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Animal Rights Law

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Topic Overview

Historically, animals were not protected by law. Animals were considered a form of property, and thus the only laws concerning them were as protection of the financial interests of the owner. Relatively recently, states have enacted anti-cruelty statutes, which protect animals themselves rather than just as a property value. In addition, there are several federal statutes which aim to protect animals.

Because animal rights law is a relatively young area of law, it is not widely taught in law schools. However, more and more schools are beginning to, as evidenced by the fact that nearly a quarter of the nation's 180 accredited law schools now offer classes in this field. In addition, hundreds of organizations and public interest groups have begun the fight for animal rights. This resource guide seeks to highlight some of the key issues, cases, and statutes in this emerging area of law.

About the Author

Jada West is a third year law student at the [Georgia State University College of Law](#). This online research guide was created as a part of an Advanced Legal Research class taught by [Professor Nancy Johnson](#).

Scope

This online research guide was created to assist attorneys and others interested in animal rights law. The guide focuses on federal and Georgia laws. The resource guide will introduce this relatively young practice area and will familiarize the viewer with the predominant statutes and cases in animal rights law. It will then delve into secondary sources such as journals and books, as well as provide links to other internet research sources. Finally, it highlights several important interest groups associated with animal rights law.

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This document is provided for informational purposes and was prepared to satisfy a law school course requirement. This document is not a substitute for legal advice provided by a qualified legal professional, and the author assumes no liability related to its usage. Furthermore, all information contained in this document is subject to change and should be verified through appropriate legal research.

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Primary Sources

Federal Statutes

There are several federal statutes dealing with animal rights, however many of them merely regulate how to handle animals rather than actually protect them. There are statutes that deal with conservation, service animals, and even a few dealing with the animal rights activists themselves. The following statutes are those specifically with animal rights and protection of health, habitat and conservation, in alphabetical order.

[7 U.S.C. §§ 2131-2159](#) Animal Welfare Act

[42 U.S.C. § 287a-3a](#) Chimpanzee Health Improvement, Maintenance & Protection

[18 U.S.C. § 48](#) Depictions of Animal Cruelty

[19 U.S.C. § 1308](#) Dog & Cat Protection Act of 2000

[16 U.S.C. §§ 1531-1544](#) Endangered Species Act

[16 U.S.C. §§ 2901-2912](#) Fish & Wildlife Conservation Act

[16 U.S.C. §§ 1151-1175](#) Fur Seal Act of 1966

[P.L. 106-411](#) Great Ape Conservation Act of 2000

[15 U.S.C. §§ 1821-1831](#) Horse Protection Act

[7 U.S.C. §§ 1901-1906](#) Humane Slaughter Act

P.L. 106-545 [ICCVAM Authorization Act of 2000](#) (reviews and evaluates alternative animal testing methods)

[18 U.S.C. §§ 41-47](#) Lacey Act (protection of wild animals, importation, and hunting)

[16 U.S.C. §§ 1361-1421\(h\)](#) Marine Mammal Protection Act of 1972

[16 U.S.C. §§ 669-669\(i\)](#) Pittman-Robertson Wildlife Restoration Act

[42 U.S.C. § 283e, § 404c](#) Public Health Service Act (enables NIH to explore research methods that do not involve animals)

[P.L. 106-557 \(2000\)](#) Shark Finning Prohibition Act

[49 U.S.C. § 80502](#) Twenty-Eight Hour Law (cannot confine animals in a carrier for more than twenty-eight hours without food, water, rest, and exercise)

There are a couple of animal rights bills pending in the 109th Congress.

["Pet Safety and Protection Act of 2005"](#), February 17, S.451, Senator Daniel Akaka

[Legislation Introduced to Treat Non-Human Primates as Prohibited Wildlife Under the Lacey Act](#), January 16, H.R. 1329, Rep. Eddie Bernice Johnson & Rep. Rob Simmons

Federal Cases

The biggest issue in under federal animal rights law is whether the plaintiff has standing to bring suit.

[Church of the Lukumi Babalú Aye, Inc. v. City of Hialeah](#), 508 U.S. 520 (1993)

Conflict between religious animal sacrifices and Florida's anti-cruelty statute; the Court held that the statute violated religious freedom and thus was unconstitutional.

[Lujan v. Defenders of Wildlife](#), 504 U.S. 555 (1992)

Holding that plaintiffs did not meet standing requirement to challenge the regulation of the Secretary of the Interior which required other agencies to confer with him under the Endangered Species Act.

