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Animal Abusers Beware: Registry Laws in the Works to Curb Your Abuse

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ANIMAL ABUSERS BEWARE: REGISTRY LAWS IN THE WORKS TO CURB YOUR ABUSE

I. INTRODUCTION

*"[A]nimal abuse is a human-welfare issue. Our basic premise is that violence is violence. . . . It doesn't matter if the victim has two legs or four."*¹

Shon Rahrig is a man who was convicted of animal cruelty in 1999 after sadistically torturing several of his pets that he adopted from an Ohio animal shelter.² Among other acts of cruelty, he poked the eyes out of one of his cats, broke its jaw and legs, and cut off its paws.³ After being sentenced to ninety days in jail, he was prohibited from owning an animal for five years.⁴ Rahrig ignored this restriction and relocated to California, where he attempted to adopt more animals.⁵ Due to the fact that there was no efficient way to track Shon Rahrig or make his actions known to those who sell or adopt pets, his prior actions went largely unnoticed and thus he was able to easily obtain more animals after previously being prohibited from doing so.⁶

¹ Sandy Bauers, *Family Violence Often Begins with Pet Abuse[!]* Area Agencies Are Honing in on the Link Between the Two Types of Abuse, PHILLY.COM (Jan. 22, 1999), http://articles.philly.com/1999-01-22/news/25492736_1_violence-and-animal-abuse-pennsylvania-sPCA-family-violence (quoting Phil Arkow, of the Philadelphia Family Violence Coordinating Committee) (internal quotation marks omitted).

² *Shon Rahrig*, ANIMAL LEGAL DEF. FUND, <http://aldf.org/article.php?id=1224> (last visited Nov. 22, 2012); *States Urged to Establish Public Registries of Animal Abusers*, ANIMAL LEGAL DEF. FUND (Feb. 18, 2010), <http://aldf.org/press-room/states-urged-to-establish-public-registries-of-animal-abusers/>.

³ *Shon Rahrig*, *supra* note 2; *States Urged to Establish Public Registries of Animal Abusers*, *supra* note 2.

⁴ *Shon Rahrig*, *supra* note 2; *States Urged to Establish Public Registries of Animal Abusers*, *supra* note 2.

⁵ *Shon Rahrig*, *supra* note 2. Also of note is Heidi Erickson, an animal hoarder who has continued to collect animals despite being barred from future ownership. See *Heidi Erickson*, ANIMAL LEGAL DEF. FUND, <http://aldf.org/article.php?id=1226> (last visited Nov. 22, 2012) (detailing the severe hoarding case of Heidi Erickson). In 2003, dozens of dead cats were removed from her home along with a Great Dane so malnourished that he was unable to walk. *Id.* Fifty sick cats and a dozen more dead cats were discovered a month later at a different apartment owned by Erickson. *Id.* At this point in time, a judge barred her from owning animals ever again in the city. *Id.* Six years later, however, authorities removed eleven more severely neglected cats and a Great Dane from her home, while also discovering three dead cats in her freezer. *Id.*

⁶ The same can be said of the Heidi Erickson hoarding example. See *supra* note 5 and accompanying text (outlining the horrific hoarding habits of Heidi Erickson).

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Jeffrey Dahmer was a serial killer who murdered and cannibalized at least seventeen people from 1978 through 1991.⁷ A subsequent investigation revealed that he captured and tortured many animals before graduating to acts that involved killing humans.⁸ Dahmer is a prime example of an individual who, if properly monitored, authorities potentially could have apprehended sooner or perhaps even stopped from committing these heinous crimes altogether.⁹ However, there was no such tracking system in place to accomplish this.

