

CONSENT CALENDAR

January 29, 2019

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Children and Family Law to which
was referred HB 361,**

**AN ACT relative to property settlement including
animals. Having considered the same, report the same
with the recommendation that the bill OUGHT TO PASS.**

Rep. Debra DeSimone

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Children and Family Law
Bill Number:	HB 361
Title:	relative to property settlement including animals.
Date:	January 29, 2019
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

This bill simply gives the court guidance relative to property settlement inclusive of animals during divorce cases involving families who own pets.

Vote 18-1.

Rep. Debra DeSimone
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	Children and Family Law
Bill Number:	HB 361
Title:	relative to property settlement including animals.
Date:	January 29, 2019
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

This bill simply gives the court guidance during the hearings consisting of families who own pets. Relative to property settlement inclusive of animals.

Vote 18-1.



Rep. Patrick Long
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

cc

COMMITTEE: Children & Family Law

BILL NUMBER: HB 361

TITLE: relative to property settlement
including animals

DATE: 1-29-19 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
 - OUGHT TO PASS W/ AMENDMENT
 - INEXPEDIENT TO LEGISLATE
 - INTERIM STUDY (Available only 2nd year of biennium)
- Amendment No.

STATEMENT OF INTENT:

This bill simply gives the COURT guidance
during the hearings consisting of
divorcing families who own pets.
~~This gives no~~ relative to property
settlement inclusive of animals.

COMMITTEE VOTE: 18-1

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Alina L. DeSimone
 For the Committee
 Rep. DeSimone

Voting Sheets

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

EXECUTIVE SESSION on HB 361

BILL TITLE: relative to property settlement including animals.

DATE: 1.29.19

LOB ROOM: 206

MOTION: (Please check one box)

OTP ITL Retain (1st year) Adoption of Amendment # _____ (if offered)

Moved by Rep. DeSimone Seconded by Rep. French Vote: 18-1

MOTION: (Please check one box)

OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____ (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____ (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____ (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: YES NO

Minority Report? _____ Yes _____ No If yes, author, Rep: _____ Motion _____

Respectfully submitted: Erika Connors
Rep Erika Connors, Clerk



2019 SESSION

Children and Family Law

Bill #: HB 361 Motion: OTP AM #: — Exec Session Date: 1.29.19

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Long, Patrick T. Chairman	18		
Berrien, Skip Vice Chairman	1		
Mulligan, Mary Jane	2		
Connors, Erika F. Clerk	3		
Coursin, David R.	4		
Diggs, Francesca G.	5		
French, Elaine H.	6		
Grossman, Gaby	7		
Levesque, Cassandra N.	8		
Petrigno, Peter	9		
St. John, Michelle	10		
Wazir, Safiya			
DeSimone, Debra L.	11		
Rice, Kimberly A.	12		
Morrison, Sean D.	13		
Camarota, Linda Rea	14		
Fowler, William L.	15		
Jurius, Deanna E.	16		
Trento, Michael D.	17		
Yokela, Josh S.		1	
TOTAL VOTE:	18	1	

Hearing Minutes

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

PUBLIC HEARING ON HB 361

BILL TITLE: relative to property settlement including animals.

DATE: January 22, 2019

LOB ROOM: 206

Time Public Hearing Called to Order: 2:00 p.m.

Time Adjourned: 2:50 p.m.

Committee Members: Reps. Long, Berrien, Connors, Mulligan, Coursin, Diggs, French, Grossman, Levesque, Petrigno, St. John, DeSimone, Rice, Morrison, Camarota, Fowler, Jurius and Yokela

Bill Sponsors:
Rep. DeSimone

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. DeSimone, prime sponsor. Introduces bill.

- Animals not taken into account during divorce
- Veterinarians being put in the middle
- Animal's well being not taken into consideration
- Alaska is only other state who takes it into consideration

Rep. Rice

- Will this turn into an issue of "pet support?"

Rep. Yokela

- Does current law already encompass animals?

