Senate Bill 6

Sponsored by Senators COURTNEY, PROZANSKI; Senator STEINER HAYWARD

CHAPTER .....

AN ACT

Relating to animals; creating new provisions; amending ORS 87.159, 167.320, 167.322, 167.325, 167.330, 167.332, 167.347 and 167.348; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

**SECTION 1.** The Legislative Assembly finds and declares that:

- (1) Animals are sentient beings capable of experiencing pain, stress and fear;
- (2) Animals should be cared for in ways that minimize pain, stress, fear and suffering;
- (3) The suffering of animals can be mitigated by expediting the disposition of abused animals that would otherwise languish in cages while their defendant owners await trial;
- (4) The suffering of animals at the hands of unlicensed animal rescue organizations that are unable to provide sufficient food and care for the animals can be reduced by requiring such organizations to comply with regulations;
- (5) The State of Oregon has an interest in facilitating the mitigation of costs of care incurred by persons and government agencies that provide treatment for impounded animals;
- (6) Use of preconviction civil remedies is not an affront to the presumption of innocence; and
- (7) Amendments to current law are needed to ensure that interested parties are afforded adequate notice and an opportunity to be heard and thus cannot unduly delay or impede animal lien foreclosure and preconviction forfeiture processes through unfounded due process claims.

*“Animals are sentient beings capable of experiencing pain, stress, and fear;*

*Animals should be cared for in ways that minimize pain, stress, fear, and suffering ...”*



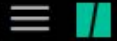


# Animals as Sentient Beings: *State v. Newcomb*





# Animals as Victims: *State v. Nix/Hess*



## Oregon Court Says Animals Can Be Crime ‘Victims,’ Like People. So What Does That Mean?



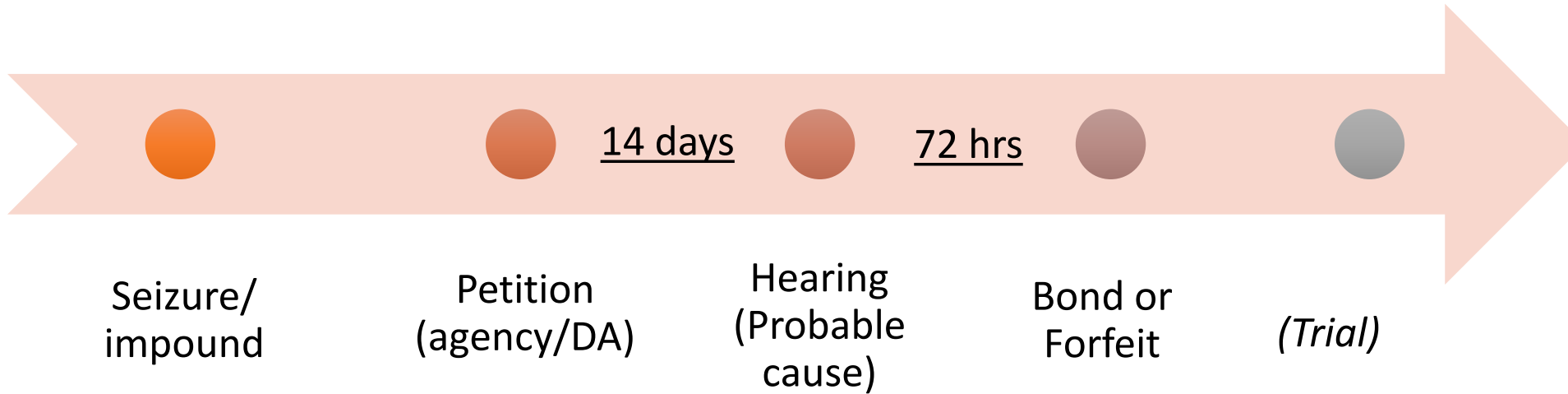
By Arin Greenwood



# Pre-Conviction Forfeiture: What is it?

## OREGON (bond)

ORS 167.347





# Pre-Conviction Forfeiture





# Pre-Conviction Forfeiture



# Emergency situations & The Warrant Requirement



- Animals as “property” v. “persons/life”
  - *State v. Fessenden* (OR)
  - *Comm v. Duncan* (MA)
  - *People v. Chung* (CA)
  - *Morgan v. State* (GA)
  - *People v. Thornton* (IL)
  - *State v. Jones* (KS)
  - *State v. Stone* (MT)
  - *Moser v. Pennsylvania SPCA* (PA)
  - *Pine v. State* (TX)
  - *State v. Sheperd* (VT)





