

Courtroom Animal Advocacy Program (CAAP)

Purpose:

Las Vegas historical under-enforcement of anti-cruelty laws; increasing recognition of the sentience of animals; acknowledgement of the connection between violence to animals and violence to humans; emphasis on providing law students with opportunities for experiential learning and courtroom experience; and a tragic animal cruelty case involving a dog named Desmond in Connecticut.

C.G.S.A. § 54-86n This 2016 law states that, in a cruelty or welfare proceedings, the court may order, upon its own initiative or upon request of a party or counsel for a party, that a separate advocate be appointed to represent the interests of justice. That advocate can monitor the case and supply the court with information about the welfare of the cat or dog. The Department of Agriculture shall maintain a list of attorneys with knowledge of animal issues and the legal system and a list of law schools that have students, or anticipate having students, with an interest in animal issues and the legal system. Such attorneys and law students shall be eligible to serve on a voluntary basis as advocates under this section.

Support:

- Shortage of Animal Control Officers for the population size of Las Vegas.
- Understanding animal sentience informs our treatment of animals, including the protection that we afford to them and the concept of justice in cases where they have been harmed by humans.
- The FBI started to track animal cruelty, including neglect, torture and sexual abuse. The National Sheriffs' Association has observed links between animal abuse and other types of crimes, including domestic violence and child abuse.
- Authorities may use knowledge of an individual's conviction of animal abuse to predict that person's likelihood to commit additional violence towards animals or human beings.
- Veterinarians, law enforcement personnel and prosecutors have recognized the connection between violence to animals and violence to humans, often referred to, within the field, as "The Link".

Proposed legislative action:

1. To pass similar legislation based upon "Desmond's Law", to allow state courts to appoint volunteer lawyers or supervised law students to act as advocates in cases of cruelty to dogs, cats, rabbits and horses.
2. Utilize UNLV Boyd's Law School students to gain valuable courtroom experience by acting as advocates for animals that have been harmed intentionally or by means of negligence.
3. Monitors and attends animal cruelty cases throughout Nevada.
4. See attached Bill Draft Proposal.

1 - Desmond's Law, Connecticut General Statutes Sec. 54-86n (2017)

Courtroom Animal Advocacy Program (CAAP)

PROPOSED REVISIONS TO NRS 574 TO AUTHORIZE THE COURT TO APPOINT A SEPARATE ADVOCATE TO REPRESENT AN ANIMAL, IN THE INTERESTS OF JUSTICE

HEARINGS REGARDING OWNERSHIP AND CARE OF ANIMALS BEING TREATED CRUELLY

NRS 574.201 Definitions. As used in NRS 574.201 to 574.204, inclusive, unless the context otherwise requires, the words and terms defined in NRS 574.2015, 574.202 and 574.2025 have the meanings ascribed to them in those sections. (Added to NRS by 2019, 1775)

NRS 574.2015 "Animal" defined. "Animal" has the meaning ascribed to it in NRS 171.1539. (Added to NRS by 2019, 1775)

NRS 574.202 "Animal rescue organization" defined. "Animal rescue organization" has the meaning ascribed to it in NRS 574.205. (Added to NRS by 2019, 1775)

NRS 574.2025 "Animal shelter" defined. "Animal shelter" has the meaning ascribed to it in NRS 574.240. (Added to NRS by 2019, 1775)

NRS 574.203 Right to request hearing; timing of hearing.

1. If a person is lawfully arrested for a violation of NRS 574.070 or 574.100 and if an animal owned or possessed by the person is impounded by the county, city or other local government in connection with the arrest, the person must be notified in accordance with the provisions of subsection 2 of NRS 574.055 and be notified of his or her right to request a hearing within 5 days after receipt of the notice to determine whether the person is the owner of the animal and whether the person is able to provide adequate care and shelter to the animal. The person must request a hearing pursuant to this subsection within 5 days after receipt of the notice pursuant to this subsection.

2. If a person who is lawfully arrested and detained for a violation of NRS 574.070 or 574.100 does not request a hearing pursuant to subsection 1, or an owner of the animal has not been identified within 5 days of arrest, the county, city or other local government shall transfer ownership of the animal to an animal rescue organization, animal shelter or another person who is able to provide adequate care and shelter to the animal.

3. If the court receives a timely request pursuant to subsection 1, the court shall hold a hearing within 15 judicial days after receipt of the request to determine whether the person is the owner of an animal and whether the person is able and fit to provide adequate care and shelter to the animal.

4. In any hearing under this section, the court may order, upon its own initiative or upon request of a party or counsel for a party, that a separate advocate be appointed to represent the animal in the interests of justice.

Courtroom Animal Advocacy Program (CAAP)

Continued.....

(a) If a court orders that an advocate be appointed to represent the animal, the court shall appoint such advocate from a list provided to the court by UNLV Boyd School of Law pursuant to subsection (c) of this section. A decision by the court denying a request to appoint a separate advocate to represent the interests of the animal shall not be subject to appeal.