[Primate Protection League et al. v. Administrators of Tulane Educational Fund](#), 500 U.S. 72 (1991)

Involved the use of monkeys for federally-funded medical experiments; the Court held that animal rights group had standing.

[Sierra Club v. Morton](#), 405 U.S. 727 (1972)

Holding that corporation opposing the construction of a ski resort on a wildlife refuge lacked standing.

[American Society for the Prevention of Cruelty to Animals v. Ringley Bros. & Barnum & Bailey Circus](#), 317 F.3d 334 (D.C. Cir. 2003)

Holding for the first time that plaintiff had standing to sue based on his emotional attachment to animal formerly in his care.

[Animal Legal Defense Fund, Inc. v. Glickman](#), 154 F.3d 426 (1998)

Upheld standing for individual plaintiff under the Animal Welfare Act when plaintiff alleged that he had aesthetic interest in seeing exotic animals living in nurturing habitat and that such interest was injured when he witnessed actual living conditions of primates at animal exhibition he repeatedly visited.

[Humane Society of the United States v. Babbitt](#), 46 F.3d 93 (1995)

Holding that the causation and redressability requirements for standing were not satisfied when plaintiff claiming injury-in-fact based on her lost opportunity to study Asian elephants and her particular inability to study one Asian elephant when the zoo removed it.

[Animal Lovers Volunteer Ass'n Inc. v. Weinberger](#), 765 F.2d 937 (1985)

Holding that animal right organization lacked standing because none of its members had a personal stake in the outcome of the litigation. This case opinion is available on [Westlaw](#), [LexisNexis](#), and [Loislaw](#) only.

[Jones v. Butz](#), 374 F.Supp. 1284 (1974)

Holding that plaintiffs had standing as consumers in challenge to provision of the Human Slaughter Act because that Act contained religious exception making it impossible to be certain of buying meat from animals slaughtered by humane process and that such uncertainty caused injury to plaintiffs' moral principles and aesthetic sensibilities. This case opinion is available on [Westlaw](#) or [LexisNexis](#) only.

Legislative History Materials

Animal Welfare Act:

- a. [H.R. No. 91-1651](#) (Dec. 2, 1970) 1970 U.S.C.C.A.N. 5103
- b. 1976 amendments- [H.R. No. 94-801](#) (Jan. 29, 1976) 1976 U.S.C.C.A.N. 758

Georgia Statutes

[O.C.G.A. § 16-12-4](#) Cruelty to Animals.

[O.C.G.A. § 4-11-1 et seq.](#) Georgia Animal Protection Act dealing with licenses, euthanasia, impoundment, diseases, abandonment, etc.

[O.C.G.A. § 27-3-130 et seq.](#) Endangered Wildlife Act of 1973

Other states:

This is just a small sample of state statutes for animal cruelty. For a complete list, [click here](#).

- Alabama: [Ala. Code 1975 § 13A-11-14](#)
- Florida: [Fla. Stat. Ann. § 828.12](#)
- North Carolina: [N.C. Gen. Stat. § 14-360](#)
- South Carolina: [S.C. Code Ann. § 47-1-40](#)
- Tennessee: [Tenn. Code Ann. § 39-14-201 et seq.](#)

Georgia Cases

These opinions are available on [Westlaw](#), [LexisNexis](#), [Lawskills](#), and/or [LexisOne](#).

Tiller v. State, 218 Ga. App. 418 (1995)

The essential elements for animal cruelty are that animals were neglected and were suffering; here, evidence that horses did not receive needed medical care and were in pain was sufficient to uphold defendant's animal cruelty convictions.

Yopp v. State, 79 Ga. App. 584 (1949)

Holding that to constitute "cruelty to animals", killing must have been done with malice or an evil design, and evidence must show that killing was done purposely or recklessly.

Willis v. State, 201 Ga. App. 182 (1991)

Holding that circumstantial evidence, including testimony of injured dog's owners that they heard dog yelping, saw defendant holding gun, and later discovered gunshot hole in dog's ear was sufficient to support defendant's conviction for cruelty to animal.

Smith v. State, 160 Ga. App. 26 (1981)

Holding that evidence, including evidence that defendants had exclusive control and possession of certain property on which animals were found, that many of the animals appeared to have died from lack of food and water and that some of animals were so seriously malnourished and ill that they were put to death by state, was sufficient to sustain defendants' convictions of 12 counts of cruelty to animals.

Cox v. State, 216 Ga. App. 86 (1995)

Holding that willfulness, malice and intent are not elements of offense of cruelty to animals in second degree.

Cotton v. State, 263 Ga. App. 843 (2003)

Holding that under O.C.G.A. § 16-12-4(b), malice and intent are not elements of offense of cruelty to animals with regard to "act" and "omission" portions of statute.