# Emergency situations: “Hot cars” laws

## Dog dies after being left inside hot car, Tallahassee owner charged

Police say he adopted another dog the next day

Posted: 10:25 AM, Jul 04, 2019 Updated: 7:35 AM, Jul 04, 2019



## recovering after a near-death experience in a 117-degree car

Dramatic video shows dog panting and struggling

Posted: 5:29 PM, Aug 08, 2019 Updated: 5:32 AM, Aug 09, 2019

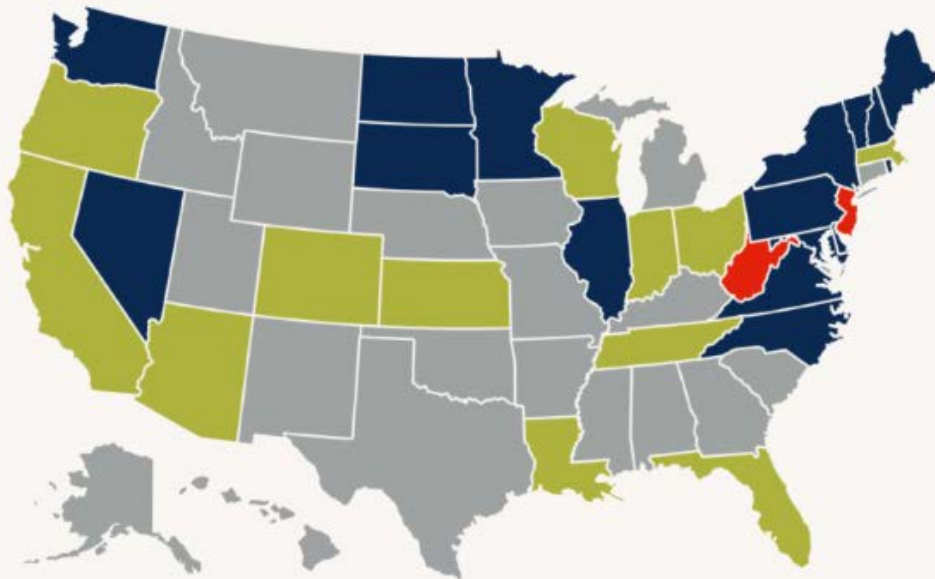


By: Liz Gelardi



# Emergency situations: “Hot cars” laws

As of 2018, 31 states plus the District of Columbia currently **have some form of a “hot car” law** on the books. **There are three different types of “Hot Car” laws, and many states have more than one type.**



## DOGS IN HOT CARS

- CRIME TO LEAVE AN ANIMAL UNATTENDED IF RISK OF SERIOUS INJURY/DEATH, BUT NO ONE CAN RESCUE
- LAW ENFORCEMENT CAN BREAK IN TO RESCUE AN ANIMAL
- STATES WITH “GOOD SAMARITAN” LAWS





# ALDF Rankings Report

## *Trends in Animal Protection Legislation*



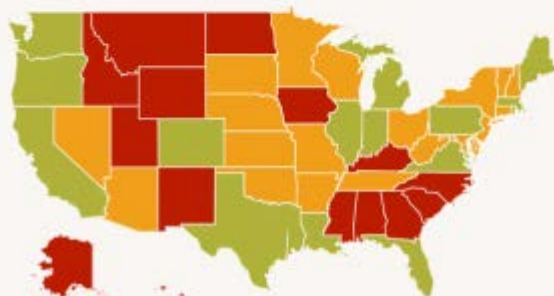
## 2018 U.S. Animal Protection Laws State Rankings

## The Best And Worst States For Animal Protection Laws

Share    

Select an animal law category to view 2018 trends:

Overall Grade



## Top Tier

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

### Middle Tier

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

## Bottom Tier

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



# ALDF Rankings Report

## *Trends in Animal Protection Legislation*

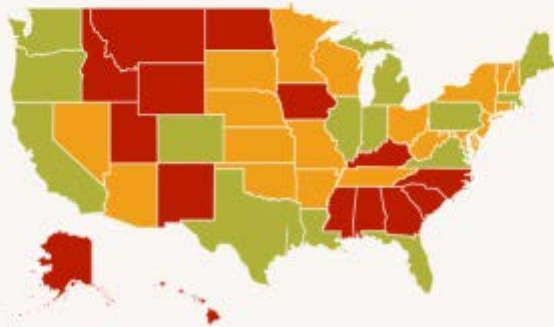
### 2018 U.S. Animal Protection Laws State Rankings

The Best And Worst States For Animal Protection Laws

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Select an animal law category to view 2018 trends:

Overall Grade ▼



## Categories & Trends

- Protection orders
- Mental health evaluations
- “Hot cars” laws
- Forfeiture & possession bans
- Veterinary reporting





# Animal Status & Criminal Law

1. How the Law Treats Animals

2. New Approaches to Criminal Casework



# Animal Cruelty Prosecution Units



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**FOR IMMEDIATE RELEASE**  
MONDAY, JANUARY 11, 2016

**CONTACT: PRESS OFFICE**  
(718) 286-6315

**QUEENS DISTRICT ATTORNEY RICHARD A. BROWN**  
**ESTABLISHES ANIMAL CRUELTY PROSECUTIONS UNIT**  
*First District Attorney's Office In City To Have Dedicated Unit*

Queens District Attorney Richard A. Brown announced today that he had created an Animal Cruelty Prosecutions Unit, which will work closely with the newly formed New York City Police Department's Animal Cruelty Investigations Squad (which assumed the ASPCA's law enforcement function in July 2014) in pursuing allegations of animal cruelty, abuse and neglect in Queens County.





