

2019 HOUSE AGRICULTURE COMMITTEE

HB 1445

2019 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Peace Garden Room, State Capitol

HB 1445
1/24/2019
Job #31409

☐ Subcommittee
☐ Conference Committee

| |
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| Committee Clerk Signature ReMae Kuehn |
|---------------------------------------|

Explanation or reason for introduction of bill/resolution:

Relating to prohibiting an individual convicted of animal cruelty from purchasing or adopting animals; and to provide a penalty

Minutes:

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| Attachment #1-6 |
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Representative Adams, Co-Sponsor: (Attachments #1 & 2)

(3:20)

Chairman Dennis Johnson: The way I read the bill, is this all animals including livestock?

Representative Adams: It is mostly domestic animals.

Chairman Dennis Johnson: My concern: is your intention for pets or more.

Representative Adams: My intent is to stop them. The list would be at the Humane Society and retail stores of those who are convicted.

Representative Headland: What would you say is torture?

Representative Adams: Skinned it alive, beating it, kicking it, not feeding it, leaving it chained up.

Representative Headland: We have heard these stories before. What about tying a horse for a period of time?

Representative Adams: Depends if it is done for days.

Representative Headland: Nobody here wants people to abuse a pet. This gets into animal agriculture. These bills get brought from groups outside of the state and create problems for us as a state when we are trying to enhance agriculture. If you would bring a bill limited to dogs and cats, then I would be interested. This bill is too broad.

Representative McWilliams: This bill would also incorporate 36-21.1-08 of the North Dakota Century Code which talks about the artificially colored animals. Somebody cannot sell animals that has been artificially dyed. Would that constitute cruelty to the point that you may not own another animal?

Representative Adams: Color would be alright as long as they don't torture it.

Representative McWilliams: The bill as written would also include that law.

Representative Adams: If they are convicted, they cannot readopt or purchase. The statistics for convictions in North Dakota are practically nonexistent. In 2017 there were 45 offenses and only 10 arrests. If they are convicted, they shouldn't be able to buy or adopt another animal. Cruelty repeats itself.

Representative Schreiber-Beck: How do you know the method to follow up at an animal shelter?

Representative Adams: It would be a do-not-allow list.

Representative Schreiber-Beck: It doesn't address cross border purchases or other family members? This would hard to regulate.

Representative Richter: If convicted, it is reported to the Humane Society. Would this bill also require notifications be sent to the livestock auctions as well?

Representative Adams: It would depend on what type of animal. Dogs and cats are not livestock. Most of the arrests are for the domestic small animals.

Representative Satrom: Those who sell pets, do they ask for references? Do they have applications?

Representative Adams: They have applications at the Humane Society. I don't know if they check criminal records. They have to pay to have it spayed and neutered.

Representative Dobervich: Is there anywhere in statute that would define "cruelty" that would get you on that list?

Representative Adams: There is passive cruelty and cruelty by commission. Passive cruelty is just not feeding them, keeping them locked up, etc.

Representative Dobervich: Are there states with similar legislation? Does it exclude livestock in agriculture production?

Representative Adams: There are animal cruelty laws in all 50 states. The North Dakota statute talks about abandonment. Animals for food are all exempt.

Representative Tveit: Is there an avenue other than a bill against animal owners to solve this issue?

Representative Adams: I am not sure. This is trying to stop the person that is the continual abuser.

Representative Skroch: The intent was to focus on domestic animals. In Century Code, is it defined what domestic means and what animals would be included?

Representative Adams: The previous bill, SB 2211 in 2013, doesn't divide that out. It just lists animals.

Representative Skroch: Your bill leaves it broad. This list looks like a permanent list.

Representative Adams: You can be accused, but this has to be someone convicted.

Representative Skroch: If I end up on that list, we have many laws that allow for redemption. How can I get my name off of that list?

Representative Adams: Maybe through the vet.

Representative McWilliams: I pulled the definition for domesticated animal. It means a dog, cat, horse, bovine animal, sheep, goat, bison, farmed elk, llama, alpaca, or swine. It includes many animals.

(23:50)

Megan Carmichael, 2nd year Law Student, UND: (Attachment #3)

Customary practices are safeguarded in North Dakota Century Code already.