There is a recent movement, backed by animal law activists, which urges states to implement animal abuser registries.¹⁰ These registries would function similar to the sex offender registries that exist today, tracking individuals who are convicted of animal cruelty or neglect crimes; in addition, the registry would send notification to individuals—who sell pets or place animals up for adoption—and the community at large.¹¹ This animal abuser registry movement is backed by recent findings of psychological links between animal abuse and other crimes, like in the case of Jeffrey Dahmer.¹² Animal law activists, citing psychological studies, reason that by identifying animal abusers to the public other crimes can be deterred as well.¹³ Since 2002, many jurisdictions have proposed bills in an effort to implement animal abuser registries.¹⁴ These jurisdictions were unsuccessful until finally, in 2010, Suffolk County, New York enacted the nation's first-ever animal abuse registry.¹⁵ To date, at least three other New York counties have enacted variations of this law, and several states have proposed the idea with

⁷ *Jeffrey Dahmer*, ANIMAL LEGAL DEF. FUND, <http://aldf.org/article.php?id=1213> (last visited Nov. 22, 2012).

⁸ *Id.* An examination of many serial killers' pasts reveals that animal torture is a common practice of serial killers in their adolescent years. *Id.* For example, Albert DeSalvo, more commonly known as the "Boston Strangler," killed thirteen women in the early 1900s. *Id.* Earlier in his life, as a child, he would place cats and dogs in crates and "sho[o]t arrows through the slats to kill them." *Id.*

⁹ *See infra* Part II.B (explaining the psychological link between animal abuse and that of serial killers). Albert DeSalvo is also a prime example of an individual who, if properly monitored, could have been stopped sooner. *See supra* note 8 (discussing Albert DeSalvo).

¹⁰ *See infra* Part II.E (describing the proposed state animal abuser registries and the information gathered encouraging these proposals).

¹¹ *See infra* Part II.E (explaining how the animal abuser registries function).

¹² *See infra* Part II.B (expounding on the psychological link between animal abuse and other serious crimes).

¹³ *See infra* Part II.B (outlining that identifying animal abusers will help to later identify individuals who are likely to commit more serious offenses).

¹⁴ *See infra* Part II.E (describing the proposed and enacted animal abuser registry bills).

¹⁵ *See infra* Part II.E.1 (recognizing that Suffolk County was the first jurisdiction in the nation to enact an animal abuse registry).

greater insistence.¹⁶ As with many proposed laws, however, there has been some opposition to the animal abuser registry movement, which seems to have played a significant role in discouraging many states from passing such legislation.¹⁷ Fortunately, there are a few aspects of the proposed bills that legislators could change that would potentially make the bills more attractive to state legislatures and, therefore, make the enactment of animal registry laws in the future a more probable outcome.¹⁸

First, Part II of this Note describes the relevant background information of animal abuser registry laws, including the progression of animal law in the United States toward an animal abuser registry, the psychological link between animal abuse and other crimes, and the need for a uniform reporting system.¹⁹ Next, Part III analyzes the benefits that animal abuser registries could offer society and also discusses the obstacles that stand in the way of the implementation of future registries.²⁰ Finally, Part IV provides possible changes that would increase the likelihood of state legislatures enacting future animal abuser registry legislation and also outlines changes that would increase the registries' likelihood of overall effectiveness.²¹

II. BACKGROUND

Owning a pet in America has become the social norm, especially for households with children.²² In fact, "almost 68% of households with children under age 6 and more than 74% of households with children over age 6 have pets."²³ Statistically, "[a] child in America is more likely to grow up with a pet than with a father."²⁴ Most pet owners regard their animals as companions and as part of the family and will generally invest large amounts of money and time into the well-being and

¹⁶ See *infra* Part II.E (describing the bills that were enacted in the Suffolk, Rockland, Albany, and Westchester counties of New York and also considering the bill enacted by New York City).

¹⁷ See *infra* Part III.C (considering the challenges of passing animal abuser registries).

¹⁸ See *infra* Part IV (discussing ways to improve animal abuser registry bills so that legislatures will more likely pass future proposed bills).

¹⁹ See *infra* Part II (discussing relevant background information that has led to the necessity of animal abuser registries).

²⁰ See *infra* Part III (analyzing the benefits of animal abuser registries in the United States and potential challenges faced in enacting this form of registry).

²¹ See *infra* Part IV (proposing changes to the animal abuser registry bills).

²² *Facts About the Link Between Violence to People and Violence to Animals*, ANIMAL HUMANE SOC'Y, http://www.animalhumanesociety.org/webfm_send/8 (last visited Sept. 22, 2012).