# Animal Cruelty Prosecution Units

## Animal Abuse Task Force Gets Hundreds of Reports in First Months of Operation

Authorities say animal neglect and cruelty is still a big problem in the region. They hope a unified effort will lead to quicker action.

GAIL DELAUGHTER | SEPTEMBER 25, 2018, 5:42 PM (LAST UPDATED: SEPTEMBER 26, 2018, 5:48 PM)

Animal Cr  
Diego Cou

POSTED BY TONI MCALLIST

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An abused 3-month-old

Listen  
00:00 / 00:50



orney creates

, 2016





# Courtroom Animal Advocate Programs (“CAAPs”)

## In A First, Connecticut's Animals Get Advocates In The Courtroom

June 2, 2017 • 5:46 PM ET



LAUREL WAMSLEY





# Courtroom Animal Advocate Programs

## A “Third Table” in the Courtroom for Animal Victims





# Courtroom Animal Advocate Programs

## A “Third Table” in the Courtroom for Animals

**ALDF MODEL LAW**  
**aldf.org**

**ANIMAL LEGAL DEFENSE FUND MODEL LEGISLATION:  
COURTROOM ANIMAL ADVOCATE PROGRAM (CAAP) LAW**

Be It enacted by the People of [State]:

**SECTION 1.**

(a) In any prosecution under sections [animal cruelty laws]<sup>1</sup> of the general statutes, or in any court proceeding pursuant to sections [animal cruelty laws]<sup>2</sup> of the general statutes or in any other criminal proceeding regarding the welfare, care, or custody of an animal, as defined in [relevant statute]<sup>3</sup>, the court may order, upon its own initiative or upon request of a party, or counsel for a party, that an advocate be appointed to represent the interests of the animal, whether living or dead.

(b) When a court orders that an advocate be appointed to represent the interests of an animal, as defined in [relevant statute]<sup>4</sup>, the court may appoint such advocate from a list provided to the court, by [designated state body]<sup>5</sup>, of designated attorneys, and law students under the supervision of attorneys, pursuant to subsection (c) & (d) of this section. It will be at the discretion of the Court to appoint or remove the advocate. The decision by a court to appoint an advocate to represent the interests of the animal may be made at any stage of proceedings, at or after arraignment.





# Training Judges

*The importance of reaching key decision-makers*



**National Council of Juvenile & Family Court Judges and Animal Legal Defense Fund**





# Training Judges

*The importance of reaching key decision-makers*



## RESOLUTION REGARDING ANIMAL CRUELTY AND ITS LINK TO OTHER FORMS OF VIOLENCE

**WHEREAS**, the National Council of Juvenile and Family Court Judges (NCJFCJ) is an organization committed to upholding the rights of all parties and victims, the safety of all family members, and the safety of the community;<sup>i</sup>

**WHEREAS**, empirical research demonstrates a direct link<sup>iii</sup> between animal cruelty and interpersonal violence including intimate partner abuse,<sup>iii</sup> child abuse,<sup>iv</sup> and elder abuse;<sup>v</sup>

**WHEREAS**, 99% of pet owners consider their animals to be “companions” or “family members”;<sup>vi</sup>

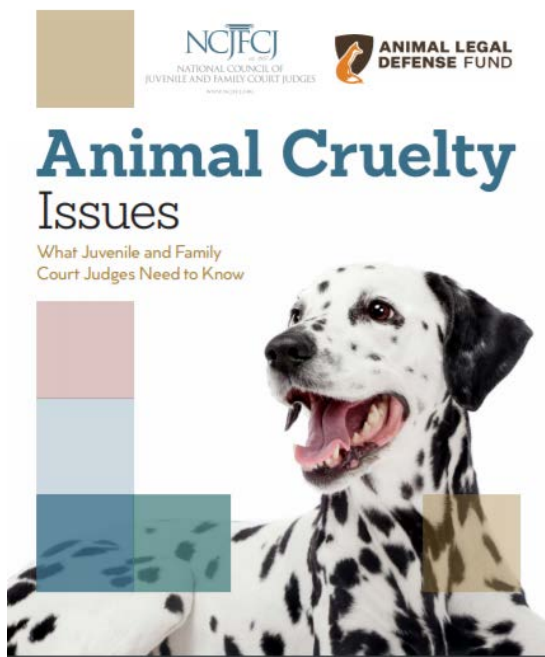
**WHEREAS**, animal abuse can be used as a tool to control other members of the household and is therefore inextricably linked to the abuse suffered by human victims;<sup>vii</sup>





# Training Judges

## *The importance of reaching key decision-makers*





# Animal Criminal Law: The Future

- Legislative recognition
- Farmed animal protection
- Training stakeholders
- CAAPs programs





# Thank you!



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