(b) The advocate may:

- (1) Monitor the case;
- (2) Consult an individual with information that could aid the judge or fact finder and review records relating to the condition of the cat or dog and the defendant's actions, including, but not limited to, records from animal control officers, veterinarians and police officers;
- (3) Attend hearings; and,
- (4) Present information or recommendations to the court pertinent to determinations that relate to the interests of justice, provided such information and recommendations shall be based solely upon the duties undertaken pursuant to this subsection.

(c) The Courtroom Animal Advocacy Program shall maintain a list of attorneys with knowledge of animal issues and the legal system and identify law school(s) that have students, or anticipate having students, with an interest in animal issues and the legal system. Such attorneys and law students shall be eligible to serve on a voluntary basis as advocates under this section. The provisions of CAAP of UNLV Boyd Law School shall govern a law student's participation as an advocate under this section.

5. For the purpose of conducting a hearing or other court proceeding pursuant to this section, the court may consider:

- (a) Testimony of the peace officer or animal control officer who took possession of or impounded the animal or other witnesses concerning the conditions under which the animal was owned or kept;
 - (b) Testimony and evidence related to veterinary care provided to the animal, including, without limitation, the degree or type of care provided to the animal;
 - (c) Expert testimony as to community standards for the reasonable care of a similar animal;
 - (d) Testimony of witnesses concerning the history of treatment of the animal or any other animal owned or possessed by the person;
 - (e) Prior arrests or convictions related to subjecting an animal to an act of cruelty in violation of NRS 574.070 or 574.100; and
 - (f) Any other evidence which the court determines is relevant.
- (Added to NRS by 2019, 1776)

NRS 574.2035 Determinations of court.

1. If the court determines by clear and convincing evidence that the person detained is the owner of the animal and the person is able and fit to provide adequate care and shelter for the animal, the court shall order the person or the designee of the person to take possession of the animal not later than 3 days after the issuance of the order.

2. If the court determines that there is not clear and convincing evidence that the person arrested is the owner of the animal or that the person detained is not able and fit to provide adequate care and shelter for the animal, the court shall order:

- (a) The person not to own or possess the animal; and
- (b) The county, city or other local government to transfer the animal to an animal rescue organization, animal shelter or another person who is able to provide adequate care and shelter to the animal.

Courtroom Animal Advocacy Program

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3. If the court makes a determination pursuant to subsection 2, the court may:
 - (a) Order the impoundment of any other animals owned or possessed by the person arrested; or
 - (b) Enjoin the person from owning or possessing any animal.

(Added to NRS by 2019, 1776)

NRS 574.204 Recovery of costs for care and shelter. If the court makes a determination pursuant to subsection 2 of NRS 574.2035, the county, city or other local government or animal shelter may by appropriate action recover the reasonable cost of any care and shelter furnished to the animal. The court may order a later and separate hearing to make a determination about such costs. (Added to NRS by 2019, 1777)

PROPOSAL TO AUTHORIZE COURTROOM ANIMAL ADVOCATE PROGRAM (CAAP) IN THE 81st SESSION OF NEVADA LEGISLATURE

The attached proposed legislation would create a Courtroom Animal Advocate Program (CAAP) in Nevada. Enactment of this legislation would:

- 1) Amend NRS 574 to increase protections for abused animals;
- 2) Authorize Nevada courts hearing animal cruelty cases under NRS 574, to appoint an advocate to represent the interest of the animal in its proceedings;
- 3) Create a process under which the Court Administrator would provide the court with a list of potential animal advocates, comprised of volunteer attorneys and law students who have obtained certification to under Rule 49.3 of the Rules of the Nevada Supreme Court; and,
- 4) Provide these services without support from the Nevada General Fund or other public monies, by reliance on volunteer attorneys and law students.

Legislation needs proactive response to extensive research demonstrating the link between cruelty to animals and violent acts by animal abusers towards other people. This link makes it critically important that the judiciary and law enforcement have the tools needed to deal effectively with cruelty toward animals, for the sake of the animals themselves as well as for the sake of the people who are also at risk. Nevada is consistently one of the worst states in the country for domestic violence. In 14 of the past 17 years Nevada has been ranked in the top five domestic violence states, and the crime rate isn't going down. Las Vegas is fourth in the nation on rate of women murdered by men as of 2019.

Enactment of this legislation will help bring awareness to the link between domestic violence and animal cruelty in Nevada, as well as strengthen animal cruelty prosecutions. Often multiple forms of violence are occurring at the same time. When perpetrators are committing multiple forms of abuse, they have a higher risk level and dangerousness factors. An awareness of the relations between animal abuse and other criminal behaviors is vital for the public, law enforcement and other professional disciplines that encounter animal abusers in their work. Given these realities, it is highly appropriate to view animal cruelty as a public safety and human welfare issue.