Representative Headland: I asked "what do you consider torture?" By the bill sponsor's own words, she said the skinning of an animal. We do that every day in animal agriculture. Do you not see the problem with this bill?

Megan Carmichael: Her definition doesn't hold weight. The definition is inside the North Dakota Century Code. That is what matters.

Representative Headland: The intention does matter. The intent is to shut down animal agriculture with bills like this. Bring a bill that clearly defines that the real intent is to safeguard the pets. I can't support this bill as a farmer.

(33:00)

Megan Carmichael: I disagree. Nobody wants to take away agriculture from North Dakota.

Representative Headland: With this bill if a farmer was convicted, they would not be able to raise cattle. How would this protect them?

Megan Carmichael: I want to move on to the artificially dyed first. Safe and organic dyes are not always used. That could be cruel treatment because it can burn the skin or scar the animal.

Representative McWilliams: This law would prevent someone who unknowingly dyed an animal from ever owning an animal again.

Megan Carmichael: If you look at the intent behind the dying of the animals, it is to prevent the appeal around the holidays.

Representative McWilliams: As the law is written it covers all of that chapter. A judge could bring that case whether knowingly or unknowingly.

Megan Carmichael: It is extremely hard to be convicted of mistreatment of animals. If convicted, it is rightfully so.

Representative Satrom: I question whether serious abusers would have cared. This seems to be more of a mental health issue.

Megan Carmichael: HB 1445 will not fix all issues.

Representative Skroch: On page 2 you say special interest groups should no longer be permitted to stifle legislation in favor of human interests with no respect to animals. That portrays to me that I am not capable of differentiating between what legislation will do and what a lobbyist will say to me.

I have never been approached by a meat packer. We had a humane society person in my district accused of abusing animals because he had 16 cats. It was ugly in terms of the publicity and harmful to him. There was a thorough investigation and he was found innocent. It was someone from outside the community that accused him. My issue with this bill is the definition and how it will be applied.

Megan Carmichael: There is a way to not use such a broad brush. That is to give the court discretion when they have the case. This bill mandates that the possession of future owners be restricted. You can always mandate a court's discretion in that.

Representative Richter: Every week there are giveaways in the newspaper. This does nothing to prevent getting a pet from the giveaways. So are we going to put a law in that anybody who sells or gives away a cat or a dog has to check to make sure they are giving it to a person that hasn't been convicted of animal cruelty?

Megan Carmichael: There is no way to stop them. But we can narrow it down.

Representative Richter: What about the communities that don't have shelters?

Megan Carmichael: I have not done research in small communities.

Representative Buffalo: Described problem with people abandoning animals in the Bakken.

Megan Carmichael: The goal is to stop future abuse.

Representative Kiefert: Skinning alive is a part of animal cruelty. Would it be better to limit animals to the main species that are abused?

Megan Carmichael: It is my opinion that all animals deserve rights. Since North Dakota is an agricultural state, I can see the concern. An amendment to name the species would be better than nothing.

(49:37)

Eden Stramer, Mandan: (Attachment #4) Gives example of abuse.

In North Dakota we have a long way to go when it comes to animal rights. This bill is a step toward stopping the cycle of violence that many animals face.

(51:50)

Opposition:

Pete Hanebutt, North Dakota Farm Bureau: We support the humane treatment of animals. The impression here is that there are serial animal abusers out there. There are a lot of mental health problems in the world. I don't think this addresses the mental health problems. The hoarding will not be addressed. Giveaways would not be addressed.

We can look at other states that are the best. Abuse happens in those states also.

(55:19)

Julie Ellingson, North Dakota Stockmen's Association: (Attachment #5)

In 2013 we had a massive effort to rewrite the animal treatment statute. It provided an array of penalties to match the crime. That effort already gives some latitude to address this situation. Therefore, this bill is unnecessary.

(58:32)

Dr. Susan Keller, North Dakota State Veterinarian: (Attachment #6)

Representative McWilliams: How long is the probationary period?

Dr. Keller: The probationary period would be at the discretion of the court. Normally that doesn't mean forever. Someone with a drug addiction can seek treatment which is considered for the length of time.