Miller v. State, 179 Ga. App. 217 (1986)

Holding that evidence clearly constituted offense of cruelty to animals where farm owner's dogs killed tenant's dog after farm owner allowed dogs to roam freely knowing they had killed other animals, thus establishing "omission or neglect" on farm owner's part, notwithstanding that dog was killed without malice or intent on farm owner's part, as malice and intent were not elements of offense.

Administrative Law

i. Federal:

[9 C.F.R. § 2.1 et seq.](#)- Animal Care Regulations

[9 C.F.R. § 2.30 et seq.](#)- Animal Research Facility Regulations

[25 C.F.R. § 11.446](#)- Cruelty to Animal on Indian Reservations

[7 C.F.R. § 371.7](#)- Animal Care under the Dept. of Agriculture

[Office of Animal Care and Use](#) (a division of the NIH) has a web page with regulations and policies.

[40 C.F.R. § 160 et seq.](#) – EPA's Good Laboratory Practice Standards

[21 C.F.R. § 58 et seq.](#) – FDA's Good Laboratory Practice Standards

[Dept. of Veterans' Affairs Policy on Animal Research.](#)

ii. Georgia:

[Ga. Comp. R. & Regs. 40-13-13-.01 et seq.](#) (1987)

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Secondary Sources

ALRs & Legal Encyclopedias

ALRs and Legal Encyclopedias are available through either [Westlaw](#) or [LexisNexis](#).

1. Sonja A. Soehnel, Annotation, What Constitutes Offense of Cruelty to Animals- Modern Cases, 6 A.L.R. 5th 733 (1992).
2. Thomas R. Malia, Annotation, Applicability of State Animal Cruelty Statutes to Medical or Scientific Experimentation Employing Animals, 42 A.L.R. 4th 860 (1985).
3. D. Richard Joslyn, Annotation, Validity, Construction, and Application of the Animal Welfare Act, 36 A.L.R. Fed. 627 (1978).
4. Jay M. Zitter, Annotation, Recovery of Damage for Emotional Distress Due to Treatment of Pets and Animals, 91 A.L.R. 5th 545 (2001).
5. 4 Am. Jur. 2d Animal § 31-40 (discussing what constitutes cruelty to animals, prevention of cruelty to animal under the Animal Welfare Act, and remedies).

Call Number = KF 154.A85 1962 V. 3C 1998

6. 22 Ga. Jur. Criminal Law § 45:8 (2004) (discussing what constitutes cruelty to animals under Georgia law).

Call Number = KFG80.G36 1995 v.22

News Articles

1. Jerry Bowen, [Law Schools Make Room for Pets](#), CBSNews.com (March 18, 2005).
2. Dave Newbart, [Barker Has to Bite His Lip Before Giving NU \\$1 million](#), Chicago Sun-Times (March 23, 2005).
3. Douglas Belkin, [Primal Rights: Local advocates Join Legal Movement to Help Animals](#), Boston Globe (March 3, 2005).
4. Rachana Rathi, [Animal Rights Advocacy is a Growing Field](#), Los Angeles Times (February 25, 2005).
5. R. Scott Nolen, ["Now It's the Lawyers' Turn": Animal Rights Moves Into Courts, Legislatures](#), The American Veterinary Medical Association (March 1, 2005).
6. [Animals Win Big in the Courts in 2004 as HSUS Launches New Litigation Section](#), The Humane Society of the United States (December 30, 2004).

Books & Treatises

The following books are located in the Georgia State College of Law Library Catalog ([GIL](#)). They can also be purchased on [Amazon](#).

1. Helena Silverstein, *Unleashing Rights: Law, Meaning, and the Animal Rights Movement* (Univ. of Michigan Press 1996).
2. Robert M. Baird & Stuart E. Rosenbaum, *Animal Experimentation: The Moral Issues* (Prometheus Books 1991).
3. Steven M. Wise, *Rattling the Cage: Toward Legal Rights for Animals* (Perseus Books 2000).
4. David S. Favre & Murray Loring, *Animal Law* (Quorum Books 1983).
5. Jordan Curnutt, *Animals & the Law* (ABC-CLIO 2001).
6. Gary L. Francione, *Animals, Property, & the Law* (Temple University Press 1995).
7. *The Guide to Animal Law Sources* (Harvard Student Animal Legal Defense Fund 1999).
8. *Federal Procedure, Animal Protection Procedures Under the Animal Welfare Act § 34:1048 et seq.* (Lawyers Ed. 2005) (Westlaw citation: 12B Fed. Proc., L.

