

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 A.M. on February 2, 2006, in Room 123-S of the Capitol.

All members were present except:

Barbara Allen- excused
Donald Betts- excused
Kay O'Conner- excused

Committee staff present:

Mike Heim, Kansas Legislative Research Department
Helen Pedigo, Office of Revisor of Statutes
Karen Clowers, Committee Secretary

Conferees appearing before the committee:

Senator Phil Journey
Patrick J. Hurley, Humane Kansas Legislative Network
Diane P. Weber, Regional Director, Humane Society of the United States
Jennifer Campbell, Director of Communications, Kansas Humane Society
Terra D. Moorehead
Sara Welch
Midge Grinstead, Executive Director, Lawrence Humane Society
Lee Brand, Power for Paws
Brent Haden, Assistant Counsel, Kansas Livestock Association
Senator David Haley
Judy Bishop, Friends of the Animals in Kansas
Melinda Carlton
Lyn King, Power for Paws
Dr. Brian Withrow, Mayor, Bel Aire, KS & Professor of Criminology, Wichita State University
Judy Breault, Heartland Animal Hospital
Brendan M. Wiley, Director of Operations, Animal Haven, Inc.
Sandy Barnett, Executive Director, Kansas Coalition Against Sexual & Domestic Violence
Sam Mosshart, President, Kansas Federation of Animal Owners

Others attending:

See attached list.

Bill introductions

Senator Derek Schmidt introduced a bill relating the offender registration act. Senator Schmidt moved, Senator Journey seconded, to introduce the bill. Motion carried.

Senator Derek Schmidt introduced a bill regarding medicaid reimbursement. Senator Schmidt moved, Senator Haley seconded, to introduce the bill. Motion carried.

Senator Goodwin introduced a bill regarding jury fees. Senator Goodwin moved, Senator Umbarger seconded, to introduce the bill. Motion carried.

The hearing on **SB 402--Cruelty to animals; intentional or negligent; mandatory imprisonment and psychological evaluations in certain circumstances; offender registration** was opened.

Senator Phil Journey spoke in favor of **SB 402** stating that it offers a comprehensive approach in dealing with animal abusers (Attachment 1). Senator Journey explained the differences and similarities between **SB 402** and **SB 408**. **SB 402** presents an unique system of recodifying and restructuring appropriate statutes to protect animals from individuals convicted of animal abuse. The intentional abuse of animals is a serious crime in addition to the possibility of the defendant moving up to more violent crimes and should be dealt with in an effective way.

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Neutral written testimony was submitted by Kyle Smith, Kansas Bureau of Investigation, (Attachment 2).

There being no further conferees, the Chairman closed the hearing on **SB 402**.

The hearing on **SB 408--Cruelty to animals; harming or killing certain dogs; nongrid felony; mandatory sentence** was opened.

Patrick Hurley spoke in support of the bill indicating that based on the description of past crimes, classification of the most serious acts of animal cruelty for the first offense as a felony rather than a misdemeanor is of utmost importance (Attachment 3).

Diane Webber stated that the Humane Society of the United States strongly supports strengthening animal cruelty laws in Kansas (Attachment 4). She noted the mental health community recognizes that such acts are often an indicator of other violence being perpetrated or is a predictor that such individuals are at high risk of becoming increasingly violent. The victimization of animals has been associated with the abuse of the elderly and the disabled as well as with a significantly higher involvement in property crimes, drug crimes and violent offenses.

Jennifer Campbell spoke in support of **SB 402** (Attachment 5). The legislation will give prosecutors and law enforcement officials the tools they need when facing the most intentional acts of animal cruelty. It will also help communities recognize violent behavior. Mandatory counseling may prevent it from escalating.

Terra Morehead relayed her experience with an animal cruelty case in Kansas City, Kansas (Attachment 6).

Sara Welch spoke in favor of the bill relating several instances of animal abuse cases she prosecuted in Johnson County (Attachment 7). Ms. Welch stated that animal cruelty in its most heinous forms should be designated a felony in order to identify, tag and monitor those whose violent proclivities will likely turn from animals to humans. Equally as important, the sentencing judge should have the discretion to impose significant jail time on those who commit animal abuse.

Midge Grinstead spoke in support of the bill in order to protect not only the animals in our community but its citizens as well (Attachment 8). Experience has shown that the most serious act of animal cruelty often lead to more serious acts by those same perpetrators. Such crimes should be classified as felonies with mandatory sentences.

Lee Brand spoke in favor of **SB 408** because it calls for certain crimes against animals to result in a felony charge upon the first offense and prohibits ownership on another companion animal for a period of five years (Attachment 9). It will also serve as a tracking device for those with a predisposition towards violence against people.

Brent Haden spoke in support stating that the Kansas Livestock Association (KLA) is committed to the welfare of all animals and is opposed to deliberate and unnecessary pain or injury to any animal (Attachment 10). The KLA does request that SB 408 be amended to protect Kansans involved in animal husbandry and rodeo practices.

Senator David Haley spoke in support of **SB 408** indicating a first time conviction be defined as a felony which is the fundamental distinction between **SB 408** and **SB 402** and to urge action on this measure (Attachment 11).

Judy Bishop spoke in support stating that there is a direct correlation between animal abuse and people abuse (Attachment 12). Reports portray nearly all serial killers as having a history of violence to animals. Ms. Bishop feels that this legislation will provide the protective prevention needed for all Kansans from these type of predators.

Melinda Carlton spoke in support of **SB 408** since it will create stronger penalties for individuals who torture, maim or kill domestic dogs and cats (Attachment 13). She feels that enactment of this bill will also reduce

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:30 A.M. on February 2, 2006, in Room 123-S of the Capitol.

violence against humans due to the direct correlation between animal and human violence.

Lyn King spoke as a proponent expressing her belief that **SB 408** contains the necessary elements to decrease animal abuse (Attachment 14).

Dr. Brian Withrow spoke in support of the bill (Attachment 15). He stated that animal abuse is a serious crime warranting a serious response and that animal abuse can be an indicator of a tendency to engage in extreme human victimization.

Julie Breault spoke as a proponent relaying an incident of animal abuse that occurred in Wichita, Kansas (Attachment 16). She requested serious penalties for offenders.

Brendan Wiley spoke in support of **SB 408** and requested that it be made strong enough to not only affect people that break that law but modifies the behavior of people (Attachment 17).

Sandy Barnett spoke in support of **SB 408** (Attachment 18). Ms. Barnett stated that domestic abusers often utilize threats to a family pet as a means of intimidating a family member from calling police or reporting child abuse. There is growing evidence of the link between animal abuse and child abuse and batterers will continue to utilize the torture and killing of the family pet as a loophole to terrorize abused family members. She did have concerns regarding the required completion of an anger management program indicating that abuse is not about anger and it may be helpful to change the language to require completion of a batterers intervention program.

Sam Mosshart requested amending the bill to include a provision similar to other exceptions in the law with regard to normal or accepted practices of animal husbandry (Attachment 19).

Written testimony in support of **SB 408** was submitted by:

D. Kay Johnson, Director of Environmental Services, Wichita, KS (Attachment 20)

Written testimony in general terms was submitted by:

Chris Wilson, Executive Director, Kansas Dairy Association (Attachment 21)

Randy L. Rogers, President, Kansas Sheriff's Association (Attachment 22)

There being no further conferees, the Chairman closed the hearing on **SB 408** was closed.

The meeting was adjourned at 11:32 a.m. The next scheduled meeting is February 3, 2006.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2/2/06

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Linda Mosehill	Myself
Judy Koj	Friends of the Animals in KS
Lee Brand	Power for Paws
Melinda Carlton	Myself
Marilyn Lind	Myself
Janice Spertwell	Myself
Carol LaViolette	Kansas K-9 Rescue
Jayne Deemer	ANIMAL CRUELTY TASKFORCE OF KS
Shirley A. Lewis	Mangrove Force KSK-9 Res Q
Cindy "Carson" Sellers	Magnum Force of KS / KSK-9 Res Q
Jennifer Campbell	Kansas Humane Society
Diane P. Walker	Humane Society of the US
Arlene M. Shirley	Shewanet Network
Julie A. Brauer	Heartland Animal Hospital
Lyn King	myself + / Power for Paws
Susan Brotz	myself / Power for Paws
Ellen Quernor	Pak Animal Rescue

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SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2-2-06

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Brent Haden	KLA
Gary Reser	Kan. Veterinary Medical Assn.
Joe Ward	Sports Time Fan Shop Wichita
Sam Wisch	Self
Ray Judson	Self
Karole Lindgren	Self
Rocky Lindgren	Self
Sam Markus	KANSAS Federation of Animal Owners
Terra Morehead	Self
Brian L Withrow	City of Bel Aire
Brendan Wiley	Animal Haven, Inc.
Frances Tuttt	Self
Lana Walsh	Office of Judicial Admin.
Don Tuttt	Myself
MARCIA BASINGER	SELF
Margie Asten Hunter	airdale Terrier Rescue + adoption
D. Kay JOHNSON	City of WICHITA DEPT of ENV. SERVICES

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2-2-06

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Jeff Bottenberg	Kansas Sher. (ffs) Ass'n
Carol Bellin	KFB
Ayneda Rogers	Co. Farm Bureau
[Signature]	So Co. KFB
Lin Moss	So Co Farm Bureau

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OVERSIGHT (JOINT)

SOUTH CENTRAL DELEGATION, CHAIR

**Testimony Before the Kansas State Senate Judiciary Committee
Presented on February 2nd, 2006, in Support of Senate Bill #402**

First, I would like to thank the Chair and the members of the Committee for the opportunity to address my colleagues regarding a significant piece of legislation that took a substantial period of time to craft regarding a recodification and reorganization of many of the Kansas statutes involving animals and the prosecution of abusers of those same animals.

The Committee has before it three options, Senate Bill 135, Senate Bill 402, which I'm here to testify in favor of, and Senate Bill 408. While Senate Bill 135 and Senate Bill 408 have substantial similarities, Senate Bill 402 offers the only comprehensive approach in dealing with animal abusers in our society. SB 402 presents a unique system of recodifying and restructuring appropriate statutes with far reaching consequences for abusers and significant improvements to accomplish our goal to protect animals in the future from individuals convicted of animal abuse. Six statutes are amended by Senate Bill 402 and five more are reincorporated into the new statutory structure.

Section 1 provides for a unique feature in Senate Bill 402 that requires defendants convicted of intentional cruelty to animals even if convicted under the misdemeanor section to surrender their DNA which could prove useful in future investigations. This section was incorporated into the legislation as a result of the anecdotal observation by myself that in many instances serial killers begin with abuse of animals, often very early in their lives. The most infamous example from Kansas is Dennis Rader. He began by abusing cats. The purpose of this is two-fold, first, to make sure that abusers understand how serious their conviction is and to prevent or deter future criminal activity knowing that this DNA is on file and as a last resort to aid law enforcement in investigating their future crimes. Dennis Rader, is not the only serial killer known to have acted out upon his sociopathic sadistic tendencies upon animals prior to inflicting great pain, injury, and even death on human beings.

Section 2 of Senate Bill 402 offers another unique and innovative approach in classifying criminal defendants based upon the nature and characteristics of the crimes they commit making the distinction between intentional abuse and negligent abuse. The appropriate and proportional enhancement of penalties against those who commit intentional abuse and presents more accurate information to law enforcement regarding past convictions of those convicted of negligent abuse. Intentional abuse is at the center of the controversy revolving around the abuse of animals such as Magnum in Wichita, for whom I've nicknamed this bill.

Senate Judiciary

2-2-06

Attachment 1

One of the issues in the past that has come before the Senate in debate regarding animal cruelty is the quality of the drafting of the proposed amendment or bill and the appropriate and well-crafted exceptions to the crime to prevent the unintended consequences all of us are concerned about in dealing with criminal statutes. No one wants someone prosecuted for trapping a mouse in their house. Almost no one wants the average hunter, farmer, or other individual engaged in the normal activities of life with animals to be prosecuted for everyday use or disposition of animals. One enhancement to the exceptions has been included in the final revision of the bill to include in its exception on Page 4, Line 30 the exception for the slaughter of animals for food and byproducts. The exceptions also include normal veterinary practices, scientific research, trapping, hunting, rodeo, the humane disposition of animals with the distinction between those who live inside cities with access to the Humane Society or other methods of disposal and those who live outside. It also has the added search warrant exception for law enforcement officers executing search warrants. From time to time the need is present to maintain the element of surprise and it is unfortunately necessary that dogs or other animals may need to be put down to protect the lives of law enforcement officers. The current exceptions for farming and defense of oneself, other persons, and other property remain in effect.

As to the penalties applied to defendants in Senate Bill 402, a considerable amount of effort was made to maintain proportionality regarding the punishment of individuals convicted of the crimes as set out in this bill and other current statutes. On a first offense for animal cruelty, the court in its discretion can impose a maximum or controlling sentence of up to one year in custody. Prior to probation being granted, the defendant must serve a minimum of 15 days in custody for intentional abuse. My experience has been in most individual's lives, people who have made mistakes and are not incorrigible can usually have the "let's make a believer out of them school of jurisprudence," as I have called it in the past, create an effective modification in human behavior with about two weeks of custody.