Rep. DeSimone

- Says current law says "maybe." Wants to make it more solid.

Rep. Petrigno

- What criteria would court use to decide?

Rep. DeSimone

- Gave example of court bringing in dog to make decision.

Rep. Camarota

- What would ramifications be if valuable race horse or animal?

Rep. DeSimone

- Says usually documents for ownership on race horses.

Rep. Rice

- Asks about what is in the best interest of the pet?

Rep. DeSimone

- says Judge would use testimony

Rep. Berrien

- Would you see abuse and neglect entering cases?

Rep. DeSimone

- Says laws are much more strict now and vaccines and vet visits reduce number of abuse/neglect cases.

Rep. Coursin

- Asks about costs and financial issues on vet care.

Rep. DeSimone

- Suggests amendment to cover this issue so person with custody would be financially responsible.

Rep. Long

- Asks about contracts with adoption/or purchase. DeSimone says courts would uphold contracts
- Expresses concern over children and pets attachment.

***Jay Marcoll, speaking on behalf of bill**

- Provides guidance for the courts. Need uniformity.
- Pets are like children for many people.
- Need guidance for well being of the animal
- Alaska refers to well being of the animal

Rep. Berrien

- Do you see any reason to make "animal" more specific? Answers No, creates more conflict.

Rep. Rice

- Should we use "domestic in home animals." Answers "I think so."

Rep. Mulligan

- How often is this issue encountered? Says not that often.
- Asks about visitation. Answers best interest of the animal

Rep. Coursin

- Asks about evidence, based on dog selecting owner in courtroom. Doesn't have that info.

Rep. Long

- Is Alaska language under property settlement? Yes.

***Alyssa Gregg, Member of Dog Owners of the Granite State**

- Bill has some difficult language that may have unintended consequences
- Issues of sale, show dogs, neutering, what is in the best interest could be disputed.

Lindsay Hamrick, Humane Society

- Supports bill. Bills coming up around the country.
- Vet records, contracts, who is home could all be considered
- Gives clarity to courts especially on issues of domestic violence
- Definitions exist already in NH law

Rep. St. John

- Asks about pigs and other animals. Answers - give clarity on domestic animal, livestock, etc.

Rep. Long

- Asks if she has specific language that would help. Answers bill is already well defined.

Rep. Berrien

- Asks Jay Marcoll about domestic vs. livestock issue. Marcoll was happy with testimony he heard and said maybe include those definitions.

Respectfully submitted,



Rep. Erika Connors,
Clerk

✓✓

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

PUBLIC HEARING ON HB 361

BILL TITLE: relative to property settlement including animals.

DATE: January 27, 2011

ROOM: 206

Time Public Hearing Called to Order: 2:00 pm

Time Adjourned: 2:50 pm

(please circle if present)

Committee Members: Reps. Long, Berrien, Connors, Mulligan, Coursin, Diggs, French, Grossman, Levesque, Petrigno, St. John, Wazir, DeSimone, Rice, Morrison, Camarota, Fowler, Jurius, Trento and Yokela

Bill Sponsors:
Rep. DeSimone

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

- ① - Rep. DeSimone, Prime Sponsor, Introduces bill
 - Animals not taken into account during divorce
 - Veterinarians being put in the middle
 - Animal's well being not taken into consideration
 - Alaska is only other state who takes it into consideration
 - * Rep. Rice - Will this turn into an issue of "pet support"?
 - * Rep. Yokela - Does current law already encompass animals?
 - DeSimone says current law says "maybe". Wants to make it more solid.
 - * Rep. Petrigno - What criteria would court use to decide?
 - ^{DeSimone} gave example of court bringing in dog to make decision
 - * Rep. Camarota - What would ramifications be if valuable race horse or animal.
 - DeSimone says usually documents for ownership on race horses.
 - * Rep. Rice - Asks about what is in the best interest of the pet?
 - DeSimone says Judge would use testimony

• Rep. Berrien - Would you see abuse + neglect entering cases?
- DeSimone says laws are much more strict now and vaccines and vet visits reduce # of abuse/neglect cases

• Rep. Coursin - Asks about costs and financial issues on Vet care?
- DeSimone suggests amendment to cover this issue so person w/ custody would be financially responsible.

