

Stand by me.



Model legislation to protect victims, ensure justice and prevent recidivism in animal cruelty cases through court-appointed advocates



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DESMOND was surrendered to a Connecticut shelter by a woman in an abusive relationship. Her violent former boyfriend tracked down the dog and adopted him. Desmond was subsequently found dead after being starved, beaten, and strangled. The boyfriend pleaded guilty but spent no time in jail. Instead, after four months in a diversion program, the state expunged his record. He's not alone. "Cats and dogs in Connecticut have been scalded with hot liquid, kicked to death, left shivering outside in the bitter cold, and killed as revenge following romantic break-ups." The perpetrators remained unpunished.

In response, Connecticut legislators passed “Desmond’s Law,” allowing courts to appoint attorneys as advocates to represent the best interests of animals in cruelty cases. In addition to the state prosecutor, the perpetrator’s defense attorney, and the enforcement agency (animal control or police officer),

The animal advocates are an official party to the case. They can do investigative work prosecutors often don’t have time for, such as interviewing veterinarians and other witnesses. They also make arguments, write briefs and make recommendations to the judge.

Affording such common sense protections for those who cannot speak for themselves, as we do for at-risk children, reflects increasing concern for the welfare of animals. A national survey revealed that 96% of Americans — almost every person surveyed — said we have a moral duty to care for animals and should have strong laws to do so. But not everyone wants to ensure that animals have special advocates appointed for their protection, with opposition coming from a seemingly unlikely source: the National Animal Control Association (NACA). NACA opposes Desmond’s Law and is working to prevent other states from following Connecticut’s lead. If NACA had its way, the miscarriage of justice against Desmond — and the other animals like him — would continue.

NACA — a trade union that represents the interests of “kill pounds” — claims these laws prevent animals from being quickly “moved through the system,” a euphemism for dismissing cases, pleading them out for little punishment, and either returning the animal victims to their abuser or killing them, as happens now. To prevent this, an attorney advocate would give voice to animals who currently lack one, especially when there is a conflict between the interests of ACOs and those of the animals. The starkest conflict is the interest in the animal’s life (ACOs kill animals; animals want to live).

NACA also claims that having an attorney in court arguing for the animal’s best interest “marginalizes” animal control officers (ACOs). As a society, we provide courtroom attorneys to argue for the best interest of children, and no one suggests that it somehow devalues or marginalizes child protective services (and they don’t kill the victims, as ACOs do).

Finally, NACA claims there is no evidence these laws work, but that is not true. Before Connecticut passed such a law, 80% of cruelty cases were dismissed or not prosecuted. The rate of actual conviction was even worse. Of the 3,723 reported cruelty cases before passage, only 19



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resulted in a conviction — ½ of 1%. That means 99.5% of people charged with cruelty faced little to no legal consequences.

Not anymore. “Both advocates and activists report stiffer penalties since the law’s enactment.” A *Harvard Law Review* article further found that it has led to “voluntary forfeiture of animals, restitution for rescue organizations, agreements to avoid future contact with animals, and agreements to seek counseling.”

In addition to laws banning people from having custody of animals following a cruelty conviction (like in California and Tennessee), we need similar laws in other states. And we need it not just in cruelty cases but in divorce (like in Alaska and California) and other disputes where an animal’s best interests might conflict with those of the people around them.

Some courts are already moving in that direction. In a recent lawsuit involving a dispute over custody of a cat, a New York Court ruled that “it is time to declare that a pet should no longer be considered ‘personal property’ like a table or car.” The court’s recognition is a significant legal victory for animals and a vital step towards eventual recognition of legal personhood and the rights and protections we afford to children and other at-risk groups.

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Stand by Me Act



Sec. 1(a) In any court proceeding under the animal neglect and animal cruelty laws or in any other criminal proceeding regarding the welfare, care, or custody of an animal, the court shall order that an advocate be appointed to represent the interests of the animal, whether living or dead.

(b) When the court orders that an advocate be appointed to represent the interests of an animal, the court shall appoint such advocate from a list provided to the court by the state bar association of designated attorneys, and law students under the supervision of attorneys, pursuant to subsection (c) and (d) of this section.