On a second lifetime offense for intentional cruelty to animals, the minimum jail sentence before probation is 60 days in custody and the individual must be sentenced by the court as a Severity Level 8, Non Person felony. Depending on prior felony convictions, a Severity Level 8, Non Person felony could receive a sentence of between 7 months and 23 months in the Kansas Department of Corrections with credit for the mandatory 60-day jail sentence. They will also receive in Section 6 on Page 14, Line 21 through 23 a 36-month post-release supervision period. This means that in a worst case scenario on a first felony conviction for cruelty to animals an individual could serve 59 months in custody.

All defendants convicted of intentional cruelty to animals are required to surrender their DNA and are required to submit to a psychological evaluation so that the court may have the best possible information available in determining appropriate conditions or probation and treatment on the part of the defendant. Despite the heinous nature of the worst cases we're aware of, rehabilitation should be a primary goal in most all criminal justice endeavors.

Violation of the negligent abuse statute on the first offense is the same as current law, a Class A Non Person misdemeanor punishable by up to \$2500 fine and a year in custody. A second offense is a Severity Level 10 Non Person felony with a maximum period of incarceration of up

to 13 months and 12 months post release supervision for a total maximum placement in custody of 25 months in custody.

For violation of felony negligent abuse or intentional abuse, the defendant would forever forfeit and be ineligible to receive a license under the Kansas Animal Pet Act. For intentional abuse of an animal on a first misdemeanor conviction, the offender would be required to register in our violent offender's database for three years and upon a second conviction be required to register for life. Failure to register on the offender registry, would of course cause additional criminal sanctions including the possibility of jail time and fines to be imposed on the defendant.

Some have described the differences between SB 402 and SB 408 as substance and symbolism. While SB 402 has the same maximum penalty as SB 408 and current law on a first conviction of up to 1 year in custody, no other bill deals with the unique circumstances of this crime. On a second life-time conviction, both bills diverge in sentencing while SB 408 has no enhancement. SB 402 offers more monitoring of the defendant and should they violate probation and parole, a maximum time in custody nearly five times as long. While SB 408 calls the crime a felony, it only punishes like a misdemeanor.

I hope that my explanation has helped the Committee and those in attendance at the hearing understand the comprehensive nature and the unique approach this legislation makes regarding cruelty to animals. I'm sure that everyone here can agree that the intentional abuse suffered by Magnum and other animals is a serious crime with the defendant's possibility of moving up to more and more violent crimes can be dealt within a more effective way through the adoption of this legislation.

Respectfully submitted,



Senator Phillip B. Journey
26th District

TESTIMONY
Before the Senate Judiciary Committee
Kyle Smith, Deputy Director
Kansas Bureau of Investigation
February 2, 2006

Chairman Vratil and Members of the Committee:

I appear here today to testify with regard to SB 402. This bill amends K.S.A. 21-2511 concerning the collection of DNA from convicted offenders by adding subsection (a) to the offense of K.S.A. 21-3505 and also requires convicted offenders to register under the Kansas Offender Registration Act for a period of 3 years for the first conviction and lifetime for second or subsequent convictions.

Current law already requires the collection of DNA for offenders convicted of cruelty to animals and we do not believe this language will affect the amount collected.

In regards to requiring registration under the Kansas Offender Registration Act we would recommend two amendments. The first would be recommend if the intent is to require registration, K.S.A. 22-4902 should be amended to add cruelty to animals as an offense requiring registration. Our second amendment would be to recommend the time period for registration be amended to 10 years, instead of 3 years, which is consistent with other adult convictions requiring registration. It has been our experience that having different registration periods only serves to confuse the courts, prosecutors, court services, and sheriff's departments when they register offenders. We would like for the time period to remain consistent with existing language to ensure that the correct time periods are applied under the Act.

Thank you for your time and attention. I would be happy to answer any questions.

MEMORANDUM

To: Members of the Senate Judiciary Committee

From: Patrick J. Hurley on Behalf of Humane Kansas Legislative Network

Date: February 2, 2006

RE: SB 408 Amendments to Animal Cruelty Laws

Senate Bill 408 amends the current animal cruelty laws under K.S.A. 21-4310 and related statutes in the following ways:

1. It would establish the most serious acts of animal cruelty of intentionally or recklessly killing or causing serious physical injury to any animal as felonies (see page 1, lines 17-18, page 2, lines 18-22).
2. It would mandate that offenders convicted of such felonies be subject to mandatory minimum jail sentences, fines, and psychological counseling or anger management (see page 2, lines 23-29).
3. It would establish such acts as nonperson felonies taking the sentencing "off grid" to avoid the current "presumptive probation" and would require that such sentences be served in local and not state facilities (see page 2, lines 23-24 and page 6, lines 23-28 and lines 35-40).
4. It would amend K.S.A. 21-4317 to prohibit offenders convicted of such felonious acts from owning an animal for a period of five years (see page 2, lines 30-38).
5. It would amend 21-4318 to increase the classification of the current crime of killing or injuring police, arson, assistance, game warden, or search and rescue dogs from a misdemeanor to a non-person felony with the same mandatory provisions as those acts K.S.A. 21-4310(a)(1).

In summary, the critical difference between the provisions of SB 408 and SB 402 is **the classification of the most serious acts of animal cruelty for the first offense as a felony rather than keeping it a misdemeanor**. That is the decision each of you will be asked to make.

After you hear the testimony from the next several conferees describing the gruesome, heinous acts that have been committed upon animals we believe you will agree that such acts clearly rise to the level of felonies and that the perpetrators are a serious danger not only to animals but to all of society and must be classified and sentenced accordingly.

THE HUMANE SOCIETY OF THE UNITED STATES.

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Testimony on SB 408 Presented to the Senate Judiciary Committee on February 2, 2006

Statement by Diane P. Webber, Regional Director The Humane Society of the United States

I am here today on behalf of The Humane Society of the United States (HSUS). We are the nation's largest animal protection organization, with more than 9 million members and constituents, nearly 55,000 of whom reside in Kansas. Thank you for the opportunity to provide some brief comments **in support of Senate Bill 408.**

The HSUS strongly supports strengthening animal cruelty laws in Kansas, and creating the strongest possible laws to help end violence against animals and people. Citizens of Kansas have reason to be concerned about instances of intentional animal cruelty, given that Kansas has two of the most noted animal cruelty cases in the country. Examples include the case of "Scruffy," a 12-yr old Yorkshire Terrier that was set on fire in 1997 by four teenage boys in Kansas City, KS while they videotaped their actions, and most recently the case of "Magnum", a Wichita puppy that was found last August covered with chemical burns and with its paw pads bound with wire.

These incidents do not necessarily point to an epidemic of violence against animals unique to Kansas, but rather they point to the fact that the general public is increasingly disturbed by and intolerant of the savage mistreatment of animals. This treatment has often lurked in the background, but has been ignored in part because of the prevailing attitude that the victims were "only animals".

Both the general public and the mental health community are wiser now, recognizing that such acts are often an indicator of other violence that is being perpetrated along with the animal abuse, or a predictor that such individuals are at high risk of becoming increasingly violent offenders. Recent research by psychologists, sociologists and criminologists has demonstrated that animal abuse is present in nearly 90% of the pet-owning homes where there is physical abuse of children. Other studies have shown that over 70% of pet-owning women seeking protection in women's shelters have had a loved pet threatened, injured or killed by their abusers. Similarly, the victimization of animals has been associated with the abuse of the elderly and the disabled as well as with a significantly higher involvement in property crimes, drug crimes and violent offenses.

A common thread in all these forms of violence is often a need to gain power and control over others, and the realization by disturbed individuals that they can accomplish this by causing the death or suffering of a vulnerable living being. When such a pattern is established, it can have serious consequences for people as well as animals. There are many examples of early life histories of violent offenders, including school-yard shooters.

Promoting the protection of all animals

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2-2-06
Attachment 4

We must recognize that violence is violence and that intentional cruelty to animals is a violent act that traumatizes not only the creatures who are victimized, but also the people who care for them and the community as a whole. Having felony provisions available in the prosecution of animal abuse provides valuable tools for the prevention of further violence. These provisions also provide a greater incentive to prosecutors who might be unwilling to pursue serious cases if the end result will only be a slap on the wrist.

Prosecutors are increasingly recognizing the value of taking animal cruelty offenses seriously as part of their toolbox for addressing violence at an early stage or early age, enhancing their ability to get offenders into the system at a time when intervention or treatment is most likely to be effective. They also see animal cruelty as a crime that creates enormous public concern. People are genuinely frightened by the prospect of their being no consequences or interventions for violent offenders who brutally, intentionally take the lives of innocent victims.

Thirty-five states and the District of Columbia, Puerto Rico and the Virgin Island consider certain types of animal cruelty a felony on the first offense. The interest and concerns expressed today, and during the last few months, demonstrate that such protection is supported by all of us seeking to control the proliferation of all forms of violence in our society.

The HSUS's First Strike™ Program is a national campaign designed to raise public and professional awareness about the connection between animal cruelty and human violence. With the passage of SB 408 we would be available to take part in a training program for law enforcement and animal control authorities in investigating and responding to cases of serious abuse or neglect. We look forward to working with you and appreciate your advancement of this essential legislation. The HSUS urges a favorable report on S.B. 408.

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**Written Testimony of
Jennifer Campbell, KHS Director of Communications
February 2, 2006**

My name is Jennifer Campbell and I am Director of Communications for the Kansas Humane Society, a private, non-profit animal shelter in Wichita. We are the largest animal shelter in the state and care for over 14,500 animals a year from Sedgwick and surrounding counties.

Last August, a small puppy was found in a recycling bin on Arkansas Street in Wichita. Just between 10 -12 weeks old and weighing a slight 8 pounds, he had been the victim of incredible violence. Severe lacerations, burns and open wounds covered his tiny body. From the way the wounds had opened, starting on his spine and creeping down his body, it was surmised that a liquid chemical had been intentionally poured across his back and dripped down his head, sides and legs. His skin had disappeared in many spots across his body, leaving raw muscle and tissue exposed to the elements and one of his legs was broken. Someone had then wrapped baling wire around his head, neck and front legs and then intentionally placed one of the puppy's paws in his mouth, barely allowing the puppy to breathe. The dying dog was then dumped in the recycling bin. Found by the City of Wichita's Animal Control Department, the mangled puppy was taken to Heartland Animal Hospital. Christened "Magnum", the clinic staff was amazed that, as soon as he was freed from the wires, Magnum valiantly endeavored to stand up and wag his tail, indicating that, even through all that had happened to him, he continued to trust people and had the will to live. Heroic veterinary measures were taken by the clinic to try to save Magnum's life. While his spirit was strong, his tiny abused body was not and he soon passed away. Wichita's community was outraged and heartbroken. How could this act of violence happen in this city? How could people prevent this from happening again? Would this happen again? Would it happen next to a person?

Animals rely on all of us, not only for protection and care, but to advocate and speak for them when necessary. We, at the Kansas Humane Society, are speaking today to you, the elected officials and the people of the state of Kansas, to understand the importance of Senate Bill 408. We are asking you to focus on the nature of the extensive violence perpetrated against Magnum, Scruffy and other animals. We are not talking about a minor injury, a small mistake made with a snap judgment decision; we are asking you to consider the consequences of willful abuse, of hateful acts that are planned and thought out with care, of cruelty inflicted on a living being with no thought to its suffering. Law enforcement officials and prosecutors have long acknowledged the strong link between animal abuse and violence against humans. Virtually all serial killers, including Wichita's Dennis Rader, have attested to first brandishing their violence against animals before turning against humans. In households where animal abuse is a problem, domestic violence or child abuse is often also occurring. How far is the step from committing serious injurious violence to an animal to committing serious injurious violence to a wife, a husband, or a child? By supporting more stringent animal cruelty laws today, you could be stopping tomorrow's murders and abusers.

We are asking you to give prosecutors and law enforcement officials the tools they need when facing the most intentional acts of animal cruelty and to trust in their stewardship of the law, that they will use 408 when it is appropriate. It is vitally important this felony provision is available on the first offense, not the second, as most offenders are only caught once. By supporting Senate Bill 408, you can help communities recognize violent behavior and, with the mandatory counseling Senate Bill 408 will provide, may prevent it from escalating even further towards people. You can help protect the lives of animals and of people today and tomorrow.

Thank you.