“Animal cruelty crimes uncover other crimes – family violence, juvenile delinquency, drugs and human trafficking, and more.” – John Thompson, Deputy Executive Director, National Sheriffs Association (2014)

**PROPOSED REVISIONS TO NRS CHAPTER 574 TO
AUTHORIZE APPOINTMENT OF ANIMAL ADVOCATE
IN LEGAL PROCEEDINGS**

4. NRS 574.203 Right to request hearing; timing of hearing; animal advocate.

1. If a person is lawfully arrested for a violation of [NRS 574.070](#) or [574.100](#) and if an animal owned or possessed by the person is impounded by the county, city or other local government in connection with the arrest, the arresting officer shall notify such person in accordance with the provisions of subsection 2 of [NRS 574.055](#) and notify such person of his or her right to request a hearing within 5 days after receipt of the notice to determine whether the person is the owner of the animal and whether the person is able to provide adequate care and shelter to the animal. The person must request a hearing pursuant to this subsection within 5 days after receipt of the notice pursuant to this subsection.

2. If a person who is lawfully arrested and detained for a violation of [NRS 574.070](#) or [574.100](#) does not request a hearing pursuant to subsection 1, the owner of the animal has not been identified within 5 days of arrest, or the owner of the animal, although identified, fails to claim the animal within 10 days of the arrest, the county, city or other local government shall transfer ownership of the animal to an animal rescue organization, animal shelter or another person who is able to provide adequate care and shelter to the animal.

3. If the court receives a timely request pursuant to subsection 1, the court shall hold a hearing within 15 judicial days after receipt of the request to determine whether the person is the owner of an animal and whether the person is able and fit to provide adequate care and shelter to the animal.

4. *In any hearing under this section, and in any criminal proceedings resulting from the an alleged violation of NRS 574.070 or 574.100, the court may order, upon its own initiative or upon request of a party or counsel for a party, that a separate advocate be appointed to represent the interests of the animal in such hearing or proceedings.*

(a) If a court orders that an advocate be appointed to represent the animal, the court shall appoint such advocate from a list provided to the court by the Administrative Office of the Court pursuant to subsection (c).

(b) The advocate shall monitor the case, and may:

- (1) Access court documents related to any underlying proceedings;*
- (2) Consult any individual with information that could aid the court in making its determinations regarding the animal's condition or disposition;*
- (3) Review records relating to the condition of the animal;*
- (4) Review records relating to the defendant's actions, including but not limited to, records from animal control officers, veterinarians and police officers;*
- (5) Attend hearings;*
- (6) Present documents, information or recommendations (which may include but not be limited to a victim impact statement) pertinent to determinations that relate to the interests of the animal represented by the advocate, provided such information and recommendations result from the advocate's execution of the duties undertaken pursuant to this section; and,*

(7) *Be eligible to receive training in the skills required to perform as an effective advocate, to the extent such training is available.*

(c) *The Administrative Office of the Courts shall maintain a list of attorneys and law students with knowledge of animal cruelty issues and the legal system who seek to serve on a voluntary basis as advocates under this section. To serve as animal advocates under this section, law students must have obtained certification to engage in limited practice pursuant to Rule 49.3 of the Rules of the Nevada Supreme Court and must comply with Rule 49.3 in providing such service.*

5. For the purpose of conducting a hearing or other court proceeding pursuant to this section, the court may consider:

- (a) Testimony of the peace officer or animal control officer who took possession of or impounded the animal or other witnesses concerning the conditions under which the animal was owned or kept;
- (b) Testimony and evidence related to veterinary care provided to the animal, including, without limitation, the degree or type of care provided to the animal;
- (c) Documents, information and recommendation(s) presented by the animal advocate;
- (d) Expert testimony as to community standards for the reasonable care of a similar animal;
- (e) Testimony of witnesses concerning the history of treatment of the animal or any other animal owned or possessed by the person;
- (f) Prior arrests or convictions related to subjecting an animal to an act of cruelty in violation of [NRS 574.070](#) or [574.100](#); and
- (g) Any other evidence which the court determines is relevant.

(Added to NRS by [2019, 1776](#))

NRS 574.2035 Determinations of court.

1. If the court determines by clear and convincing evidence that the person detained is the owner of the animal and the person is able and fit to provide adequate care and shelter for the animal, the court shall order the person or the designee of the person to take possession of the animal not later than 3 days after the issuance of the order.

2. If the court determines that there is not clear and convincing evidence that the person arrested is the owner of the animal or that the person detained is not able and fit to provide adequate care and shelter for the animal, the court shall order:

(a) The person not to own or possess the animal; and

(b) The county, city or other local government to transfer the animal to an animal rescue organization, animal shelter or another person who is able to provide adequate care and shelter to the animal.

3. If the court makes a determination pursuant to subsection 2, the court may:

(a) Order the impoundment of any other animals owned or possessed by the person arrested; or

(b) Enjoin the person from owning or possessing any animal.

(Added to NRS by [2019, 1776](#))

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(a) Testimony of the peace officer or animal control officer who took possession of or impounded the animal or other witnesses concerning the conditions under which the animal was owned or kept;

(b) Testimony and evidence related to veterinary care provided to the animal, including, without limitation, the degree or type of care provided to the animal;

(c) Expert testimony as to community standards for the reasonable care of a similar animal;

(d) Testimony of witnesses concerning the history of treatment of the animal or any other animal owned or possessed by the person;

(e) Prior arrests or convictions related to subjecting an animal to an act of cruelty in violation of [NRS 574.070](#) or [574.100](#); and

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