The definition of animal cruelty is in North Dakota Century Code at 36-21.2-03.

It is defined as "a. Breaking an animal's bones; b. Causing the prolonged impairment of an animal's health; c. Mutilating an animal; or d. Physically torturing an animal."

Chairman Dennis Johnson: Closed the hearing.

Representative Headland: Moved Do Not Pass.

Representative Tveit: Seconded the motion.

Representative Headland: We have a perfectly good law in place to prevent animals from being abused. We are not going to stop every case. There is usually a mental health component.

Representative Fisher: This is a poorly written bill.

Chairman Dennis Johnson: We worked hard on the animal cruelty bill.

Representative Kiefert: I think the bill is broad. The judges should be able to add on to the probationary period.

A Roll Call vote was taken: Yes 13, No 1, Absent 0.

Do Not Pass carries.

Representative Tveit will carry the bill.

Date: 1/24/2019

Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1445**

House **Agriculture** Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation

- ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Headland Seconded By Rep. Tveit

| Representatives | Yes | No | Representatives | Yes | No |
|------------------------------|-----|----|-------------------------|-----|----|
| Chairman Dennis Johnson | X | | Rep. Ruth Buffalo | X | |
| Vice Chairman Wayne Trottier | X | | Rep. Gretchen Dobervich | X | |
| Rep. Jake Blum | X | | | | |
| Rep. Jay Fisher | X | | | | |
| Rep. Craig Headland | X | | | | |
| Rep. Dwight Kiefert | | X | | | |
| Rep. Aaron McWilliams | X | | | | |
| Rep. David Richter | X | | | | |
| Rep. Bernie Satrom | X | | | | |
| Rep. Cynthia Schreiber Beck | X | | | | |
| Rep. Kathy Skroch | X | | | | |
| Rep. Bill Tveit | X | | | | |

Total **Yes** 13 **No** 1

Absent 0

Floor Assignment Rep. Tveit

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1445: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **DO NOT PASS** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1445 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

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#1

HB #1445 Animal Cruelty

Chairman Johnson and members of the committee

I am Mary Adams, Representative from District 43, Grand Forks

All pet owners are not alike. Some people are cruel. It's how they are. Cruel to people, cruel to animals.

The purpose of this bill is to make it a little harder for convicted persons to repeat their cruelty.

Cruelty and neglect cross all social and economic boundaries. It is common in both rural and urban areas.

Intentional cruelty to animals is strongly connected to other crimes including violence against people.

Jeffery Dahmer, the Columbine shooters, high school shooters Kip Kinkel in Oregon and Luke Woodham in Mississippi all tortured animals before moving on to humans. I don't know how they got these animals -- adoption, purchased or maybe even stolen.

Data on domestic violence and child abuse reveal that a large percentage of animals are targeted by those who abuse their children and spouses. In one survey, 71% of domestic violence victims reported that their abuser also targeted their pets. Another study found that pet abuse had occurred in 88% of the families under supervision for child abuse.

A lot of progress has been made to stop this abuse. All 50 states now have animal cruelty laws in place.

In 2016, the FBI added cruelty to animals as a category on the Uniform Crime Report, a nationwide crime reporting system used for homicide investigations.

HB #1445 makes it an offense if a convicted animal abuser buys or adopts another pet. Cruelty arrests are difficult, convictions harder. Putting this in place will just, hopefully, put up one more barrier for protection of helpless animals.

Please vote for a Do Pass

Thank you

Mary Adams

Adams, Mary K.

#2
HB1445

From: Lauralee Tupa Executive Director <lauralee@cofpets.com>
Sent: Thursday, January 24, 2019 8:47 AM
To: Adams, Mary K.
Subject: Re: Testimony

1/24/19

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

My apologies---2 sick kids and a blizzard

My name is Lauralee Tupa. I am the Executive Director of Circle of Friends Humane Society in Grand Forks ND. Our facility serves as both the city and county pound. In addition, we assist other area cities and counties in the area whenever possible. In 2018 we served over 2400 animals.

I ask you to stand up for those who do not have a voice for themselves and support this bill that would protect them. North Dakota is rated within the top 5 for states with the weakest animal protection laws.