The court shall appoint an advocate to represent the interests of the animal at arraignment or other initial court appearance.

(c) (1) The advocate shall:

(A) Monitor the case at all stages of the proceedings, including pre- and post-disposition of animals;

(B) Have access to relevant files, documents, and reports related to the case;

(C) Have access to the animal, including the ability to have the animal evaluated by a third party;

(D) Share with attorneys for the state and parties any information new to the case or prepared by the advocate for presentation to the court or either party;

(E) Present information and recommendations to the court pertinent to determinations that relate to the interests of the animal in question, provided such information and recommendations result from executing the duties undertaken pursuant to this subsection.

Such information and recommendations may be based upon the knowledge and experience of the advocate or another specialist with specific knowledge and experi-

ence related to the type of animal involved in the case.

(2) The advocate may:

(A) Consult any individual with information that could aid the court;

(B) Review records relating to the animal's condition and the defendant's actions, including, but not limited to, records from animal control officers, veterinarians, and police officers;

(C) Attend hearings in person or via video or digital means; and,

(D) Provide a victim impact statement to the court.

(d) The state bar association shall maintain a list of attorneys and supervised law students who have indicated a willingness to serve as advocates under this section voluntarily and are eligible to do so.

To serve as an advocate, attorneys and supervised law students must:

(1) Be licensed to practice law or be authorized to make court appearances in the state;

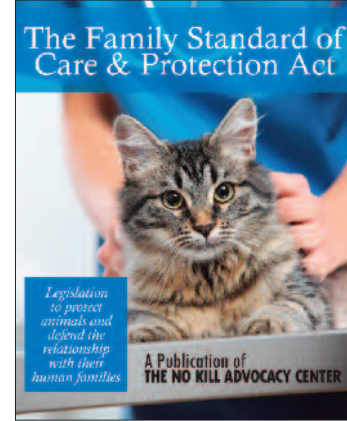
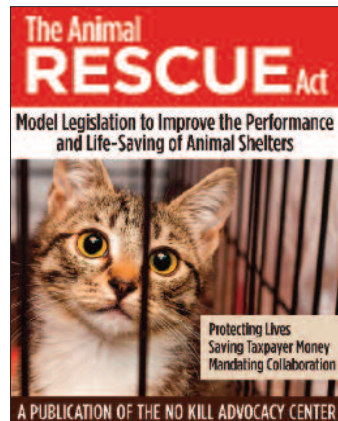
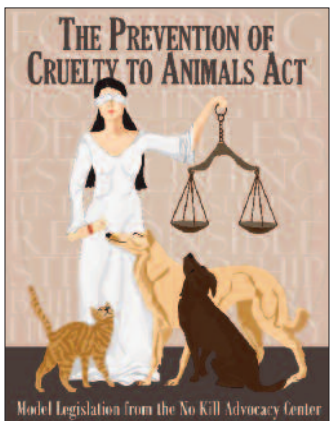
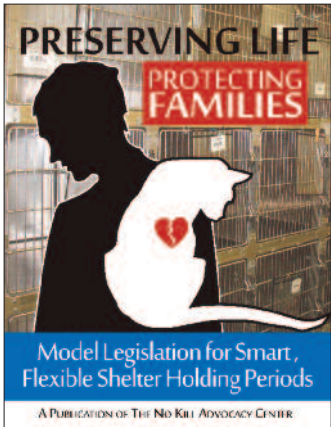
(2) Have completed training as required by the state bar association. The provisions of the state bar association's training and applicable rules of professional conduct govern attorneys and law students operating as advocates under this section. The conditions of legislative or court-certified law student regulations govern a law student's participation as an advocate under this section.

(e) This Act applies to cases arising from arrests made on or after January 1, 20XX.

The No Kill Advocacy Center has a free step-by-step guide to getting it introduced and passed. The No Kill Advocacy Center's attorneys also stand ready to help.

To download The Stand by Me Act & other model laws, visit our website:

nokilladvocacycenter.org



A No Kill nation is within our reach

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