²³ *Id.*

²⁴ *Id.*

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happiness of their pets.²⁵ Due in large part to the facts established thus far, states have enacted animal welfare laws over the years to protect the pets that society holds in such high esteem.²⁶ Recently, many legislators have sought to add to these laws by introducing legislation that would enact animal abuser registries in their respective jurisdictions.²⁷

This Part examines the text of the proposed and enacted animal abuser registry laws and includes relevant background information that explains what prompted the proposal of these laws. First, Part II.A discusses the evolution of animal law in America.²⁸ Second, Part II.B explains the “link” between animal cruelty and violence toward people and the applicable psychological support.²⁹ Third, Part II.C provides information addressing the adverse effects of not having animal abuser registries.³⁰ Fourth, Part II.D describes different criminal registries that states have implemented.³¹ Finally, Part II.E discusses the enacted legislation for animal abuser registries to date.³²

A. *A Basic History of Animal Law in the United States*

Animal cruelty laws used to be non-existent or, at best, rarely applied in the United States.³³ Historically, animals were viewed as mere property, which meant that abuse of this “property” was not

²⁵ *New National Hartz(R) Survey on the Human-Animal Bond Finds That Pets Are Seen as Part of the Family by Three in Four Pet Owners*, PR NEWSWIRE, <http://www.prnewswire.com/news-releases/new-national-hartzr-survey-on-the-human-animal-bond-finds-that-pets-are-seen-as-part-of-the-family-by-three-in-four-pet-owners-54241347.html> (last visited Aug. 21, 2013). A national survey conducted by Hartz Mountain Corporation found that 76% of pet owners identify their pet as their loyal companion and consider it part of the family; “56% of women and 41% of men talk about their pet to their friends and family as if he/she is a member of the family.” *Id.* The survey also revealed that almost half of the surveyed pet owners “would consider taking their pet on vacation with them,” and that “nearly one in three dog owners . . . would take their pet to work if they could.” *Id.* Because pets are so highly regarded in American families, an array of issues often arises concerning companion animals. See generally Rebecca J. Huss, *The Persuasive Nature of Animal Law: How the Law Impacts the Lives of People and Their Animal Companions*, 43 VAL. U. L. REV. 1131 (2009).

²⁶ See *infra* Part II.A (providing a brief overview of the history of animal law in the United States).

²⁷ See *infra* Part II.E (describing five jurisdictions’ enacted animal abuser registries to date).

²⁸ See *infra* Part II.A (discussing the evolution of animal law in the United States).

²⁹ See *infra* Part II.B (explaining the psychological “link” between the cruelty of animals and violence inflicted on people).

³⁰ See *infra* Part II.C (outlining the adverse effects of not having an animal abuser registry or uniform reporting system).

³¹ See *infra* Part II.D (discussing the criminal registries that various states have implemented).

³² See *infra* Part II.E (describing the five enacted animal abuser registries in New York).

³³ GARY L. FRANCIONE, *ANIMALS, PROPERTY, AND THE LAW* xvi (1995).

considered a crime.³⁴ In the 1800s, however, many states passed anti-cruelty laws, which criminalized the abusive treatment of animals.³⁵ Although many states succeeded in passing these laws, most struggled to enforce them, with most crimes either going unprosecuted or resulting in only minimal punishment.³⁶ Determined to change these poor results, advocates sought to persuade states to enact felony anti-cruelty laws that would subject offenders to harsher consequences that were more

³⁴ See *id.* (describing how animals used to be viewed as property). One author explained that:

early in our legal history, animals were relegated to the status of the property of their human owners. Consequently, the law developed doctrines that were responsive directly to this property status and that failed to reflect the moral reality that animals, even if property, constituted a unique form of property. The result is a body of law that accords animals very little protection.

Id.; see Joseph G. Sauder, *Enacting and Enforcing Felony Animal Cruelty Laws to Prevent Violence Against Humans*, 6 ANIMAL L. 1, 3 (2000) (describing the development of felony animal cruelty laws in the United States). “The absence of any law prohibiting even the most extreme violence toward animals reflected society’s view at that time. Namely, those animals were the property of their owners who consequently could treat them as they pleased. Thus, abusing your horse was no more a crime than kicking your plow.” *Id.* (footnotes omitted).