Ed. § 34:1048).

9. Robert E. Cleary, Jr., Kurtz Criminal Offenses and Defenses in Georgia § C102 (2004 ed.).

Law Reviews & Journals

These are available through , and typically can be found at [Westlaw](#) or [LexisNexis](#), [FindLaw](#), [HeinOnline](#), or on the law review's own website.

1. Jonathan Krieger, Emotions and Standing For Animal Advocates After ASPCA v. Ringling Bros. & Barnum & Bailey Circus, 22 Law & Ineq. 385 (2004) (this article discusses the ASPCA case, in which for the first time a court allowed standing on the basis of an emotional attachment to a mistreated elephant, and how this is a significant step towards remedying the lack of legal standing accorded to animals).
2. Jean C. Yasuhara, Cruella de Vil Revisited: The International Dog & Cat Fur Trade, 22 Loy. L.A. Int'l & Comp. L. Rev. 403 (2000) (discussing the dog and cat fur trade and the U.S.'s response to it).
3. Cass R. Sunstein, The Rights of Animals, 70 U. Chi. L. Rev. 387 (2003) (discussing a more rational and less fanatic view of animal rights, and how the focus should be not on whether animals can be considered on the same footing as humans, but that humans should protect animals against suffering and humiliation).
4. Lorraine L. Fischer, "No Animals Were Harmed...": Protecting Chimpanzees From Cruelty Behind the Curtain, 27 Hastings Comm. & Ent. L.J. 405 (2005) (discussing the abuses chimpanzees and other exotic animals suffer in the entertainment industry).
5. Joshua E. Gardner, At the Intersection of Constitutional Standing, Congressional Citizen-Suits, and the Humane Treatment of Animals: Proposals to Strengthen the Animal Welfare Act, 68 Geo. Wash. L. Rev. 330 (2000) (critiquing the Animal Welfare Act and proposing a citizen suit provision to get over the standing hurdles).
6. Dianna J. Gentry, Including Companion Animals in Protective Orders: Curtailing the Reach of Domestic Violence, 13 Yale J.L. & Feminism 97 (2001) (advocating for protective orders for companion animals being abused in domestic violence situations).
7. Aaron Wesley Proulx, Animal Legal Defense Fund, Inc. v. Glickman: A Common Law Basis for Animal Rights, 29 Stetson L. Rev. 495 (1999) (discussing the injury-in-fact requirement for standing in animal abuse cases).

Looseleaf Articles

[LawTRIO](#) is a fully searchable database with over 7,500 legal titles, including those in looseleaf format. Unfortunately, a search for animal rights law, animal cruelty, and animal protection came up with no results.

Other Sources

1. The [American Bar Association](#) has one task force and one committee that addresses that animal rights law.
2. Legal Dictionaries can be found on [www.law.com](#).
3. Georgia Pleading Forms: 4 Ga. Pleading, Prac. & Legal Forms §16-12-4 Forms 1-4 (3d ed.). Available only on [Westlaw](#).
4. Other Pleading forms can be found at [FindLaw.com](#) and [FreeLegalForms.net](#).

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Online Sources

Online Sources

1. [Westlaw](#) or [LexisNexis](#) are extensive legal research sites. Almost all law firms use one or the other. A password is required to access the information. Once accessed, a whole variety of information is available, up to date and annotated. In addition, news article, pleading forms, etc etc. are available.

Once in Westlaw or LexisNexis, key search terms for this topic would be "animal /s right /s law", "animal /s right", "animal /s law", "animal /s protect!", "animal /s cruel!" In Westlaw, the key number digest is Animals 28.1, 40-42, and 45.

Always make sure to update research. In Westlaw, click on KeyCite and you can find out whether your case or statute is still good law. In LexisNexis, click on Shepardize. When dealing with hard copies, always check the pocket parts.

2. [FindLaw.com](#)
3. [LoisLaw.com](#)
4. Other Internet:

[Google](#)- type in search terms such as animal rights, animal cruelty, animal welfare law, etc.

[Hieros Gamos](#)

MegaLaw.com

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Important Interest Groups & Associations

Interest Groups & Associations

- www.animal-law.org
- www.animallaw.info
- www.aldf.org
- www.lclark.edu/org/ncal/
- www.tufts.edu/vet/cfa/legislat.html
- www.garpatlanta.org
- www.instituteforanimalrightslaw.org - Contains model statutes, federal statute descriptions, and articles on animal rights.
- www.parkc.org
- www.nabr.org/AnimalLaw/
- www.peta.org
- www.nrdc.org
- www.wwf.org

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