Senate Judiciary

2-2-06

Attachment 5



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OF WICHITA KANSAS**

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TEL 316-524-1590

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WEB www.kshumane.org

February 2, 2006

Dear Senator:

As the Executive Director of the largest animal shelter in the state of Kansas, I am writing to urge your support for SB 408 - making severe acts of animal cruelty a felony - as introduced by the Senate Judiciary Committee. The most compelling reasons for your support of this bill are too important to ignore:

1. This bill focuses on increasing the punishment of individuals engaging in acts of severe animal cruelty. It is specific and intentional and will not unfairly punish individuals engaging in activities where determining the level of abuse relies on personal interpretation.
2. By supporting SB 408, you allow Kansas to join the ranks of over 41 other states that have enacted legislation making severe animal cruelty a felony.
3. Because offenders are rarely caught and prosecuted a first time - let alone a second - it is critical that new legislation makes severe animal cruelty a felony on the first offense.
4. Research clearly shows that the abuse of animals often escalates into other violent crimes. The enactment of this legislation makes our communities safer by ensuring these individuals are not only punished for their crimes, but also receive much-needed psychological counseling.
5. And, of course, you help protect the pets in our communities by enacting legislation that allows prosecutors to appropriately punish individuals engaging in severe animal abuse and in doing so, decrease the chances of recidivism and continuing violence.

I can assure you that I don't offer my support of this bill lightly. Felony convictions come with very serious and long term consequences. However, for all the reasons stated above and because I believe that the felony conviction will be used only to punish the most severe acts of animal abuse, I urge you to support SB 408. I would appreciate hearing how you plan to vote on these bills. Thank you for your consideration.

Respectfully,

Kimberly Janzen
Executive Director

Magnum

History

August 1, 2005

- Magnum is found in a Wichita recycling bin.
- He is transported to a Wichita veterinary clinic for immediate care of his injuries.
- Criminal investigation begins.

August 2, 2005 - Today

- Magnum's story is shared with the media.
- Over 74,000 people sign petitions or send letters supporting a Kansas felony animal cruelty law.

August 6, 2005

- Magnum dies as a result of his extensive injuries on the way to a Kansas City speciality clinic.

August 11, 2005

- Hundreds of people attend Magnum's memorial ceremony in Wichita.

February 2, 2006

- Felony animal cruelty legislation proposed.
- Petitions supporting a felony animal cruelty laws collected.



Photo courtesy of The Humane Society



Thursday, February 2, 2006
Testimony of Terra D. Morehead
before Senate Judiciary Committee

Scruffy was a Yorkshire Terrier that was owned by a man named Dizzy Whitmire. Circumstances caused Mr. Whitmire and his wife to move to a residence that did not allow pets. In the summer of 1997, he asked his granddaughter, Jennifer Reemers, who was living with her mother-in-law, Sharon Madden, to take Scruffy temporarily. Ms. Madden lived in Kansas City, Kansas and allowed a number of individuals to live at her residence including her grandson, Lance Arsenault. During that summer, Scruffy turned up missing and was never found.

On February 8, 1998, Kansas City, Kansas police were contacted by some employees from the Pro-Tow towing company who had come into possession of a videotape they discovered in a vehicle that had been towed to their lot. Upon discovering the video, they decided to watch the video and were shocked by the contents. The video showed four individuals brutally torturing a Yorkshire Terrier. One of the employees, Robert Whitmire, thought the dog looked like the one his father, Dizzy, had once owned. The employees decided to turn the tape over to police, but they were concerned it might not be taken seriously because "it was just a dog," so they made numerous copies of the tape and disseminated it to the press. This case received local, national and international media attention. It was a topic on The Montel Williams Show, Hard Copy, and a documentary produced by the BBC entitled The Cruelty Connection, which still airs occasionally on A & E. Scruffy had his own web site. I received over 5,000 letters from all over the world from people expressing outrage over the case and demanding that the individuals be prosecuted to the full extent of the law.

The videotape shows the four individuals brutally torturing Scruffy, all the while laughing and joking about the entire ordeal. They first strangle him. They also capture themselves shooting another dog which is tied to a tree. They are seen placing Scruffy in a black trash bag, placing him on the ground, dousing with lamp oil and setting him on fire. Scruffy, in obvious distress, engulfed in flames, is then seen screaming, running into some woods, trying to escape his evil captors and rolling around on the ground, in a futile attempt to put the flames out. The men follow Scruffy and begin to beat the flames out with a shovel. The shovel is then used in an attempt to decapitate Scruffy. When that fails, one man puts one hand on the upper part of Scruffy's mouth and one hand on the lower part of Scruffy's mouth and attempts to break his jaw. They continue beating Scruffy with the shovel. The video then shows Scruffy being scooped up with the shovel and thrown, like a piece of garbage, into the dense brush. The video ends with the men chanting - "Let's go commit another murder, another 187." 187 is the criminal code for murder in the State of California.

By the following day, February 9, 1998, police had identified the four individuals. They were: Marcus Rodriguez, age 18; Richard Golubski, age 20; Lance Arsenault, age 21; and, Jose Gutierrez, age 17. As an Assistant District Attorney for Wyandotte County, a felony charge of Arson and the misdemeanor charge of Cruelty to Animals, were filed against the three adults and one juvenile. Gutierrez, who had a prior juvenile felony, was waived to adult status. Defense attorneys sought to have the Arson charge dismissed asserting that the Cruelty to Animals charge

was the more specific charge and arguing that a dog did not constitute property. We obviously needed and wanted the Arson charge to survive because it was a felony and given the shocking nature of the event, we felt the individuals should be facing a felony charge.

The trial judge disagreed with the arguments by the defendants, specifically finding that Arson was an appropriate charge given the burning of the dog and because Scruffy belonged to someone - Dizzy Whitmire - he was in fact "property." The court found Arsenault, Golubski and Gutierrez guilty of both charges based upon the evidence. Rodriguez went to jury trial, but was likewise found guilty. The sentences given by the court were the harshest available. However, because of criminal history scores, all were presumed to receive probation. The trial court departed on two of them and they were ordered to serve time in prison.

Richard Golubski - Criminal History I

Ct. 1 - Arson, 13 months DOC

Ct. 2 - Cruelty to Animals, 1 year Wy. Co. Jail

Consecutive; 24 months probation to community corrections

Jose Gutierrez - Criminal History G

Ct. 1 - Arson, 17 months DOC

Ct. 2 - Cruelty to Animals, 1 year Wy. Co. Jail

Consecutive; 24 months probation to community corrections

ordered to enter inpatient drug treatment facility kicked out of two within one month; then ordered to Labette Conservation Camp

Marcus Rodriguez - Criminal History C

Ct. 1 - Arson, 27 months DOC

Ct. 2 - Cruelty to Animals, 1 year Wy. Co. Jail

Consecutive; probation granted on misdemeanor only; his parole was revoked three times and he was sent back to prison; his sentence eventually expired September 27, 2001; Appealed his convictions which was denied by the Kansas Court of Appeals

Lance Arsenault - Criminal History D

Ct. 1 - Arson, 22 months DOC

Ct. 2 - Cruelty to Animals, 1 year Wy. Co. Jail

Consecutive; probation granted on misdemeanor only; his sentence expired in February 2001; he sought expungement of the charges April 2005, which was blocked by the DA's office; he can still petition the court for expungement

**One of Arsenault's prior convictions was an incident that occurred when he was 14 - he and a friend shot 5 kindergarten students playing on a school playground, with a BB gun. Three of the children were had minor injuries.

To: Chair of the Senate Judiciary Committee and Committee Members

From: Sara Welch

Re: Senate Bill 408

Date: February 2, 2006

I have served on the Board of Directors of Wayside Waifs Humane Society in Kansas City since 1997. I have been a prosecutor in Johnson County for 16 years. During my tenure at Johnson County, I have prosecuted 24 animal abuse cases. I have been both a guest speaker and an instructor for Kansas animal control officers.

I support the passage of SB 408. It is time for Kansas to join the majority of her sister states in making the most heinous acts of animal abuse a felony. Passage of SB 408 is important for two reasons. First, sadistic and intentional cruelty inflicted on helpless animals is, in and of itself, an act in contravention of civilized society sufficient to warrant a felony designation under our state law. As a prosecutor, I have encountered savage and unprovoked cruelty of every type imaginable against animals. Most of the cases involved family pets. Many of the perpetrators were the animals' owners.

A sampling of my cases is as follows:

- A man confined his beagle to a small bathroom and starved it nearly to death. Upon vacating his residence, he put the still living dog into a trash bag and threw it under the crawlspace of the house;
- A man abusing methamphetamine tortured his daughter's little Pug dog in front of her. He kicked and hit the dog, finally impaling it with a racket. The dog had to be euthanized;
- A man hanged two of his dogs by a chain in his barn. A passerby called the police who arrived on the scene to prevent him from hanging the third;
- A six- month old puppy was beaten to death with a pipe. A neighbor, hearing the dog's cries, called the police;
- A man threw his cat against the wall breaking its leg;
- A man who was angry at his girlfriend kicked her Husky dog to near death; and
- A man tore the head off of his girlfriend's pet cockatiel.

Each of these perpetrators was deserving of a felony conviction. The behavior in which they engaged was of such a vicious and anti-social nature, that calling it a misdemeanor denigrates the

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suffering endured by each of these animals. The late Dr. Louis Camuti, an author and veterinarian once said, "Never believe that animals suffer less than humans. Pain is the same for them that it is for us." If one accepts that proposition as true, then it seems to follow that the sadistic infliction of pain on an animal calls for the perpetrator to be labeled a felon.

Felonies are by definition considered more serious crimes than misdemeanors. The more serious the conduct, the more likely it will be designated a felony. If in fact we are to stay true to that understanding of the word felony, then the time has come for enacting a felony animal abuse statute in Kansas. As the law now stands in our state, if I reach into an open car window and steal a pack of gum - I have committed a felony. If I walk into an open attached garage door and steal someone's garden rake - I have committed a felony. If that someone happens to be home at the time, I have committed a level 5 person felony. And yet, if I (as did a 26 year old gang member in Los Angeles) tie my puppy's tail in a knot, repeatedly shoot him with a taser gun and finally drop him into a pot of boiling water, just for the sheer pleasure of watching him suffer, I am guilty of only a misdemeanor. There is something fundamentally wrong with a law which produces such an inequitable result.

A second and equally important reason exists for elevating the most serious acts of animal abuse to felony status. That reason is what has become known as "the link." There exists a demonstrable link between those who perpetrate violence against animals and those who perpetrate violence against human beings. When animals in a home are abused, there is a strong likelihood that other family members are being hurt as well. I have attached to my testimony a copy of a public service flier from the Washington Humane Society which speaks to the existence of the link.

Research conducted by DeViney, Dickert & Lockwood in 1983 showed a strong correlation between substantiated child physical abuse and abuse of pets in the same households. Animal abuse is also a companion of domestic abuse. A survey of pet-owning women seeking refuge in domestic violence shelters showed that 71% of them acknowledged that their partners had injured or killed their pets. (Ascione, 1998). Some of the so-called "school shooters" of the past decade including Kip Kinkel (Oregon), Luke Woodham (Mississippi) and Eric Harris (Columbine) abused animals before turning violent toward their fellow students. Finally, many of this country's most infamous serial killers abused and killed animals before graduating to human victims. Dennis Rader, the BTK killer, suffocated cats and dogs long before he began killing people. Jeffrey Dahmer, Albert DeSalvo (the Boston Strangler), and David Berkowitz (the Son of Sam) each abused animals during their lifetimes.

Because the link between animal abuse and violence to humans is so strong, those who abuse animals need to be identified and labeled as felons. If SB 408 is enacted into law, then the prosecutor or judge who sees a felony conviction for animal abuse on a defendant's criminal history will know that he is dealing with someone who has committed a particularly brutal act of violence against an animal. He will know that this defendant is someone who statistically is likely to turn violent toward human beings. He will know that he is dealing with a person who has little regard for the suffering of others, be they animal or human. In short, the prosecutor or judge will know that the perpetrator with whom he is dealing is someone who has the potential to be a dangerous violent

offender and who should be treated accordingly.

Kansas needs to join her sister states in recognizing that the suffering of animals is a crime that will be taken seriously. Animal cruelty in its most heinous forms should be designated a felony in order to identify, tag and monitor those whose violent proclivities will likely turn from animals to humans. Equally as important, the sentencing judge should have the discretion to impose significant jail time on those who commit felony acts of animal abuse. Therefore, felony animal abuse should not be subject to the sentencing guideline grid. SB 408 accomplishes both those goals. I urge this committee to favorably report the bill.

Respectfully submitted,
Sara Welch

THE DAD WHO COMES HOME AND KICKS THE DOG IS PROBABLY JUST WARMING UP.



Studies show that people who abuse their pets are also likely to abuse their kids. So if you see an animal mistreated or neglected, please report it. Because people who abuse animals rarely stop there.

WASHINGTON HUMANE SOCIETY



Humane Society of Greater Miami Animal Cruelty Investigation Division
19151 South Dixie Highway #102 Cutler Ridge, FL 33157
(305) 238-8322 Fax (305) 255-9267

Photo provided by Larry Payne-Rosen, Director of Washington Humane Society

Lawrence Humane Society, Inc.

P.O. Box 651 • Lawrence, Kansas 66044-0651

SENATE JUDICIARY COMMITTEE

TESTIMONY: SB 408

February 2, 2006

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before the committee today **in support of SB 408**, regarding felony animal cruelty legislation.