• Rep. Long asks about contracts w/ adoption &/ purchase
- DeSimone says courts would uphold contracts

• Rep. Long expresses concern over children + pets attachment

② * Jay Marcoll - Speaking on behalf of bill.
- Provides guidance for the courts. Need uniformity.
- Pets are like children for many people.
- Need guidance for well being of the animal
- Alaska refers to well being of the animal

• Rep. Berrien - Do you see any reason to make "animal" more specific?
- Answers No. Creates more conflict.

• Rep. Rice - Should we use "domestic in home animals",
Answers "I think so."

• Rep. Mulligan - How often is this issue encountered?
Says not that often.

- Asks about visitation - Answers best interest of the animal

• Rep. Coursin - Asks about evidence, based on dog selecting owner in courtroom.
- Doesn't have that info.

• Rep. Long - Is Alaska language under property settlement? - Yes

- ③ *Alyssa Gregg - Member of Dog Owners of the Granite State
- Bill has some difficult language that may have unintended consequences.
 - Issues of sale, show dogs, neutering, what is in the best interest could be disputed.

- ④ Lindsay Hamrick - Humane Society
- Supports the bill, Bills coming up around the country.
 - Vet Records, Contracts, Who is home could all be considered.
 - Gives clarity to courts especially on issues of domestic violence
 - Definitions exist already in NH law
- Rep. St. John asks about pigs + other animals.
 - Answers - give clarity on domestic animal, livestock, etc.
 - Rep. Long asks if she has specific language that would help.
 - Answers - Bill is already well defined.
 - Rep. Berrien asks Jay Marcoll about domestic vs. livestock issue.
 - Marcoll was happy w/ testimony he heard and said maybe include those definitions.

Testimony

Mr. Chairman and Members Of The Committee,

Thank you for the opportunity to appear before you today my name is Alyssa Gregg I live in Canterbury NH and I a member of Dog Owners Of The Granite State, I am here to speak about HB 361. While we support the opportunity to clarify what happens to animals when there is a divorce, we have some concerns that some language in this bill may have unintended consequences, and we would like to work with you to make sure we have a bill that meets your intent.

The phrase "the animals well being" is difficult to pin down and intangible. It does not allow for consideration of all existing types of animal ownership. For example, my parents own a Show Dog that is co owned by both parties in the marriage, and a Breeder/Handler, this animal resides solely in my Parents Custody. This law would make dissemination of the marital property in regards to the Dog very difficult, and would not protect another party another lawful owners interest.

There is also that issue of animals unlike children can be sold. If one spouse were to be awarded custody based on the "well being of the animal" that circumstance could change drastically upon that owners decision to sell the animal, abandon them, or have medical professional neuter/spay or euthanize. We would ask that the committee consider to include wording that would protect the animal from these circumstances, and put ownership back to the co owner(s) care in lieu of any alternative.

There are cases where animals specifically horses and dogs are shown. The phrase "the animals well being" is intangible. Although it should always be considered, it leaves some owners open to prejudicial animal rights views. Some may view keeping an animal as a pet, and spaying/nuetering to be better than showing or breeding the animal. I personally own a Show Horse, this is her main purpose what she was bred for. It is concerning that she could be awarded to someone based on a prejudicial bias, and not be cared for in a Show Barn, this would be detrimental to her well being, as she is cared for very differently than the horses I have at home. In example she has been walked and worked everyday, if she were not to be exercised properly she would be very hard to handle, this would make her seem dangerous.

Thank you for the time you have allotted me today. I will answer questions I may have raised to the best of my ability.

1/21/2019

Mr Chairman and Members of the House Children and Family Law Committee,

I am writing you today to request that you look closely at HB 361 and consider modifying it so that it does not negatively impact ownership of animals that are the property of only one spouse *or* that are co-owned with one or both spouses by people outside of the marriage.