Cruzer was a golden retriever puppy who was left in an apartment in a cage that was the same size as his body. There was no room for him to move, stand up, he urinated and defecated without moving and had to lay in it. When he was found he was emancipated and hadn't moved in days. He was brought to our facility under safe keeping. His owner faced charges. The court found her guilty. Her sentence included community service and fines related to other charges. Cruzer was adopted to a loving family. However later this owner went and purchased another animal. Although there have been reports of this animal being in poor conditions as Cruzer the local PD do not have a reason to enter her home. This bill would mean that the story ends with Cruzer going to a loving family. Instead the story continues.

One of the many reasons many of us love the State of North Dakota is the safe feeling and "home" feeling we get living here. I agree this is one of the best places to live. My job reminds me that we need to have penalties to continue to have the feeling of safeness so many of us enjoy. Many of us go home to animals who greet us, comfort us, and bring us great joy. There are many animals that come into our facility with cigarette burns, injuries related to be tightly wound to poles, deep cuts, severe bruising, the list continues. I am writing you because they do not have a voice and they need you to stand up for them and give them a voice.

The current situation we are in is one of great sadness. Animal abusers get an animal. When they are caught, they even know that they need to simply get through the court proceedings and then they can get another animal. Let's work together to change that.

Every day animals that once faced desperate situations come through our door. We welcome them to our Circle of Friends family and they experience hope and love.

Forever Safe Forever Home Forever Loved

Lauralee Tupa

Executive Director

Circle of Friends Humane Society

4375 North Washington

Grand Forks ND, 58201

lauralee@cofpets.com

701-775-3732

Disclaimer

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Testimony of Megan Carmichael
JD Candidate, 2020, University of North Dakota School of Law
HB 1445
House Agricultural Committee
January 24, 2019
Peace Garden Room
9:00 a.m.

Good morning chairman and members of the committee. My name is Megan Carmichael and I am a second-year law student at the University of North Dakota. I am here before you today in support of HB 1445.

Currently, ND ranks 50 in the United States for animal protection laws. As you can see, we are among the worst.

Constituents have also noted the issue of animal protection in North Dakota. An article published in January 2017 noted that North Dakota was in the bottom rankings.

Let me tell you a story, in 2014, an order to seize neglected and abused horses was obtained for a North Dakota ranch in Kathryn. Deputies obtained the order after dead horses had been found on the property and other horses were in poor condition. The owner of the horses was charged with Animal Neglect and Mistreatment of animals, both Class A misdemeanors, as well as unlawful disposition of dead animals, which is an infraction. At one point, a deputy had said 15 horses had escaped the pasture and three remained but "they looked too sick to move." The pasture included seven dead horses, piled on top of each other. The officers found no food and the pasture had been severely overgrazed. The cause of

death appeared to be starvation. The deputies returned the next day to find a dead horse, this time a baby.

Two years later, the same owner was charged again with animal neglect. This time, sixty-four dogs were seized from her property. The same owner and her husband were only charged with a single animal neglect misdemeanor. North Dakota could prevent instances like this in the future by placing a restriction on possession of animals. Sixty-four dogs and eight dead horses later, this woman has only been charged with one single Class A misdemeanor and still has no restrictions on owning other animals.

As a matter of public policy, and with following the trends of the United States, North Dakota is in need of new statutes that offer more protections to animals and less to their abusers. HB 1445 is a start in the right direction.

Of course, I am aware North Dakota is a highly agricultural state with a large number of farmers and ranchers. In fact, a study published in 2018 reported the cattle to human ratio is 2.45 with approximately 1.5 million cattle in the state. The hog inventory in ND follows far behind at 147,000 and sheep at 70,000. Agriculture and livestock are a huge part of the North Dakotan way of life. That is why North Dakota legislation must be drafted carefully and concisely while balancing the animal's protection and the practices utilized in North Dakota. However, special interest groups, such as meat packers and cattle breeders, should no longer be permitted to stifle legislation that is grossly in favor of human interest with little to no protection of animals. HB 1445 will not impact farmers and

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ranchers except to those who are abusing and mistreating their animals in the first place. However, individuals who continue to provide adequate treatment and care to their livestock are safeguarded from this new section.