Research shows a strong correlation between animal abuse in childhood and later personal violence to humans. This research should alert parents, societal leaders, prosecutors, social service workers and judges to the importance of animal cruelty as a potential indicator of disturbed family relationships and future aggressive behavior towards humans. The link between cruelty to animals and violence toward humans is compelling. The FBI has used animal abuse in profiling violent offenders since the early 70's. This abuse indicates an individual has already experienced violence or may be predisposed to committing acts of violence.

Serial killers sit at the extreme end of the violence spectrum and inevitably have histories of practicing abuse on animals prior to killing people. There are many reports of school shooters having also committed acts of animal violence, prior to shooting teachers and children in their schools. The following are examples of surveys that have been done over the years to help show people the link between human and animal violence.

- In a study of men imprisoned for violent crimes versus a group of non-incarcerated, non-violent individuals, 25% of the violent criminals reported "substantial cruelty" towards animals in their childhood, while none of the non-violent offenders reported a history of animal cruelty. Of the violent offenders that were currently incarcerated, almost 71% had committed at least one act of animal cruelty.
- In a study of families being treated for incidents of child abuse, 88% also abused animals. In two-thirds of the cases, it was the abusive parent who had killed or injured the animals to control the child. One-third of the cases showed the children had also started abusing animals. Signs of animal cruelty are often the first indicator that there is a problem in the household and most often the most visible sign of an abusive family.
- 71% of battered women seeking shelter who shared their homes with pets reported that their male partners had threatened to or had, in fact, harmed or killed their pets. Of those women with children, 32% reported that one of their children had also committed acts of animal cruelty.

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2-2-06

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For the past ten years, I have been the Director of the Lawrence Humane Society in Douglas County Kansas. My staff and I investigate more than 700 cases of cruelty and neglect toward animals. Twenty percent of these calls are cases involving intentional animal cruelty resulting in severe injuries or death. Another twenty percent involves dog fighting.

The Lawrence Humane Society works closely with law enforcement, the Battered Women's Task Force and SRS. Typically, when animals are removed from the home, there are also issues with the care of children and elders. We work together with other agencies to assure all humans and animals in the household are cared for properly. The "Safe Pet" program began as the result of two heinous cases where spouses killed the family pets after the woman and children entered into protective custody.

Our shelter is also involved with training of law enforcement personnel, Women's Transitional Care workers, visiting nurses and utility workers in our county on how to recognize abuse to animals and humans.

For centuries, civilized societies have held the belief that people's treatment of animals is closely associated with their treatment of fellow human beings. The growth of the animal protection movement in the 19th century was part of a larger series of reforms to improve the treatment of children, the poor and the mentally ill. Kansas is one of only a few states without felony anti-cruelty to animals' legislation.

I strongly urge this committee to pass SB 408 to help protect not only the animals in our community, but its citizens as well. All of my experience in this field has clearly led me to conclude that the most serious acts of animal cruelty too often lead to more serious acts by those same perpetrators. It is simply not sufficient deterrence or punishment to allow these most serious acts to be classified as only misdemeanors. They must be classified as felonies, with mandatory sentences, to have any meaningful impact.

Thank you for your time and consideration in allowing me to appear today and share my views with respect to this vital issue. If you should have any question, I would be pleased to answer them to the best of my ability.

Presented by:

Midge Grinstead, Executive Director

Lawrence Humane Society, Inc.

Board Member, Humane Kansas Legislative Network

2001-2004 Member Governor's Advisory Panel for Companion Animal Legislation

2000 Graduate Law Enforcement Training Academy Columbia, Missouri

SB 408 Proponent Statement:

My name is Lee Brand, and the founder of a grassroots effort named Power For Paws. This cause was inspired by a dog named Bailey. I witnessed my neighbor repeatedly punching and kicking her in August 2005. Due to his continued intimidation after animal control was notified, I was forced to relocate before I could file formal charges against him for animal abuse. One does not have to tell me about the connection between violence towards animals and acts against people, I personally lived that story. To my horror, I discovered that there is no felony level provision in the animal cruelty state statute! Research revealed that Kansas is in the minority regarding legislation that reflects concern for the welfare of animals. As such, Power For Paws was founded on 10-22-05 in an effort to bring this lack of legislation to the attention of the public.

The hard copy petition to change the legislation in Kansas was first made available to the public on 10-29-05, and with no media attention for the distribution of petitions. On 11-24-05, an online petition was made available to the public, and this time with the media attention of only one article. From 10-29-05 to 01-09-05, over 4,600 signatures were collected. **If you didn't note the time span, that is exactly 72 days, and over 4,600 signatures were obtained.** This clearly indicates that the people of Kansas want a felony level provision in the animal cruelty state statute NOW!

Power For Paws is specifically backing SB 408 for two primary reasons. First of all, it calls for certain crimes against animals to result in a felony charge upon the first offense, this bill does not allow for one "free walk." Secondly, the bill prohibits ownership of another companion animal for a period of five years. SB 402 offers neither of these components, and is therefore considered unacceptable. In summation, the "tag" of a felon is essential given the fact that animal abuse is a known precursor to violence against

people. Further, SB 408 would serve as a tracking device for those with a predisposition towards violence against people. It could also assist in early intervention in the form of psychological/anger management counseling for these individuals. Adoption of SB 408 would not only address the concerns for the welfare of animals, but the imminent threat of violent acts directed towards people. As such, SB 408 is the only logical choice that would benefit society as a whole. Please adopt SB 408!

Power For Paws, Lee Brand

Power For Paws

Petition Intent & Request

PETITION TO REQUEST A REVISION OF K. S. A. 21-4310 TO INCLUDE A FELONY LEVEL PROVISION.

This petition addresses the current Kansas animal cruelty state statute. Currently, there are 42 states that have a felony level provision regarding animal cruelty offenses. At this time, Kansas does NOT consider any degree of animal cruelty to be a felony level offense. As such, an individual may beat, torture, and even kill a dog or a cat, and receive nothing more than a slap on the wrist because it is only a misdemeanor offense, regardless of the type of abuse inflicted by the perpetrator. The intent of this petition is to request that the representatives and senators of Kansas revise the current animal cruelty state statute to include a felony level provision. This request will pertain only to domesticated dogs and cats. This petition is NOT affiliated with any animal rights organization. All personal information obtained in this petition will be provided only to the legislators in the State of Kansas.

Opponent To SB 402:

My Name is Lee Brand, and the founder of a grassroots effort named Power For Paws. This cause was officially founded on 10-22-05 after discovering that there is no felony level provision in the animal cruelty state statute in Kansas. This is a quite disturbing fact considering that the majority of states have legislation that reflects their concern for the welfare of animals.

Power For Paws will not be supporting SB 402 primarily due to the fact that an individual would be allowed one "free walk" upon the first serious crime committed against an animal. As such, if this bill would be adopted, a person would be allowed to BBQ dogs on two separate occasions before they would be charged with a felony; this is an absurd proposition at best. Are murderers allowed to kill twice before they face a felony? Of course not, society dictates that people as living creatures deserve respect as well as justice. Please note that animals are living creatures also, and they deserve the same degree of respect.

Here are some names for you: Ted Bundy, Earl Kenneth Shriner, Brenda Spencer, and Jeffrey Dahmer. All of these individuals had a history of animal abuse prior to horrendous crimes committed against people. These are the noted cases that are well known by the public. However, there are millions of untold accounts of violence directed towards animals and people. I worked in prisons from 1991 through 2001 as counselor/therapist, and could tell you stories that would make your stomach turn. The personal disclosure statements from murderers, robbers, and sex offenders that had abused animals in one form or another are overwhelming.

In summation, SB 402 perpetuates the concept of companion animals as "property," and allows people to continue treat them in any manner that they see fit. Also, it does not express a sincere concern for the welfare of animals by allowing this one "free

walk” proposal. And finally, it obviously does not acknowledge the direct correlation between violence against animals and people. As such, Power For Paws is not willing to stand behind SB 402.

Power for Paws, Lee Brand



Since 1894
TESTIMONY

To: Senate Judiciary Committee
Senator John Vratil, Chair

From: Brent Haden, Assistant Counsel, Kansas Livestock Association

Date: February 2, 2006

Re: SB 402 and SB 408

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 6,000 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf and stocker production, cattle feeding, grazing land management and diversified farming operations.

Good morning Mr. Chairman and members of the Committee. My name is Brent Haden, and I serve as Assistant Counsel for the Kansas Livestock Association. I appreciate the opportunity to testify this morning and discuss KLA's ideas and concerns in the area of animal cruelty law.

KLA members are engaged daily in the care of animals, most prominently cattle, but also a variety of other species ranging from hogs and sheep to horses and stock dogs. As the most active stewards of animal welfare in our society, KLA's rancher and farmer members are strongly opposed to the deliberate imposition of gratuitous pain or injury on any animal. However, KLA also supports the explicit legal protection of all animal husbandry and rodeo practices as essential to the financial and legal security of its members.

With both priorities in mind, KLA is unopposed to elevating deliberate animal cruelty to a felony, so long as the traditional animal husbandry and rodeo exemptions already in the law are kept in place. We are therefore unopposed to both SB 402 and SB 408, as well as SB 135, in their current forms, as each of these bills currently contains those exemptions. There are, however, a few amendments that would give KLA maximum confidence in any move to elevate deliberate animal cruelty to felony status, and KLA respectfully asks the Committee to consider these changes.

The first change KLA would like to see in any amended animal cruelty bill has already been incorporated into SB 402. On page 4, line 26-31 of 402, the Committee will notice that the exemption reading "with respect to farm animals, normal and accepted

Senate Judiciary

practices of animal husbandry”, has been amended with a clause reading “*including the slaughter of such animals for food or by-products.*” KLA has requested this language because the current animal cruelty statute does not explicitly include an exception for slaughter, and while it may be assumed that slaughter is included under the general animal husbandry exemption, KLA would prefer that an explicit provision be made while the rest of the statute is being amended.

A second change that KLA would like to see has already been incorporated in to SB 135. On page 2, line 4 of SB 135, the Committee will notice that the phrase “with respect to farm animals, normal and accepted practices of animal husbandry” has been amended to strike the phrase “with respect to farm animals”. KLA would support such a change because under current Kansas law there is no clear definition of which animals constitute “farm animals”. While it seems clear that cattle, sheep, horses, goats and hogs are “farm animals”, the issue becomes murkier with non-traditional livestock such as buffalo, mink, ostriches or elk. KLA believes that owners of non-traditional livestock should have the same protection under the animal husbandry exemption, therefore supports expanding the husbandry exemption by striking the phrase “with respect to farm animals”.

Finally, KLA is concerned with SB 408’s elevation of “reckless” killing or injuring of animals to felony levels. On page 1, line 17, SB 408 includes “reckless” killing or injury of an animal in its definition of felony animal cruelty. KLA’s concern with this provision does not stem from a fear of prosecution for agricultural or rodeo practices, as KLA believes those practices to already be protected by existing exemptions. Instead, KLA, as an organization that represents ranchers and farmers who often drive many miles a year, is concerned that road accidents involving animals could be prosecuted as “reckless” killing or injury of animals.

Including “reckless” killing or injury in the definition seems to invite many questions as to which accidents are truly accidental and which are “reckless”. Is failure to apply your brakes in time when a dog runs in front of one’s vehicle “reckless” or accidental? Would running over a cat that has fallen asleep on a warm tractor tire constitute a “reckless” killing, if one failed to check the tire before starting up? The potential for factual ambiguity in “reckless” charges is a cause of concern for KLA, and we therefore would respectfully ask the Committee to remove “reckless” killing or injury from the final version of any animal cruelty bill.

To conclude, KLA is committed to the welfare of all animals, and is opposed to the imposition of deliberate and unnecessary pain or injury on any animal. KLA is also committed to protecting Kansans involved in animal husbandry and rodeo. As such, KLA is unopposed to elevating the deliberate killing or injuring of animals to felony status, so long as the exemptions for animal husbandry and rodeo practices currently in the law are left in place. Thank you for your time this morning. KLA looks forward to working with the Committee on animal cruelty legislation, and stands ready to assist the Committee in any way it can.

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SENATE CHAMBER

DAVID B. HALEY

SENATOR
DISTRICT 4
WYANDOTTE COUNTY

Testimony of
Senator David Haley

SB 408

February 2, 2006

Mr. Chairman...Fellow Members of the Senate Judiciary Committee:

Thank you for allowing me to once again testify on a measure to create a felony for extreme cruelty to animals. Every legislative session since the highly publicized "Scruffy" case occurred in my home county, Wyandotte County, I have introduced a bill to appropriately punish the sadistic predators. I have often reflected "just think how expedient this might have been if the victim had a more endearing name like "Maggie." Twice in the Kansas House before the House Judiciary and twice now before this Senate Judiciary Committee (not including a subcommittee "hearing" which took no action in 2005), I, as the lone legislative advocate have urged us to craft a measure to protect our public from these offenders through classification. Today as the solo sponsor of SB 135 which yet lies dormant in our bill books before you, I appear as a proponent, in part, for SB 408; though neutral on this bill's penalty provisions (I have attached two sheets to my testimony: a MAP of the remaining states, including ours unfortunately, which has no felony provision for animal abuse statute and the Minutes from a Senate Judiciary Committee on this issue from January 28, 2002; four years ago.) I refer you to this document for advocacy then...and comparisons to the bills before us now.