Animals in this state are property. Some animals are quite valuable, some are not but the purchaser of animals expects to have their interest in them upheld by law. The change to the law using the intangible "the animal's wellbeing" appears to ignore those ownership rights.

In the case of valuable animals there may be multiple owners, with the registered co-owners having a vested interest in the animal. This is not uncommon with those who show animals such as dogs and horses etc. In such a case awarding the animal to a spouse who is not a registered partial owner may cause serious issues.

Occasionally, with competition or breeding homes, the animal may only be residing there for a stated period or purpose such as showing or breeding and though it may be co-owned it might truly belong to neither of the divorce participants.

In addition, animals are not like children. If one spouse is awarded the children in a divorce case or shared custody etc. he or she cannot then dispose of the children by selling them, giving them away, abandoning them at a shelter or having a medical professional neuter or euthanize them as they can with an animal.

Perhaps there needs to be a way to ensure that if the awarded spouse will not be keeping the animal it can only go to the other spouse unless there is written permission to act otherwise?

The phrase used in the bill, "the animal's wellbeing", is a difficult to pin down intangible. One person might consider neutering and keeping an animal as a pet as better than planning on the animal producing offspring or participating in competitions of any type. How can the owners of the animals be protected from a prejudicial animal rights view when considering wellbeing?

Yes there should be legal leeway to consider the animal's wellbeing in the case of a shared ownership, between the two spouses only, with both truly desiring to have ownership, but the law needs to take into consideration all types of animal ownership, particularly in the cases where one spouse was responsible for the purchase and maintenance of the animal or where there are co-owners involved.

Sincerely,
Nancy Holmes New Boston, NH

Animals

In a first, Alaska divorce courts will now treat pets more like children

By Karin Brulliard
January 24, 2017

Divorces can be messy. Leaving aside the very raw emotions involved, there is the matter of splitting property.

Who gets the house? Who gets the couch? Who gets the dog?

If one of those items seems different to you, that's probably because you, like many Americans, consider pets to be more like family members than furniture. But courts do not. In the eyes of the law, animals are property. So although pet custody battles are often passionate and sometimes truly wacky, courts think of them more prosaically: as part of the "property distribution" in a divorce.

That's why an amendment to Alaska's divorce statutes, which took effect last week, is making waves in the world of animal law. It makes Alaska the first state in the country to require courts to take "into consideration the well-being of the animal" and to explicitly empower judges to assign joint custody of pets. In a blog post, the Animal Legal Defense Fund called the well-being provision "groundbreaking and unique."

"It is significant," said David Favre, a Michigan State University law professor who specializes in animal law. "For the first time, a state has specifically said that a companion animal has visibility in a divorce proceeding beyond that of property — that the court may award custody on the basis of what is best for the dog, not the human owners."

As animals' social status has evolved, courts nationwide have struggled with the pets-as-property idea, said Kathy Hessler, director of the Animal Law Clinic at Lewis and Clark College in Portland, Ore. The parties involved often want decisions on custody, visitation and even monetary support for a pet, she said. But existing statutes that guide such matters are designed to address children, not animals (which some courts think is just fine, at least in Canada).

Some people argue that pets should stay with the children; others think they should remain with whoever purchased them, or whoever was their primary caretaker. Often couples purchase pets with shared money, but rarely do people want to be “bought out” of their share of Fido, as might happen with a car or a house, Hessler said.

“The relationship with the animal is what is important in the family law context, so the property law analysis tends to be a poor fit for resolving disputes, and in fact, many of the property settlement agreements are continuously disputed, making more work for the courts,” Hessler said.

The Alaska amendment was sponsored by former representative Liz Vazquez (R) and the late representative Max Gruenberg, a Democrat and family lawyer who told the Associated Press in 2015 that he’d once handled a divorce that resulted in joint custody of a sled dog team.