HB 1445, in the end, brings ND into the current realm of animal protection. As of 2018, only 13 states mandate possession bans after a conviction for animal cruelty – and several of those state statutes are limited to specific crimes or species. Additionally, 23 states and D.C. statutorily authorize possession bans, but those are ultimately left up to the court's discretion. Fortunately these numbers are trending upwards – 7 states created or strengthened their possession bans in 2018. ND could join the rest of the nation by creating this possession ban. This is why I encourage a Do Pass recommendation from this committee.

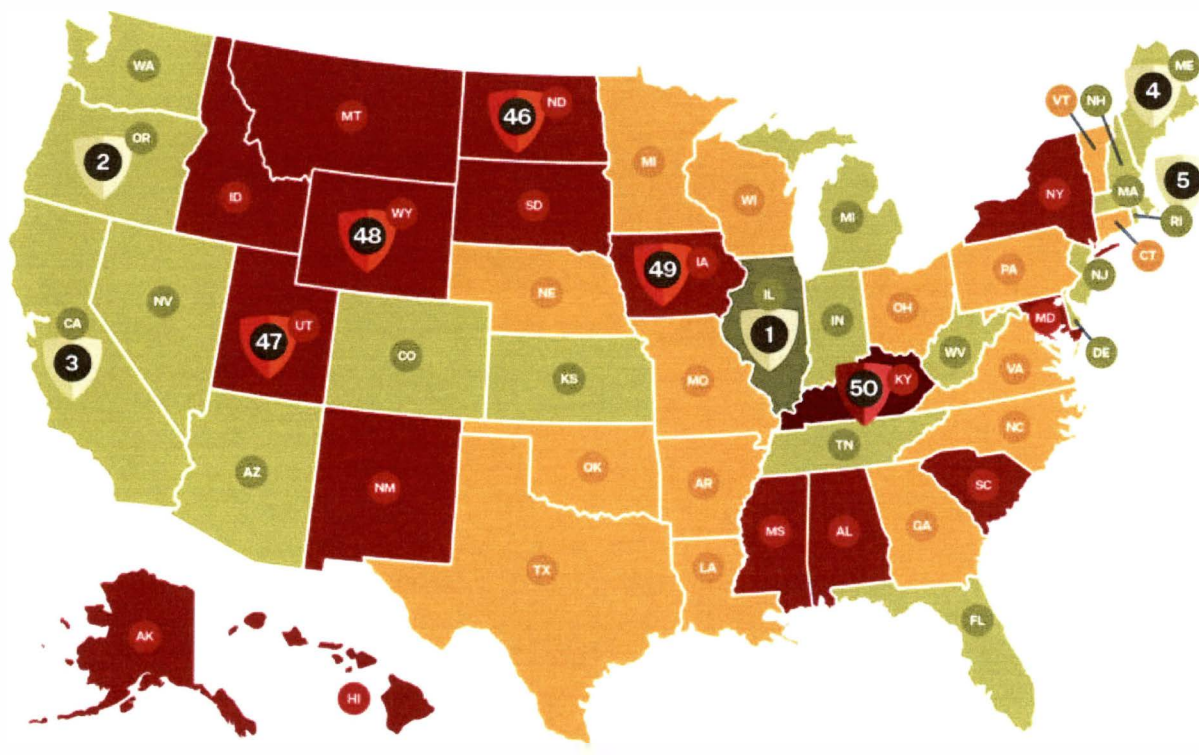
Thank you for allowing me to testify in front of you today and I stand for any questions.