Now I do realize, Mr. Chairman and fellow Members, how weary that you might be of my steadfast legislative commitment to insuring the greater public safety in early detection and branding of these seemingly benign deviants. Accordingly, it is my desire to conclude my brief review here that we might hear from other advocates with new ideas, new voices in this arena; some in concert, others at odds with precepts of SB 408, SB 135, SB 229 (circa 2001) and their predecessors.

In conclusion, I would respectfully ask this Committee to consider two points:

First: Please put aside partisanship and/or personality and/or ANY other potential division that may have previously impeded progress in order to put before the Kansas Senate finally a bill that will create a felony crime for the first time offender of the provisions outlined in the afore-listed bills. Look

beyond the complicated smoke-screens and second chances offered in other measures. The long time advocates of this issue, in each of your Districts and in mine, will not be satisfied with anything less than a felony prosecution of the first time offense as seen in two alarming examples known as "Scruffy" and "magnum" (Should we ask for a show of hands for those in the hearing now who agree?) The precedent is set in 27 of the 42 jurisdictions in the U.S. that currently have a felony fro extreme cruelty law. And there has been NO reports(s) of the prosecuting of any farmer or rancher or hunter or religious ritualist of a kid with a BB gun of any of the numerous counter productive hypothetical in ANY of these jurisdictions.

Second: I, David Haley, am committed to the overall reduction of prison bed space in out state and local prisons. Accordingly, it is contradictory for me to endorse any measure which prescribes jail time in statute to crimes potentially better punished by other means. The diligent efforts of the Sentencing Commission; the Judicial Council; and the Criminal Recodification, Rehabilitation and Restoration ("3R's") Committee, to name a few, to curtail the current and future costs of building and maintaining our prison population should be taken more seriously by this Legislature. Beyond that, the provisions SB 408 are consistent and practical with tracking and punishing latent, violent predators who take sadistic pleasure in torturing living creatures.

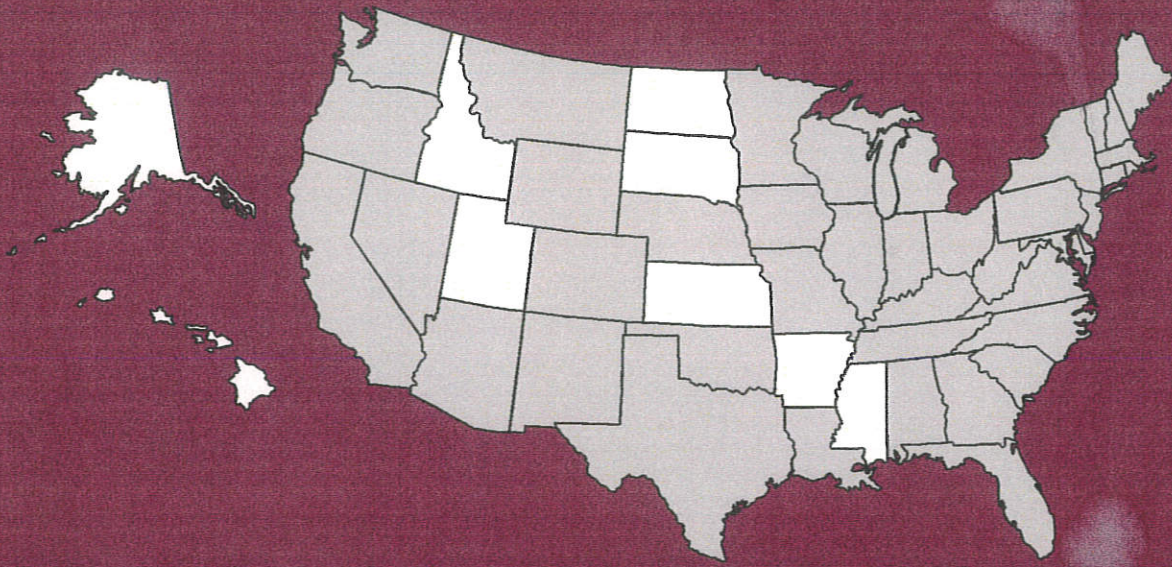
Thank you and I would please stand for any questions at the appropriate time.

Attachments:

US Map

2002 Judiciary Committee Minutes

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IF YOU ARE AN ANIMAL ABUSER

In 1993, only 7 states had felony anti-cruelty laws—today 41 do.
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MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Senator Vratil at 9:34 a.m. on January 28, 2002 in Room 123-S of the Capitol.

All members were present except: Senator Schmidt (excused)

Committee staff present:

Gordon Self, Revisor
Mike Heim, Research
Mary Blair, Secretary

Conferees appearing before the committee:

Senator Haley
Midge Grinstead, Lawrence Humane Society
Amy Suarez, Regional Director of Midwest Regional Office of The Humane Society of the U.S.
Officer Erik Thompson, President, Kansas Animal Control Association (KACA)
Sandy Barnett, Executive Director, Kansas Coalition Against Sexual & Domestic Violence
Koko Evans, Citizen
Lisa Cusick, Helping Hands Humane Society
John Freed, Lobbyist
Alvin Sykes, President, Justice Campaign of America (JCA)
Dr. Brian Levin, Professor, Criminal Justice, California State University, San Bernardino
Dr. Chris Hamilton, Chair, Political Science Department, Washburn University
Jesse Milan, State President, NAACP
Melvin Jenkins, Director, U.S. Commission on Civil Rights
Marcia Drake, Citizen

Others attending: see attached list

The minutes of January 23rd and 24th meetings were approved on a motion by Senator O'Connor, seconded by Senator Haley. Carried.

SB 229—re: cruelty to animals

Conferee Haley testified in support of **SB 229**, a bill which he stated, "creates a felony for extreme cruelty to animals." (no attachment)

Conferee Grinstead testified in support of **SB 229**. She stated that she investigates approximately 800 cruelty cases every year with 20% of the cases going before the court. She cited groups she has worked with to determine a correlation between animal and human violators. She further stated that perpetrators are rarely apprehended and when they are, they rarely "do time." Her suggestion to Committee members was that they treat this issue by legislating tougher laws but at the same time recognize that prevention rather than punishment will go further to alleviate the problem. She informed Committee that Lawrence and Douglas County have legislated tougher laws on cruelty to animals. (no attachment)

Conferee Suarez testified in support of **SB 229**. She stated her handout was submitted on behalf of Dr. Randall Lockwood and she urged Committee follow it along with her testimony. Following her brief discussion regarding the issue this bill addresses she emphasized the necessity of making cruelty to animals a felony as this provides the tools prosecutors need to help prevent violence. She further noted an increased citizen awareness of the problem and it's effect on society. (attachment 1)

Conferee Thompson testified in support of **SB 229**. He presented a brief background on KACA and reiterated the purpose of the bill. He stated that since first time felony offenders fall under the presumptive probation grid box on the sentencing guidelines he proposed an amendment to the guidelines in the bill to include mandatory jail time for the cruelest of offenders. (attachment 2)

Conferee Barnett testified in support of **SB 229**. She stated that pet abuse "often goes hand in hand with domestic violence and child abuse" and briefly elaborated on this before she introduced the next conferee. (attachment 3)

Conferee Evans testified in support of **SB 229**. She stated she is a current resident of a Battered Women Task Force Shelter. She presented personal testimony regarding the abuse her animals have suffered at the hands of her allegedly abusive husband. (attachment 4)

Conferee Cusick testified in support of **SB 229**. She discussed the link between animal violence and other forms of family violence and stated that certain experts are "using animal cruelty data in assessing domestic violence lethality." She reviewed proposed amendments to the bill which would provide stronger sanctions and send a message to the community that cruelty to animals will not be tolerated. She stated that 33 other states have felony statutes in place and 19 states have mandatory counseling. (attachment 5) A copy of the proposed amendments to **HB 2362** (house version of **SB 229**) was submitted. (attachment 6)

Conferee Freed testified in support of **SB 229** giving personal testimony of an animal abuse case and providing a handout of his web page. (attachment 7) Discussion followed.

SB 230—regarding sentencing: hate crimes

Conferee Haley testified in support of **SB 230** stating briefly that the bill "extends the penalty for hate crimes." (no attachment)

Conferee Sykes testified in support of **SB 230** stating that JCA is currently involved in ongoing discussions with the sentencing commission and he would present testimony on the results of those meetings at a later date. (no attachment)

Conferee Levin testified in support of **SB 230**. He presented a brief auto-biographical sketch, an analysis of several Supreme Court decisions that have addressed bias-motivated crimes, and an assessment of this bill. (attachment 8) He further provided a model hate crime statute. (attachment 9)

Conferee Hamilton testified in support of **SB 230**. He discussed his investigation of hate crimes and supported increased sentencing and punishment. He stated he would add an aggravating factor to the bill if the perpetrator is a member of an organized hate group. (no attachment)

Conferee Milan testified in support of **SB 230**. He briefly discussed the purpose of the bill and the need for its enactment. He emphasized the importance of strong enforcement provisions in the bill. (attachment 10)

Conferee Jenkins testified in support of **SB 230**. He reviewed the structure and function of the civil rights commission, discussed various advisory committee reports on the issues of "hate" or bias-motivated crimes, and stated that adequate legal tools as well as educational strategy are the necessary keys to eradicating this problem (attachment 11)

Conferee Drake testified in support of **SB 230**. She provided personal testimony as a victim of hate crimes and asked Committee to consider the victims of these type of crimes. (no attachment)

Written testimony supporting **SB 230** was submitted by the Kansas Coalition Against Sexual and Domestic Violence. (attachment 12)

Following discussion, the Chair requested the Sentencing Commission provide Committee with a bed-impact study on **SB 230**.

The meeting adjourned at 10:30 a.m. The next meeting is January 29, 2002.

"Non-profit Animal Welfare Advocacy and Rescue"

Testimony re: Proposed Senate Bill 408 ----- February 2, 2006

Dear Chairman Vratil and Members of the Senate Judiciary Committee:

I am Judy Bishop of Topeka, Kansas. Founder of Friends of the Animals in Kansas (animal welfare group). I also moderate Topeka Animal Talk, a computer group of folks – now nationwide – who strive to help animals and people everywhere.

Kansas is but one of 9 states that does not have animal cruelty as a felony. This is a miscarriage of justice for the people of Kansas and a severe disservice to its animals.

Statistics continue to compile – and prove beyond a shadow of a doubt – a direct correlation between animal abuse/cruelty and people abuse/cruelty. Are you aware that the majority of women in safe houses similar to the Battered Women's program report violence to the animals in their home as well as to their children and themselves? And, please don't forget, the recent case of Dennis Rader – of Wichita – which reinforces this. He started out at an early age torturing and abusing animals and eventually had a multi-year crime spree of torture and murder of innocent children and adults that took law enforcement nearly a decade to solve. Reports portray nearly all serial killers as having a history of violence to animals. These predators start with animals and then move on to human beings.

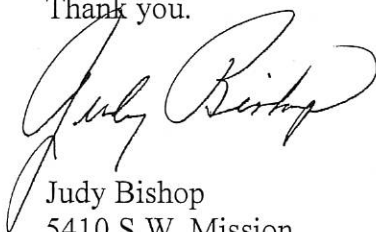
As members of our legislature you have the ability and, yes, the power to provide the protective prevention needed for all Kansans from these types of predators. Senate Bill 408 is that safety net. Having animal cruelty as a felony on the books of Kansas can send a strong message and be an important detriment to those people who want to participate in such crimes of violence.

Valuable time is passing. Let's not wait until we have one of your children, grandchildren, spouse or other family member – or one of mine - become a statistic before we move forward to put the necessary law into effect. Your vote affects all lives in Kansas.

Voting YES on Senate Bill 408 is the RIGHT thing to do for Kansas.

Can we please count on you?

Thank you.



Judy Bishop
5410 S.W. Mission
Topeka, Kansas 66610

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(785) 633-7002 (cell)
jbishop_1@msn.com

Senate Judiciary

2-2-06
Attachment 12



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Understanding the Link® between animal abuse and family violence

What is the Link?

A correlation between animal abuse, family violence, and other forms of community violence has been established. Child and animal protection professionals have recognized this Link, noting that abuse of both children and animals is connected in a self-perpetuating cycle of violence. When animals in a home are abused or neglected, it is a warning sign that others in the household may not be safe. In addition, children who witness animal abuse are at a greater risk of becoming abusers themselves.

How serious is it?