“Our pets are members of our families,” Vazquez, who lost her bid for reelection in November, said in a statement last year. “We have to remember that we’re sent here to Juneau to represent people; real human beings, many of whom have pets they love as much as their friends and family.”

The Alaska bill also allows courts to include pets in domestic violence protective orders and requires the owners of pets seized in cruelty or neglect cases to cover the cost of their shelter.

“I hope it is the beginning of an explicit trend,” Hessler said of the well-being provision. “It makes more sense to address these issues at the legislative level to allow for public input and create rules that can be applied evenly to all citizens.”

Read more:


What is a no-kill animal shelter? The answer is more complicated than it seems.

Farewell, Sunny and Bo Obama

One problem with shutting down the circus: Where will the animals go?

16 Comments

Karin Brulliard

Karin Brulliard is a national reporter who runs the Animalia blog. Previously, she was an international news editor; a foreign correspondent in South Africa, Pakistan and Israel; and a local reporter. She joined The Post in 2003. Follow 

Alaska Statutes

Title 25. MARITAL AND DOMESTIC RELATIONS

Chapter 25.24. DIVORCE AND DISSOLUTION OF MARRIAGE

Article 02. DISSOLUTION OF MARRIAGE

Current through Chapter 113 of the 2018 Legislative Session

§ 25.24.200. Dissolution of marriage

(a)

A husband and wife together may petition the superior court for the dissolution of their marriage under AS 25.24.200 - 25.24.260 if the following conditions exist at the time of filing the petition:

(1)

incompatibility of temperament has caused the irremediable breakdown of the marriage;

(2)

if there are unmarried children of the marriage under the age of 19 or the wife is pregnant, and the spouses have agreed on which spouse or third party is to be awarded custody of each minor child of the marriage and the extent of visitation, including visitation by grandparents and other persons if in the child's best interests, and support to be provided on the children's behalf, whether the payments are to be made through the child support services agency and the tax consequences of that agreement;

(3)

the spouses have agreed as to the distribution of all real and personal property that is jointly owned or community property under AS 34.77, including retirement benefits and the payment of spousal maintenance, if any, and the tax consequences resulting from these payments; the agreement must be fair and just and take into consideration the factors listed in AS 25.24.160(a)(2) and (4) so that the economic effect of dissolution is fairly allocated; and

(4)

the spouses have agreed as to the payment of all unpaid obligations incurred by either or both of them and as to payment of obligations incurred jointly in the future.

(b)

A husband or wife may separately petition for dissolution of their marriage under AS 25.24.200 - 25.24.260 if the following conditions exist at the time of filing the petition:

(1)

incompatibility of temperament, as evidenced by extended absence or otherwise, has caused the irremediable breakdown of the marriage;

(2)

the petitioning spouse has been unable to ascertain the other spouse's position in regard to the dissolution of their marriage and in regard to the fair and just division of property, including retirement benefits, spousal maintenance, payment of debts, and custody, support and visitation because the whereabouts of the other spouse is unknown to the petitioning spouse after reasonable efforts have been made to locate the absent spouse; and

(3)

the other spouse cannot be personally served with process inside or outside the state.

(c)

Except as provided in AS 25.24.220(i), a spouse who has been personally served with a copy of a petition filed under (a) of this section may execute an appearance, waiver of time to answer, and waiver of notice of hearing. The appearance and waivers must include an acknowledgment signed before an officer authorized to administer an oath or affirmation that the spouse being served has read the petition; assents to the terms relating to custody of the children, child support, visitation, spousal maintenance taking into consideration the factors listed in AS 25.24.160(a)(2), and tax consequences, division of property, including retirement benefits and taking into consideration the factors listed in AS 25.24.160(a)(4), ownership of animals, taking into consideration the well-being of the animals, and allocation of debts; agrees that the conditions otherwise required by (a) of this section exist; agrees that the petition constitutes the entire agreement between the parties; understands fully the nature and consequences of the action; and is not signing the appearance and waivers under duress or coercion.