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2017 RANKINGS

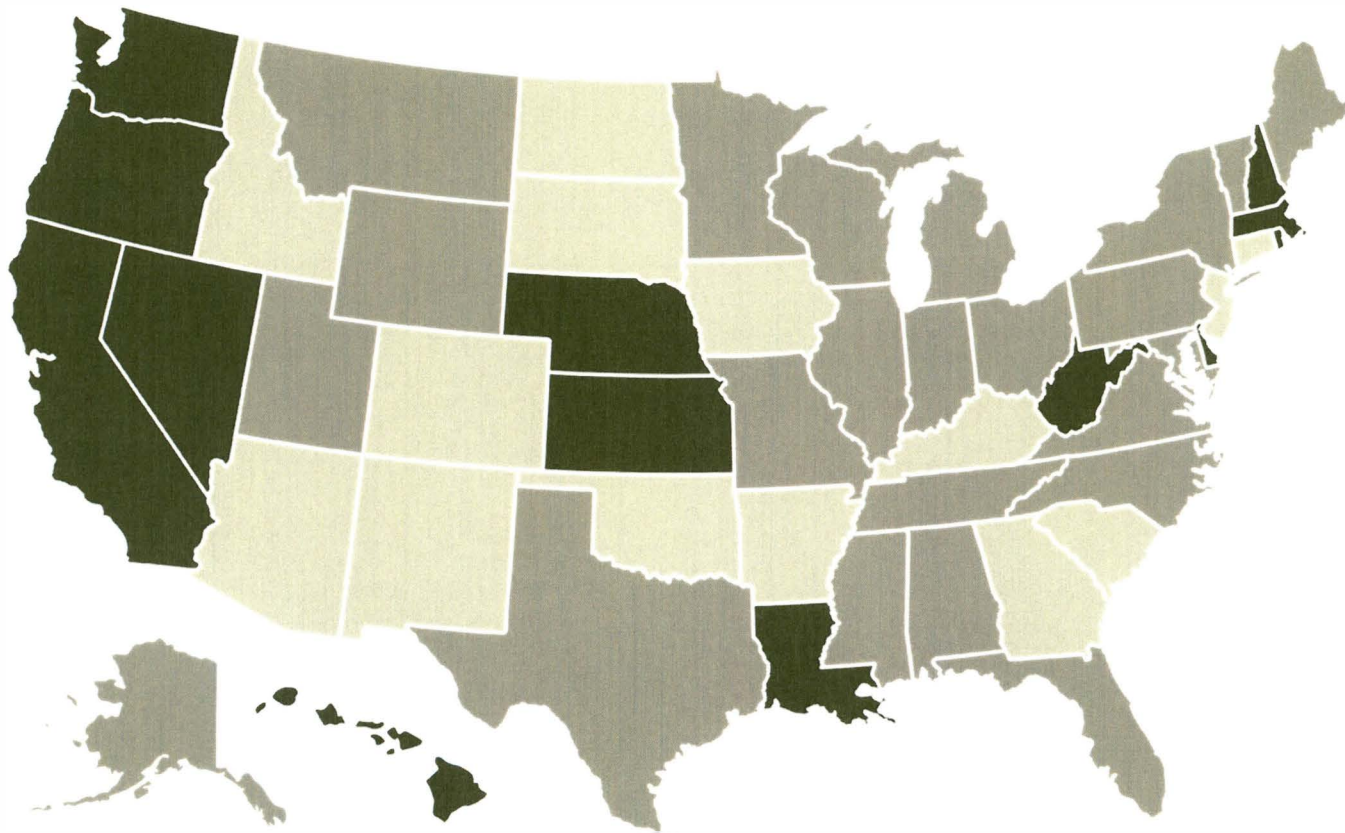
United States animal protection laws.

The Animal Legal Defense Fund has published the 12th annual U.S. Animal Protection Laws Rankings Report. It is the longest-running and most authoritative of its kind, assessing the strength of each state's animal protection laws by examining over 4,000 pages of statutes. Each state is ranked based on fifteen different categories of animal protection.



RANKINGS BEST TO WORST

| | | |
|------------------|-------------------|-------------------|
| 1 ILLINOIS | 20 OKLAHOMA | 35 SOUTH CAROLINA |
| 2 MICHIGAN | 21 LOUISIANA | 36 HAWAII |
| 3 CALIFORNIA | 22 MINNESOTA | 37 ALABAMA |
| 4 WASHINGTON | 23 VIRGINIA | 38 NEW YORK |
| 5 MONTANA | 24 PENNSYLVANIA | 39 MONTANA |
| 6 MICHIGAN | 25 NEBRASKA | 40 MISSISSIPPI |
| 7 WEST VIRGINIA | 26 VERMONT | 41 SOUTH DAKOTA |
| 8 NEVADA | 27 OHIO | 42 IDAHO |
| 9 NEW JERSEY | 28 TEXAS | 43 MARYLAND |
| 10 COLORADO | 29 WISCONSIN | 44 ALASKA |
| 11 ARIZONA | 30 CONNECTICUT | 45 NEW MEXICO |
| 12 WASHINGTON | 31 MISSOURI | 46 NORTH DAKOTA |
| 13 NEW HAMPSHIRE | 32 GEORGIA | 47 UTAH |
| 14 MASSACHUSETTS | 33 NORTH CAROLINA | 48 WYOMING |
| 15 DELAWARE | 34 ARKANSAS | 49 IOWA |
| 16 FLORIDA | | 50 KENTUCKY |
| 17 TENNESSEE | | |
| 18 INDIANA | | |
| 19 KANSAS | | |