A survey of pet-owning families with substantiated child abuse and neglect found that animals were abused in 88% of homes where child physical abuse was present (DeViney, Dickert, & Lockwood, 1983). A study of women seeking shelter at a safe house showed that 71% of those having pets affirmed that their partner had threatened, hurt, or killed their companion animals, and 32% of mothers reported that their children had hurt or killed their pets (Ascione, 1998). Still another study showed that violent offenders incarcerated in a maximum-security prison were significantly more likely than nonviolent offenders to have committed childhood acts of cruelty toward pets (Merz-Perez, Heide, & Silverman, 2001).

What's being done?

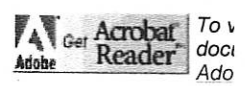
In many communities, human services, animal services, and law enforcement agencies are sharing resources and expertise to address violence. Professionals are beginning to engage in cross-training and cross-reporting through interagency partnerships, and humane societies are teaming with domestic violence shelters to provide emergency shelter for pets of domestic violence victims.

In addition, some states have strengthened their animalcruelty legislation and taken other measures to address the Link. These state-level actions permit earlier intervention and send a clear message that all forms of violence are taken seriously. For example:

- There are now felony-level penalties for animal cruelty in nearly all states.
- Several states require veterinarians to report suspected animal abuse and offer veterinarians who report cruelty

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- [America's Childrer](#)
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- immunity from civil and criminal liability.
- Some states require animal control officers to report suspected child abuse or neglect and receive training in recognizing and reporting child abuse and neglect.
- A few states permit child and adult protection workers to report suspected animal abuse or receive training on identifying and reporting animal cruelty, abuse, and neglect.
- Nearly half the states call for psychological counseling for individuals convicted of animal cruelty.

Where does American Humane stand?

American Humane has been working to protect children and animals since 1877. For more than a decade, American Humane has been educating both the general public and professionals about the Link between violence to people and animals by:

- Facilitating workshops to educate the public and build collaboration among human service, animal protection, public safety, and law enforcement professionals;
- Administering the National Resource Center on the Link®, providing professional training at national conferences, and publishing resources and training guides;
- Helping pass animal cruelty legislation, drafting crossreporting legislation, and testifying at both state and national levels; and
- Contributing to the understanding of the Link through research on animal cruelty, its treatment in the criminal justice system, and detection by veterinarians.

American Humane asserts that the Link must be addressed and the following provisions must be implemented:

- Cross-training and cross-reporting among law enforcement officers, humane investigators, veterinarians, health professionals, domestic violence advocates, and child protection workers;
- Training and continuing education about the Link for judges and prosecutors;
- Model legislation for cross-reporting and cross-reporting standards;
- Systematic tracking of national animal abuse data;
- Expanded research about the Link, including evaluation of prevention and intervention approaches;
- Inclusion of animal-focused violence in standard assessments and intake forms for child protective services, mental health, and domestic violence workers; and
- Community partnerships to respond to family violence and educate the public about taking all acts of violence seriously.

Resources

American Humane's National Resource Center on the Link.
http://www.americanhumane.org/site/PageServer?pagename=lk_home or (877) 546-5222.

Ascione, F. R. (2001). Animal abuse and youth violence. *OJJDP*

Juvenile Justice Bulletin, September 2001.
http://www.ncjrs.org/html/ojjdp/jjbul2001_9_2/contents.html.

Ascione, F. R., & Arkow, P. (Eds.). (1999). *Child abuse, domestic violence, and animal abuse: Linking the circles of compassion for prevention and intervention*. West Lafayette, IN: Purdue University Press.

Barnard, S. (1999). Taking animal abuse seriously: A human services perspective. In F. R. Ascione & P. Arkow (Eds.), *Child abuse, domestic violence, and animal abuse: Linking the circles of compassion for prevention and intervention* (pp. 101-108). West Lafayette, IN: Purdue University Press.

Boat, B. W. (1999). Abuse of children and abuse of animals: Using the links to inform child assessment and protection. In F. R. Ascione & P. Arkow (Eds.), *Child abuse, domestic violence, and animal abuse: Linking the circles of compassion for prevention and intervention* (pp. 83-100). West Lafayette, IN: Purdue University Press.

Lockwood, R. & Ascione, F. R. (Eds.). (1998). *Cruelty to animals and interpersonal violence: Readings in research and application*. West Lafayette, IN: Purdue University Press.

PSYETA AniCare and AniCare Child models of treatment of animal abuse. www.psyeta.org

References

Ascione, F. R. (1998). Battered women's reports of their partners' and their children's cruelty to animals. *Journal of Emotional Abuse*, 1(1), 119-133.

Merz-Perez, L., Heide, K. M., & Silverman, I. J. (2001). Childhood cruelty to animals and subsequent violence against humans. *International Journal of Offender Therapy and Comparative Criminology*, 45(5), 556-573.

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Animal Cruelty Legislation

Thanks to the tireless efforts of animal welfare groups and concerned citizens throughout the country, animal cruelty now carries a felony sentence in 41 states plus the District of Columbia. But we can't stop there -- other states need our help! And American Humane needs your help!

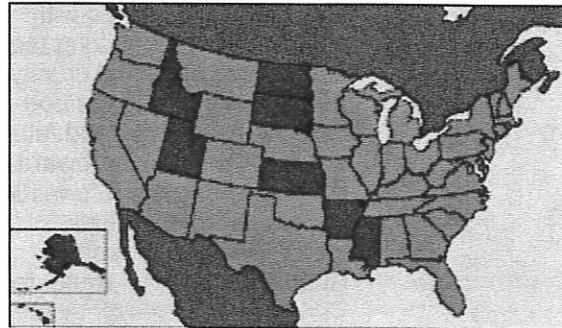
As you can see from this map, nine states (in purple) still do not have these strong animal cruelty laws. That means in nearly one-fifth of this nation, an animal can be abused, neglected, or left for dead -- with the perpetrator receiving only a mild sentence.

We urge you to help! If your state is not one of the 41 states listed on the right that consider animal cruelty a felony, contact your senators and representatives and ask that they introduce legislation that recognizes the seriousness of these cruel act and calls for felony charges, as well as mandatory counseling.

Also, contact us. We'll assist you in this campaign with tools to help you write effective letters and tips on meeting with your legislators and working in your state to get stronger animal cruelty laws written and passed into law.

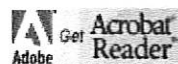
Cruel acts against animals are

States with Animal Cruelty as Felony Provisions (in green)



- | | |
|----------------|----------------|
| Alabama | Nebraska |
| Arizona | Nevada |
| California | New Hampshire |
| Colorado | New Jersey |
| Connecticut | New Mexico |
| Washington, DC | New York |
| Delaware | North Carolina |
| Florida | Ohio |
| Georgia | Oklahoma |
| Illinois | Oregon |
| Indiana | Pennsylvania |
| Iowa | Rhode Island |
| Kentucky | South Carolina |
| Louisiana | Tennessee |
| Maine | Texas |
| Maryland | Vermont |
| Massachusetts | Virginia |
| Michigan | Washington |
| Minnesota | West Virginia |
| Missouri | Wisconsin |
| Montana | Wyoming |

To find out more about animal cruelty statutes in all 50 states, download this updated version of the [Cruelty Statutes](#) (PDF; 648KB) 87 pages.



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12-5

not just an animal protection issue. Research confirms a strong correlation between violence toward animals and violence toward humans. And it is widely recognized that perpetrators of violent behavior are more likely to have participated in violent acts against both children and animals.

Parents, community leaders, prosecutors, judges, and other individuals concerned with violence are recognizing the importance of animal cruelty as an indicator of disturbed family relationships and future aggressive behavior toward humans. For more information about this violence Link, please visit American Humane's [National Resource Center on the Link Between Violence to People and Animals](#).


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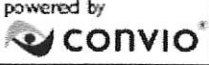

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- Officer Training

Legislative Brief

Anti-cruelty Laws

What are anti-cruelty laws?

Designed to protect animals as well as the rest of society from violence, anti-cruelty laws impose penalties on convicted offenders for committing cruel or neglectful actions toward animals and attempt to deter any form of violent behavior by humans.

All states have their own anti-cruelty laws, and many of these laws contain common provisions. For example, most state statutes consider it an act of cruelty to "overdrive, overwork, or work an animal when it is unfit for labor." Many state statutes prohibit intentional neglect, poisoning, and failure to provide companion animals with adequate food, water, and shelter. Use of the term intentional is common in many states a factor that can make it difficult to prove cruelty in court, especially in cases of neglect.

Most state laws have standard exemptions for accepted veterinary practices, hunting, research, and animal husbandry. Some states exempt animal action that takes place in rodeos and zoos or in "accepted" training practices although the definition of "accepted" is rarely defined. Certain states have more specific statutes addressing issues such as treatment of elephants or the act of ear-cropping.

While these state laws share many commonalities, differences in their scopes exist. Variation occurs mostly in the level of punishment for convicted animal abusers. Some states make aggravated animal cruelty a felony on the first offense, others consider it a misdemeanor until the second or third offense, and still other states consider any incident of animal cruelty a felony.

Another difference in state cruelty laws is that the crime can vary depending on the animal. For example, in some states, animal cruelty to a companion animal such as a dog or cat carries a higher penalty than cruelty to a pet hamster or goat.

Where does American Humane stand?

No matter the commonalities or variations of these laws, American Humane firmly believes that cruelty to animals cannot be tolerated. American Humane has proven that cruelty to even one living creature often leads to other forms of violent behavior.

Based on this, American Humane asserts that the following provisions should be included in all state animal cruelty laws:

- First conviction of aggravated animal cruelty is a felony offense;
- Individuals convicted of aggravated animal cruelty shall receive adequate fines and imprisonment;
- Individuals convicted of aggravated animal cruelty shall forfeit their animals and have limited or no rights to possess animals in the future;
- During court proceedings, individuals convicted of aggravated animal cruelty shall immediately relinquish the animal to another caregiver or shall post adequate bond to provide for the care of the animal;
- Courts shall require individuals convicted of aggravated animal cruelty to participate in psychological or behavioral counseling and/or an animal cruelty prevention program; and
- No exemptions shall be made for animal training practices.


Contact us

For more information on animal cruelty legislation, appropriate definitions of cruelty, sentencing used in other states, or grassroots support in your state, e-mail us at info@americanhumane.org.

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Children's Services Policy Statement

Violence Toward Children and Animals

Recent studies have shown that abusive behavior toward animals may be an indicator of other forms of violence within the family setting. In addition, a child who is subjected to physical abuse may in turn abuse animals.

Surprisingly, the growing scientific evidence of the link between cruelty to animals and other forms of violent behavior is not widely known by the public, the judiciary, law enforcement officials, or even the social services agencies that investigate such incidents. Many do not know that young children who learn aggression against other living creatures are more likely to show aggressive behavior against other people as adults. Aggression among the adult criminal population may have a strong correlation with a familial history of abuse and childhood cruelty toward animals.

American Humane therefore calls for more systematic understanding of, and public education about, the connection between violence toward children and animals, and a cohesive community approach to intervention and the early teaching of nurturance. The goals for innovative programs directed toward training agency personnel to recognize the link between child and animal abuse and to treat the underlying causes should be to:

- prevent the onset of violent behavior with educational and experiential programs that promote nurturing and empathy in children;
- identify the manifestation of violence at the earliest possible age so that an appropriate response may be initiated; and
- evaluate and support interventions that successfully reduce acts of violence by individuals and motivate positive behavior patterns.

(Approved by the American Humane Board of Directors)

Child Welfare Policy Statement

- Access to Firearms by Minors
- Alcohol and Substance Abuse During Pregnancy
- Capital Punishment
- CPS, Family Preservation and Support Services
- Child Protective Professional Staff Resc
- Community Systems of Care
- Corporal Punishment in Schools and Custodial Settings
- Cultural Competence of CPS Agencies
- National Data on Child Abuse and Negl
- Physical Punishment
- Religious Exemptions/ Medical Neglect
- Transracial Placement and Adoption of Children
- Violence Towards Children and Animals

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12-10

TESTIMONY IN FAVOR OF SB 408

Melinda Carlton – 11579 West 177th Terrace – Olathe, KS 66062

Good Morning. My name is Melinda Carlton and I am here before you today to testify in favor of SB 408 which creates stronger penalties for individuals who torture, maim or kill domestic dogs and cats.

I have been a city and county manager for the past twenty years. In the jurisdictions served I have been responsible for animal control and animal shelter functions. During these years I personally can attest to government responsibility of thousands of abused and tortured dogs and cats which entered animal control facilities. Some had been abandoned and abused by strangers; others were pets which had been abused by their owners. I will not relate some of the tales of animal cruelty but I can tell you they are heart-wrenching. They are of such a heinous nature as to make you wonder how human beings can be so vicious. Aside from all the ramifications of animal abuse there is a societal cost as well. You, as our State of Kansas Legislators have a rare opportunity. By enacting this bill which includes felony provisions for violence toward animals you will be striking a blow against violence by humans against humans.