(d)

The action created under this section is separate from the action created by AS 25.24.010. The procedures prescribed

Bates, DC

From: Lindsay Hamrick <lhamrick@humanesociety.org>
Sent: Tuesday, January 22, 2019 4:38 PM
To: Levesque, Cassandra; Coursin, David; Jurius, Deanna; DeSimone, Debra; French, Elaine; Connors, Erika; Diggs, Francesca; Grossman, Gaby; Yokela, Josh; Rice, Kimberly; Camarota, Linda; Mulligan, Mary Jane; Trento, Michael; St. John, Michelle; Long, Patrick; Petrigno, Peter; Wazir, Safiya; Morrison, Sean; Berrien, Skip; Fowler, William
Cc: Bates, DC
Subject: Humane Society: HB 361 - NH Animal Cruelty Code Reference

Dear Chairman Long and Members of the Committee,

Thank you for your time today regarding HB 361. As I stated this afternoon, The Humane Society of the United States is in strong support of this legislation and we're happy to work with the committee on any questions that may arise.

For reference, animals are defined in NH's animal cruelty code ([RSA 644:8](#)) as "a domestic animal, a household pet or a wild animal in captivity". While HB 361 would not apply to wild animals in captivity (they are only allowed for certain entities that are required to have a permit through the Department of Fish & Game), the committee could define an animal as "a domestic animal or household pet". New Hampshire's cruelty code covers all domestic animals, including livestock so it would make sense for HB 361 to do the same. We believe this definition allows a broad enough interpretation while ensuring some legal precedent in NH law.

If the committee felt it useful to define livestock, you can refer to [RSA 427:38](#) where livestock are defined as "beef and dairy cattle, steer, oxen, goats, sheep, swine, horses, mules, or other equidae, as well as domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, poultry, rabbits, yaks, elk (*Cervus canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elephus*), and reindeer (*Rangifer tarandus*)." We're not advocating that you include this definition since the courts already have the ability to discuss all property – whether livestock or pets – and this bill's primary purpose is to simply offer additional guidance on that process.

Animals are unique in our legal structure because they are the only living form of property. This comes up frequently in animal cruelty cases in which animals are legally no different than computers or drugs seized by law enforcement, and thus required to be held for the duration of criminal proceedings unless an owner surrenders ownership. Because of this, we believe that any efforts in NH's legal framework to give the courts guidance on this "living form of property" is beneficial for all parties.

Please don't hesitate to reach out with any additional questions and thank you to Rep. DeSimone for introducing this important issue,

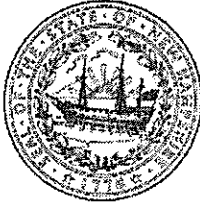
Lindsay Hamrick

New Hampshire Senior State Director, State Affairs
The Humane Society of the United States

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The Humane Society of the United States is the nation's most effective animal protection organization, fighting for all animals for more than 60 years. To support our work, please make a [monthly donation](#), give in [another way](#) or [volunteer](#).



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D.C. Bates, House Committee Researcher
603-271-3385; dc.bates@leg.state.nh.us; LOB 408

MEMORANDUM

TO: Rep. Pat Long, Children and Family Law Committee
FROM: D.C. Bates, House Committee Research
DATE: January 28, 2019
SUBJ: HB 361, relative to property settlement including animals.

Rep. Long,

You asked me to search definitions in NH statute regarding different categories of animals. This was ably done by Lindsay Hamrick of the Humane Society in an e-mail to the committee, which I've attached to this memo.

You also asked me to research Alaska's precedent of considering the well-being of pets when determining custody in divorce cases. Alaskan bill HB 147 became effective in January of 2017. I've made inquiries at the Alaskan Bar Association, and with family law issue experts at the National Conference of State Legislatures - but haven't yet heard back. I'm hoping to be able to address some of the questions brought up by the committee regarding implementation when I can connect with those parties.