POSSESSION BAN MAP

MANDATORY PERMISSIVE NONE

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#4

HB 1445
January 24, 2019

My name is Eden Stramer and I live in Mandan, ND. I'm writing to you in the hopes that you will give a DO PASS recommendation on HB 1445.

Volunteering as a foster in the animal rescue community, I have seen firsthand the terror and heartbreak that goes along with animal abuse and neglect. Many of the animals we take in are so broken that it takes months or even years of rehabilitation before we can safely adopt them out. Sadly, sometimes our only option is euthanasia.

It doesn't make sense that while we're painstakingly working to rehabilitate an abused animal, the abuser is able to simply stop by a pet-store or livestock auction and pick up another victim. It seems only rational that any person convicted of animal cruelty should not have access to another animal they can abuse. For this reason, I ask you to please give a positive recommendation for HB 1445.

Thank you for your time,
Eden Stramer

#5
1/24/19

North Dakota Stockmen's Association
Testimony to the House Agriculture Committee on HB 1445
Jan. 24, 2019

Good morning, Chairman Johnson and members of the House Agriculture Committee. For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association, an 89-year-old beef cattle trade organization representing 3,000 cattle-ranching families in our state.

Animal stewardship is fundamental to the work we do as ranchers – for the animals and the safety of our food supply. Without question, we believe in the appropriate treatment of animals, as it's not only the right thing to do, but how we make our living. As such, we do not condone bad actors inside or outside our industry.

Still, we respectfully oppose HB 1445, as it is unnecessary.

Judges already have sentencing discretion and, as the law currently stands, could prohibit animal ownership if they deemed it appropriate. Although I am not aware of such an instance, it is not uncommon to see a temporary prohibition on animal ownership as a term of probation. This bill would remove the judge's discretion to make a decision appropriate for the situation by mandating an ownership ban as part of the sentence and would not have any allowances for rehabilitation.

Similarly, animal shelters and rescues already have the ability to determine the eligibility criteria for animal adoptions. If a previous animal conviction is outside their criteria, they can already deny someone, without a law change.

For these reasons, we ask for your do-not-pass recommendation on this bill.

COMMISSIONER
DOUG GOEHRING



#6
HB 1445
ndda@nd.gov
www.nd.gov/ndda

1/24/19

**Testimony of Dr. Susan Keller
North Dakota State Veterinarian
North Dakota Department of Agriculture
House Bill 1445
House Agriculture Committee
January 24, 2019**

Chairman Johnson and members of the House Agriculture Committee, I am Dr. Susan Keller, North Dakota State Veterinarian, and I am representing Agriculture Commissioner Doug Goehring. I am here today in opposition of House Bill 1445. At this point, the Board of Animal Health has not taken a position on this bill.

The main concern with this bill is that an individual who is convicted of animal cruelty is prohibited from adopting or purchasing animals forever regardless of extenuating circumstances or rehabilitation. Currently, a restriction can already be placed by a court on an individual during their probationary period which could restrict them from adopting or purchasing an animal or animals.

Enforcement of this provision is also concerning. How will this be policed to ensure someone who has been convicted of animal cruelty never purchases or adopts a pet in the future? If this language is approved, would auction barns, pet stores, private sellers, and adoption centers be required to run background checks before allowing an animal to leave the site and what would be the financial burden to those required to run those checks?

Chairman Johnson and committee members, thank you and I will be glad to try and answer any questions you may have.