There *is* a connection between animal and human violence. You will be helping raise awareness and helping communities, professionals and social scientists predict patterns and reduce escalation. A 1997 survey of 50 of the largest shelters for battered women in the United States found that 85% of women and 63% of children entering shelters reported incidents of pet abuse in the family. Children who have witnessed domestic violence or who have been the victims of physical or sexual abuse may also become animal abusers themselves, imitating the violence they have seen or experienced. A study conducted in 1995 noted that 32% of the pet-owning victims of domestic abuse reported that one or more of their children had hurt or killed a pet. If people are prosecuted as felons others who might be prone to such violence against animals may be deterred from copying such behavior. If SB 408 becomes law we will find that law enforcement officers will become more sensitized to both animal and human abuse indicators. Most importantly though, by passing this legislation you are saying to people who might be prone to violence against humans, “We do not tolerate violence to animals or humans and we will prosecute accordingly for such activities.”

You have an opportunity to help both the animals and citizens of Kansas by being responsive and responsible legislators. Do what you know is the right thing to do. Please pass SB 408. Thank You.

Senate Judiciary

2-2-06

Attachment 13

SB 408 Proponent Statement:

My name is Lyn King and I am a resident of Leavenworth, KS. I became involved with the grassroots effort of Power For Paws due to discovering KS has only a current misdemeanor provision in our animal cruelty statute. It was an additional shock to find that most states have already taken a stronger stance than KS in regard to animal abuse. We are lagging behind and therefore being unfair to our furry companions. Furthermore, research has shown that many individuals who are violent to humans have also been abusive to animals.

I believe SB 408 contains the necessary ingredients to decrease animal abuse in KS. A major factor of SB 408 is calling for certain crimes against animals to result in a felony charge with the first offense as opposed to waiting for a second offense to occur. Denying an offender ownership of another companion animal for a period of five years is another vital part of this bill. These components are a major improvement from those contained in KS' current animal cruelty statute.

Lastly, I believe the psychological evaluation and subsequent psychological/anger management counseling language included in SB 408 is of utmost importance. Such measures could help eliminate the destructive roots which feed the abuse; thus preventing further atrocities against animals, and people as well.

Lyn King

Public Testimony on Senate Bills 402 and 408

Good Morning Mr. Chairman and Members. My name is Dr. Brian Withrow. I am a criminologist. I work at Wichita State University. I am also the Mayor of Bel Aire, Kansas. It is within this capacity that I appear before this committee.

Last year the Heartland Animal Hospital in Bel Aire received a puppy that had been bound with wire and tortured with corrosive chemicals. This binding and torture would eventually kill Magnum. This event touched the lives of many people in my community and throughout the nation. Magnum's plight is a story we have heard before and will likely hear again. My purpose here today is to urge you to create an animal abuse statute in Kansas that does two very important things.

First, as a matter of public policy the mistreatment of animals should be a felony. As a criminologist I know that it is unlikely that a person will be deterred from initial animal abuse because it is a felony. People who abuse animals are neither that rational nor thoughtful. After all, we had a death penalty in this state and people still committed homicides. A felony level violation does however 'up the ante' and increase the probability that an animal abuse incident will encourage the attention of law enforcement authorities.

Second, the statute should include a provision whereby an individual convicted of it must provide a record of his fingerprints and DNA. To many the DNA requirement may seem rather onerous, even a bit hypersensitive. But from a crime control perspective it makes practical sense. The criminological research on serial offenders, particularly murderers, documents a common behavioral pattern. While this behavioral pattern does not allow us to predict who will become a serial murderer, it does suggest that these offenders follow an increasingly violent life course. Typically animal abuse occurs *prior to* the onset of human victimization. Not all animal abusers grow up to be serial murderers. But every serial murder at one time abused animals.

Animal abuse is therefore a precursor offense, a relatively low level criminal offense that leads to more severe criminality. This is analogous to a process followed by sex offenders who tend to progress from minor sexual misconduct (voyeurism, lewdness) to more extreme forms of sexual victimization.

In short, Mr. Chairman and Members, on behalf of Magnum, I am asking you to do two things. First, I am asking you to recognize animal abuse for what it *is*, a serious crime warranting a serious response. Second, I am asking you to recognize animal abuse for what it *can be*, an indicator of a tendency to engage in extreme human victimization.

Just think what would be different if Dennis Rader, a.k.a. BTK, had been arrested, fingerprinted and required to give a DNA sample when he killed cats as a young man. It is likely this DNA sample would have been compared against the DNA he left at the Otero murder scene, thereby saving the lives of his subsequent victims and three decades of community victimization.

Brian L. Withrow, Ph.D.
5926 East 47th Street North
Bel Aire, Kansas 67220
(316) 744-8101

Senate Judiciary

2-2-06
Attachment 15

Julie A. Breault
Practice Manager
Heartland Animal Hospital

February 2nd, 2006

Written testimonial in support of SB 408

Good Morning Ladies and Gentlemen. I am here today to relay my feelings as an animal caretaker. The majority of pets that I see are loved and treated as if they were one of the family, but I also see neglect in varying degrees on a weekly basis. We see anywhere from the dog left in the bag yard with just the bare necessities, given minimal human interaction to the under weight, flea ridden, arthritic burdened pet that should have had medical care much sooner than it did. Some of this neglect is due to ignorance of the owner or an over worked, over stressed life that we live that doesn't allow for even the most minimal of time that a pet deserves. Our job as caretakers is to educate our clients as best we can and offer alternatives if they find the responsibilities of pet ownership are too much for them to handle. On occasion we come into contact with cases of abuse or neglect that we cannot attribute to a lack of time or knowledge in caring for a pet. These situations are obvious cases of torture and abuse resulting from intentional acts. Magnum was one of these cases. The people that commit these acts are the people that should be punished.

I know that I don't have to convince you how horrible it is to see animals that have been abused but I feel I must try to make you understand the feeling of utter disbelief in knowing that someone could inflict such pain on another living being. When a little bundle of black fur entered our clinic screaming in pain everyone came to see what the problem was. We were told by the animal control officer that he was taken out of a dumpster. We were all shocked at what we saw. A black puppy bound with wire. The wire started around a back leg that was obviously bent abnormally then wound up around a front paw that was held in his mouth by the same wire. He was missing patches of hair all over his body and had maggots covering open wounds. Instead of euthanizing Magnum we felt his injuries were potentially treatable. Unfortunately we soon found that his injuries were too severe for even the most capable of Doctors. Magnum died a mere 4 days later.

The hunt for Magnum's abusers has, to this day, been unsuccessful. The person or people who committed this act of heinous torture were not ignorant or neglectful. They were malicious and deliberate in their behavior. They knew exactly what sort of pain and injury they were inflicting on this defenseless puppy. They did it for reasons I hope to never understand. These are the people I want to see in prison. These are the people I hope neither me nor my children ever come into contact with. I want people who are capable of doing something such as this to know that Kansas takes this behavior very seriously and will impose serious penalties for what it is and hopes it *never* becomes. Please support Senate Bill 408.

Sincerely,

Julie Breault
4046 N. Harding Rd.
Bel Aire, KS 67220
316-305-8944

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**Testimony Before the Kansas State Senate Judiciary Committee
Presented on February 2nd, 2006, in Support of Senate Bill #408**

I would like to thank the Chair and the members of the Committee for the opportunity to speak this morning.

We are here today because we have a burden to bear. Our burden is protecting the well being of animals who are not capable or not allowed to protect themselves. We are here to discuss two different options of dealing with people who abuse and are cruel to animals.

This need of a way to deal with people that abuse animals must be met. However, in meeting this need, the means that is chosen to do so must reach beyond an issuance of consequences and be strong enough to have the goal of preventing animal abuse and cruelty in the first place.

My legislature putting a bill into place that has the strength and power to prevent animal abuse and cruelty; that is why I am here. That is why I support Senate Bill #408.

My name is Brendan Wiley, I am the Director of Operations for Animal Haven, a nonprofit, low-kill animal shelter located in Merriam, Kansas. I have seen abused animals. I have worked with abused animals. I will work with any animal that needs me. I am here today however, in hopes that I won't have to see or work with another abused animal.

It is easy for us to speak the truth and say that animal abuse is inhumane. It is cruel. Domesticated animals can't or aren't allowed to protect themselves. While all of this is true and enough to justify the need for a strong bill such as 408, I would like to present a different angle, additional reasons as to why this bill is needed.

The shelter I work for is a low-kill shelter. We are committed to every animal that comes through our door. Animals that have been abused have a negative effect to the operation of our shelter and the service that we offer to our community.

Abused animals have a much higher drain on shelter resources than do stray or unwanted animals. They take much more staff time as the frequently have to relearn how to interact with humans. They are typically more expensive medically. And perhaps more importantly, they take up needed space in the shelter for sometimes long periods of time. Yet, it is not their fault. These are all effects caused by irresponsible human behavior.

Our plea to our legislature is that you put into law a strong enough bill that it not only affects the people that break that law but it modifies the behavior of people that might otherwise consider it—that the consequences of breaking the law put a fear into anyone that might consider doing so.

From a shelter standpoint, there are more animals that need help than there are resources to do so. Please, help us out. Your act of passing Senate Bill #408 can help solve the issue of animal abuse and cruelty and can allow us to spend our limited resources on animals that need them.

Thank you for allowing me to speak today.

Brendan M. Wiley
Director of Operations
Animal Haven, Inc.
9800 W. 67th Street
Merriam, KS 66103
913-626-7620
bwiley@animalhavenkc.org

634 SW Harrison Topeka, Kansas 66603
785-232-9784 • FAX 785-266-1874 • coalition@kcsdv.org • www.kcsdv.org

Senate Bill 408, Cruelty to Animals
Senate Judiciary Committee
February 2, 2006
Proponent

Chairman Vratil and Members of the Senate Judiciary Committee,

The Kansas Coalition Against Sexual and Domestic Violence (KCSDV) supports the passage of Senate Bill 408, which proposes to increase the penalties for and clarify the crime of Cruelty to Animals. KCSDV member domestic violence and sexual assault programs working to end violence against women and children often note that cruelty to animals can be an integral part of domestic violence.

Here's one example of how that happens: Shortly before the baby was born, "Tom" moved from emotional abuse to physical violence with his wife. I may note that an increase or onset of violence during pregnancy is not unusual. When the baby was just two months old "Wendy" began to think about, and talked with her family about, leaving him. Almost universal in batterers behavior is an increased level of threat and violence when they think the victim is moving away: either emotionally or physically. Tom had a Doberman pincer he was very attached to. The dog was his constant companion and he often pampered it. The following weekend Tom began talking about his ability to control everything in his life, even if he had to kill it. He honed his hunting knives while talking about his capacity to kill. Wendy was terrified, she was pretty sure she understood the underlying message. On Monday morning after Tom had left for work Wendy went to the kitchen to get a bottle for the baby. On the top shelf of the refrigerator was the Doberman's head. Wendy's understanding of the message was crystal clear—if he could do that to his treasured dog, she and the baby were in severe danger too.

We know that the leaders of Kansas want to make our state a safe and healthy place for families. But what you may not know is that an important part of making Kansas families safe is ensuring that there are appropriate legal consequences for those who torture and harm the family pet. Pet abuse often goes hand in hand with domestic violence and child abuse. If someone is harming the family pet, research shows there is a good chance others in the home are being hurt as well.

In one study conducted at a Utah battered women's shelter 71 percent of the women with pets reported that their male partner had threatened to hurt or kill one or more of their pets; actual harm or killing was reported by 57 percent. Victims in domestic violence programs in Kansas also report that threats and abuse of a family pet often accompany the cycle of violence in their homes.

Batterers utilize threats to a family pet as a means of intimidating a family member from calling the police or reporting child abuse. Abusers hurt or kill pets as means of threatening their victims with what might happen to them next, or to retaliate for the victim seeking help or shelter outside of the violent home.

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KCSDV
2/2/06

There is growing evidence of the link between animal abuse and child abuse. For example, one study involved 57 families experiencing child abuse in New Jersey found that in 88 percent of these families, animals in the home had also been abused by the parent.

As long as killing and torturing animals doesn't carry a sufficient penalty in Kansas, batterers will continue to utilize the torture and killing of the family pet as a loophole in the law to terrorize abused family members.*

The only issue we take with SB 408 appears on page 3, line 33 that requires completion of an anger management program. Abuse is NOT about anger. A large body of literature exists indicating that domestic violence offenders need to be in long-term (at least 26 weeks) of batterers intervention programming (BIPs). Unfortunately, BIPs are available in only a handful of communities in Kansas. KCSDV is working with the Governor's Domestic Violence Fatality Review Board and others to implement a set of certification standards for BIPs. Once that is complete, we hope to help develop these programs across the state. It may be helpful to change the language in this bill to require completion of a batterers intervention program even though it is a little ahead of time.

KCSDV supports the passage of SB 408.