I was able to speak with Stacey Marz, Director of Self-Help Services at the Superior Court in Anchorage, which handles more than 40% of Alaskan divorce filings. She said that early on in HB 147's legislative process, language was changed from "best interests of the animal" to "well-being of the animal" out of concern that a process of comparable intensity to the assessment of child well-being would be difficult to implement. She told me that assessing the well-being of an animal has proven entirely unproblematic. Pet custody is rarely a point of contention between parties and her feeling was that making decisions with the well-being of pets in mind was already an informal practice anyway.

To your question about definitions; HB 147 stated that "In this chapter, "animal" means a vertebrate living creature not a human being, but does not include fish." No bill was introduced in the Alaskan legislature in 2017 or 2018 to refine that language.

Illinois passed a similar law in 2017. Illinois Public Act 100-0422 uses the term "companion animal," which is defined in their Humane Care of Animals statute as "an animal that is commonly considered to be, or is considered by the owner to be, a pet. "Companion animal" includes, but is not limited to, canines, felines, and equines." The bill specified that this definition for the purpose of the divorce statute was distinct from service animals used by individuals to cope with disabilities.

California is the third state which has passed a similar law this past September, although in a somewhat weaker form in that it states that courts *may* consider the well-being of pets. Assembly Bill 2274 provides more guidance to courts than the Illinois or Alaskan statutes by defining care: "(1) "Care" includes, but is not limited to, the prevention of acts of harm or cruelty, as described

in Section 597 of the Penal Code, and the provision of food, water, veterinary care, and safe and protected shelter.

(2) "Pet animal" means any animal that is community property and kept as a household pet."

Professor David S. Favre of the Michigan State University School of Law was quoted in articles about the bills in all three states as a subject matter expert. His faculty biography states: "Prior to joining the Law College faculty in 1976, Professor Favre was a practicing attorney in Virginia. He has written several articles and books dealing with animal issues including such topics as animal cruelty, wildlife law, the use of animals for scientific research, and international control of animal trade. His books include *Animal Law and Dog Behavior*, *Animal Law: Welfare, Interest, and Rights*, and *International Trade in Endangered Species*. He also has presented to international audiences on these topics. He is a national officer of the Animal Legal Defense Fund and of the ABA Committee on Animal Law. He served as interim dean of the Law College from 1993 to 1996 and from 1999 to 2000. He teaches Property, International Environmental Law, Wildlife Law, and Animal Law."

I contacted him and asked if there was any scholarship that might be of help to the committee on this topic, or as guidance to courts when attempting to determine the well-being of a pet in different custody arrangements. He told me that there isn't yet any published legal scholarship on the topic because it is so new, but offered to serve as a resource for the committee if it should choose to work on refining ideas and language as it works on the bill.

After our initial conversation he sent me a follow up e-mail indicating that if the committee were concerned about the burden on the courts, and guidance for how to make decisions on animal welfare, it might examine making consideration of the well-being of pets discretionary, and also enable judges at their discretion to appoint a fact finder familiar with animal welfare issues to gather information about the animal's relationships with the parties and make recommendations.

If I can provide further assistance or more detail on any point, please contact me.

Bill as Introduced

HB 361 - AS INTRODUCED

2019 SESSION

19-0820
05/01

HOUSE BILL

361

AN ACT relative to property settlement including animals.

SPONSORS: Rep. DeSimone, Rock. 14

COMMITTEE: Children and Family Law

ANALYSIS

This bill includes animals as tangible property in a divorce settlement.

.....

Explanation: Matter added to current law appears in *bold italics*.
 Matter removed from current law appears [~~in brackets and struck through~~].
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT relative to property settlement including animals.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Paragraph; Annulment, Divorce and Separation; Property Settlement; Animals. Amend
2 RSA 458:16-a by inserting after paragraph II the following new paragraph:

3 II-a. Tangible property shall include animals. In such cases, the property settlement shall
4 address the care and ownership of the parties' animals, taking into consideration the animals'
5 wellbeing.

6 2 Effective Date. This act shall take effect 60 days after its passage.