Respectfully submitted,

Sandy Barnett
Executive Director

* Portions of this document were adapted from 'Animals Escaping Domestic Violence,' Patricia A. Murphy and 'The Abuse of Animals and Domestic Violence: A National Survey of Shelters for Women who are Battered', Frank R. Ascione, Claudia V. Weber, and David S. Wood, Utah State University

STATEMENT OF SAM MOSSHART
KANSAS FEDERATION OF ANIMAL OWNERS
TO THE SENATE JUDICIARY COMMITTEE
SENATOR JOHN VRATIL, CHAIR
REGARDING S.B. 402 AND S.B. 408

FEBRUARY 2, 2006

Mr. Chairman and Members of the Committee, I am Sam Mosshart, a rancher and kennel operator from Protection, Kansas. I am President of the Kansas Federation of Animal Owners (KFED).

KFED respectfully requests that if the Committee advances a bill amending the animal cruelty statutes that you include a provision similar to other exceptions in the law, with regard to practices approved by guidelines of the United States Department of Agriculture Animal and Plant Health Inspection Service (APHIS). The current law provides exceptions for normal or accepted practices of animal husbandry, with respect to farm animals. Generally, this is recognized as not including dogs and cats. APHIS is responsible for administration of the U.S. Animal Welfare Act, which applies to the care of pet animals, and under which APHIS licenses and inspects pet breeders. USDA guidelines are adopted by reference in Kansas, so there is no difference between USDA standards of care and the state standards of care.

We understand that the objective of these bills is to punish more severely those who would intentionally harm an animal. My job every day is caring for animals, and I have no sympathy for anyone who would maliciously harm an animal. However, I am aware of numerous cases in which I believe an animal owner was unjustly accused or did not have due process or opportunity for self-defense under the current law. I believe this law has been abused to wrongly harm people and could be all the more so if the penalties are made more severe, without protections for the accused.

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We believe, regardless of the penalties, that amendments are needed to the current law which would provide rights for the accused. We would suggest amendments such as the following:

1. Allow the accused to have their own veterinarian give each animal an evaluation before the animals are seized and to take such samples as might support this evaluation.
2. Allow the accused to take their own pictures and/or video and any other evidence or samples (ex stool, blood, etc) deemed necessary for their Defense.
3. Get an IRON CLAD definition, describing an animal to be seized. (Example – 1. it must be so many pounds under weight. 2. They must have knowledge of its being without shelter for a certain period of time) No guessing, or opinions. Just facts. Any accusations must be supported with tests. Must do blood test (done by independent lab and/or accused's lab) to determine malnutrition, etc.
4. Must be allowed a FULL trial at the District Court level in any administrative procedure, with review of the evidence, not just the agency findings.
5. The seizing agency must keep complete records of ALL animals disposed of and their final resting place, disclosed to the public (for at least 7 years and then archived). If the accused is found innocent, the seizing agency must pay all costs including attorney's fees, value of

animals, and any losses resulting from the withholding of your animals from you during the process.

6. The Pet Act must be under the Criminal Statutes as to preserving evidence (EX – They can not take animals and destroy them before the accused person has the opportunity to gather evidence to defend themselves).
7. Any animal owner whose animal was being housed at another person's facility when it was seized (i.e. it was being boarded) must have their animal returned to them.
8. They must provide you with a list of your rights, BEFORE they inspect you whether you are licensed or not. (taken from Gette v. I.N.S. and Goldberg)
9. They must send you a certified letter of their Notice of Intent to Inspect, BEFORE inspecting any alleged unlicensed facility.
10. If the animals are breeding animals, registered, show animals, or have value, they MUST be sold at public auction, not killed, neutered or placed, and the accused must be given certified notice of said sale.
11. KAHD must supply the Legislature with an annual report containing an itemized list of the following every year.
 - a. Consent Agreements
 - b. Notices Of Intent to Inspect

- c. Orders to Inspect
- d. Administrative Warrants/Inspection Warrants
- e. Number of Animals seized
- f. Individual photo and description of each animal seized
- g. Facts and tests detailing the reason each individual animal was seized
- h. Must do blood test (done by independent lab and/or accused's lab) to determine malnutrition
- i. Final disposition of each individual animal seized

12. The seizing agency must maintain itemized receipts for all expenses of all animals seized, itemized by individual animal. These must be made available to the public, and the accused, before any action is taken by the agency.

Thank you for your consideration.



D. Kay Johnson
Director of Environmental Services
City of Wichita

Testimony in Support of SB 408
Before the Senate Judiciary Committee
February 2, 2006

Chairman Vratil and members of the Committee:

I am Kay Johnson, Director of Environmental Services for the City of Wichita. I appreciate the opportunity to speak today in support of Senate Bill 408, which is now before you.

The City of Wichita operates the largest animal control agency in Kansas. Last year we investigated 760 instances of alleged neglect or abuse of animals; these investigations entailed 2,356 field contacts by staff. Our experience indicates that cruelty and neglect are real problems that government must address. I've attached a copy of an e-mail from my staff detailing an incident that occurred in Wichita last year with a puppy our community called "Magnum." This particular case illustrates the extreme nature of some of the situations we encounter.

While our local ordinance is adequate to address the vast majority of cases, we are limited under Kansas law in the penalties we can impose through our municipal court system. In other areas of the law, egregious violations are dealt with at the state level through the district courts. We believe that such crimes warrant felony penalties on a first conviction. Kansas is one of only nine states lacking felony penalties for extreme cruelty to animals. Only the Kansas Legislature can correct this shortcoming.

Others with greater expertise will testify today as to the links between violence against animals and violence against human beings. Law enforcement, academia, and the mental health profession all recognize this association. Identification and conviction of individuals involved in willful malicious mistreatment of animals hold potential for protection of people as well as animals. Senate Bill 408 addresses these issues.

Fiscal impact is always a concern to legislative bodies at all levels of government. The proposal at hand would have minimal impact on government resources. It represents an additional mechanism that can supplant existing regulations when warranted by individual circumstances. Senate Bill 408 would provide law enforcement and the courts with a broader range of tools than they currently possess.

Kansans are united in their concern over the issue of animal cruelty. Our agency believes that Senate Bill 408 best addresses the issues at hand. We are joined in our support for this measure by numerous animal welfare advocates, animal control professionals, and countless individual citizens. I urge you to act favorably on Senate Bill 408, and I thank you for the opportunity to address the committee.

ATTACHMENT

D. Kay Johnson
Testimony in Support of SB 408
Before the Senate Judiciary Committee
February 2, 2006

INTERNAL CITY OF WICHITA EMAIL – DETAILS OF PUPPY CALLED “MAGNUM”

From: Graves, Dennis
Sent: Tuesday, August 02, 2005 4:39 PM
To: Williams, Van
Cc: Johnson, Kay; Smith, Roger
Subject: Puppy found in School Dumpster

On 8-01-05 one of our officers was dispatched to a school located in the northwest section of town (Earhart) in reference to an animal being dumped in a trash dumpster on the property. Upon his arrival he discovered a black mixed breed puppy in severe distress and exhibiting signs of deliberate and severe abuse. The animal had several areas where it had received lacerations and/or burns, and several open wounds. The wounds were maggot infested and the dog was severely malnourished, dehydrated, and thin. The animal's paws and front legs had been wired together and wrapped around it's head, with one paw inserted into the animal's mouth barely allowing the animal to breath. Once freed, the animal stood up and wagged it's tail, still trusting humans. I have been in Animal Control since 1982, and have witnessed countless examples of cruelty and neglect. Deliberate and malicious cruelty as is evident with this puppy is inexcusable.

STATEMENT OF KANSAS DAIRY ASSOCIATION

TO THE SENATE JUDICIARY COMMITTEE

SENATOR JOHN VRATIL, CHAIR

REGARDING S.B. 402 AND S.B. 408

FEBRUARY 2, 2006

Mr. Chairman and Members of the Committee, I am Chris Wilson, Executive Director of the KS Dairy Association, representing the dairy farms in Kansas. We understand the good intentions of these bills and thank the sponsors for their work to amend current animal cruelty statutes in such a way that would maintain protections in current law and also strengthen it to deter those who would cause needless harm to an animal.

As with any law written to deter bad conduct, there is a concern that if broadly construed it can adversely affect good actors. Current law retained in both bills states that provisions of the law do not apply to normal or accepted practices of animal husbandry. A search of the law indicates that this phrase is generally accepted to mean careful or thrifty management of one's herd or animals. However, there is not a specific definition of this term.

Years ago, I worked at the U.S. Department of Agriculture for Secretary John R. Block. The Assistant Secretary for Marketing and Inspection Services at that time was Joan Smith, a rancher from Florida who had been the first woman president of the National Cattleman's Association. Her family had been accused of animal cruelty when a passerby observed a cow in distress in their pasture. It turned out that the cow was calving. As I recall, this incident cause quite a lot of stress and time in defense for the family. My concern is that the law may put many farmers and ranchers at risk of being accused of animal cruelty. Granted, that's current law, but increasing the penalties puts them at greater risk.

Attached to my statement is a document from a recent case in a rural Kansas county. The individual was accused and convicted of animal cruelty. As you can see, this document by the attorney for the county charges the individual with failing to provide shelter or a dry place to lie down for horses. I would submit to you that many Kansas farmers and ranchers could be convicted on the same grounds during wet weather. Many do not have barns to shelter their livestock. Kansas feedlots and

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dairies often have open lots where livestock weather storms. Following a rain or snow, there is no dry place to lie down. They would consider that a normal and accepted practice of animal husbandry. At least this district court would not.

In doing research regarding this issue, I was interested to find the following article with regard to similar legislation proposed in Canada:

“A closer examination of the bill has raised some important questions concerning legitimate activities associated with agriculture and food production. People have differing opinions of what constitutes cruelty. While the Justice Department states that the amendments do not target or modify normal animal care practices (e.g. animal husbandry or practices governed by more specific legislation), the fact that the term cruelty is open to interpretation makes it important for the farming community to state its concerns before this proposed legislation becomes law.”

“Agriculture groups including Dairy Farmers of Canada and the Canadian Federation of Agriculture (CFA) have been monitoring this issue closely. They have also sought legal opinions as to what Bill C-17 might mean for agriculture producers. In spite of assurances from the Justice Department that the proposed amendments would not affect legitimate farming practices, several legal opinions suggest otherwise. The main concern of the agriculture community is that the wording of the amendments could provide an opportunity for animal rights groups to bring actions against farmers for traditional and normal practices used in animal husbandry.”

I would suggest amending current law to define normal or accepted practices of animal husbandry to mean careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region.

I would also suggest an amendment stating that negligent abuse does not include accidental or unintentional harm (i.e. my friend is visiting me and on leaving backs her vehicle over my cat, not realizing the cat was there). Did she and/or I leave it in a place without making proper provisions for its care and are therefore guilty of negligent abuse?

Thank you for your consideration of these comments.

IN THE DISTRICT COURT OF MARION COUNTY, KANSAS

FILED
MARION COUNTY
DEC 14 PM 4:18

STATE OF KANSAS

vs.

Case No. 01-CD-051

KENA ANN LINDGREN

MOTION TO AMEND BILL OF PARTICULARS

COMES NOW Assistant County Attorney Keith Collett, and moves for orders authorizing the amendment of the Bill of Particulars so as to add one provision to the Bill of Particulars regarding cruelty to horses. The additional particular alleged is that the Defendant failed to provide adequate protection from the elements, and/or a dry place to lie down, for horses.



Keith Collett SS#12491
BROOKENS & COLLETT
403 E. Main, P.O. Box 293
Marion, KS 66861-2093
620-382-2133
Assistance County Attorney



CERTIFICATE OF DISTRICT COURT

The above is a true and correct copy of the original instrument which is on file or of record in this Court.

Done this 17 day of February 2006
CLERK OF DISTRICT COURT

By [Signature] Deputy

Kansas Sheriffs Association



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 Coffey County

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Sheriff Jeff Parr
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To: Senate Judiciary
 Re: SB402 and SB408

The Kansas Sheriff's Association supports the idea of holding those individuals that choose to inflict injuries and perform cruel acts to animals accountable. Many times these individuals have an extensive criminal history and are capable of even more horrendous acts.

The Kansas Sheriff's Association would like to express our concern about the sentencing portion of this legislation. This legislation once again creates sentencing guidelines that would place the criminal in the County Jail as a felon. Over the past several years we have seen continuous adjustments in the sentencing guidelines that results in felons serving time in the county jails throughout the state. This is and has been done to help address prison overcrowding at the state level. The same thing is occurring at the county level. Our county jails are becoming full and overcrowded.

I have recently polled sheriffs throughout the state and I am in the process off compiling the results. Sheriff's were asked to submit information as to the number of felons that are incarcerated in their jail. While I am in the early stages of putting this together, it is apparent that there is a great deal of felons incarcerated in county jails. When felons are placed in the county jails the local citizens are picking up the tab for medical, dental, and normal costs associated with a prisoner. This has placed a hardship on county government and has required sheriff's to utilize county funds that would otherwise be used for other county operations.

The Kansas Sheriff's Association believes that it is time for the Legislature to address prison overcrowding and look at building additional prison space and/or explore the option of private prisons in Kansas.

Randy L. Rogers
 Legislative Chair

Senate Judiciary

2-2-06

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