³⁵ See Sauder, *supra* note 34, at 3–6 (providing a history of the criminalization of animal cruelty in the United States); see also *Waters v. People*, 46 P. 112, 113 (Colo. 1896) (describing a case in which a man was prosecuted under Colorado’s anti-cruelty laws). In *Waters v. People*, which occurred in 1896 after Colorado had passed an anti-cruelty statute, a conviction was upheld against a man who was shooting live doves for his own amusement. *Id.* The Colorado Supreme Court found that this man had violated the state anti-cruelty statute, which prohibited torturing, tormenting, or needlessly mutilating or killing an animal. *Id.* The court stated that:

the killing of captive doves as they are released from a trap, merely to improve one’s skill of marksmanship, or for sport and amusement, though there is no specific intention to inflict pain or torture, is, within the meaning of this act, unnecessary and unjustifiable. The same degree of skill may otherwise be readily acquired, and so there was no necessity for the shooting of these doves.

Id. at 115. The court also noted in its opinion that the anti-cruelty statute’s aim “is not only to protect these animals, but to conserve public morals, both of which are undoubtedly proper subjects of legislation.” *Id.* at 113.

³⁶ See, e.g., *United States v. Chamness*, No. 5:11-CR-00054-R, 2012 WL 3109494, at *1, *7 (W.D. Ky. 2012) (sentencing a defendant to probation after the court found her guilty on nine counts of animal cruelty); see also Sauder, *supra* note 34, at 7–9 (explaining that many of the violations of these laws either went unprosecuted or resulted in only minor punishments, such as probation or community service). In *United States v. Chamness*, a woman who was convicted of nine counts of animal cruelty under state law, which yielded a suggested sentence of between zero and six months imprisonment, had her sentence mitigated to only two years of probation because she was two months pregnant. 2012 WL 3109494, at *1, *7.

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appropriate for the crime committed.³⁷ Prior to 1993, only six states had adopted some form of felony anti-cruelty provision.³⁸ However, between 1993 and October 1994 there was a sudden, dramatic increase in animal cruelty, which resulted in forty-three additional states, plus the District of Columbia, enacting felony anti-cruelty laws.³⁹ As of 2012, all but one state had enacted some form of a felony anti-cruelty law.⁴⁰

Much of the resulting influx of harsher animal cruelty laws can be credited to the efforts of animal activist groups, such as People for the Ethical Treatment of Animals (“PETA”), Animal Legal Defense Fund (“ALDF”), and Humane Society of the United States (“HSUS”), which continue to raise awareness and strive to effect change in various issues concerning mistreatment of animals in society today.⁴¹ The media,

³⁷ See Pamela D. Frasch, *The Impact of Improved American Anti-Cruelty Laws in the Investigation, Prosecution, and Sentencing of Abusers*, in THE INTERNATIONAL HANDBOOK OF ANIMAL ABUSE AND CRUELTY: THEORY, RESEARCH, AND APPLICATION 59, 59 (Frank R. Ascione ed., 2008) (explaining the dramatic increase in the number of anti-cruelty laws throughout the United States); see also Sauder, *supra* note 34, at 9 (describing the reluctance of legislatures to enact animal cruelty laws until something drastic compels them to). One author recognized:

The good news is that animal cruelty is starting to be taken more seriously. . . . The bad news, however, is that some states wait until a particularly gruesome case grabs the public attention before changing their laws. For example, Washington changed its laws only after a donkey was beaten to death with a baseball bat in a petting zoo.

Id. (footnotes omitted).

³⁸ See *U.S. Jurisdictions With and Without Felony Animal Cruelty Provisions*, ANIMAL LEGAL DEF. FUND, <http://aldf.org/article.php?id=261> (last visited Jan. 13, 2013) (listing all of the jurisdictions in the United States that have enacted felony animal cruelty laws and the years in which these laws were enacted). These six states included California (1988), Florida (1989), Massachusetts (1804), Oklahoma (1887), Rhode Island (1896), and Wisconsin (1986). *Id.* For a comprehensive list of each of the fifty states’ current animal cruelty laws, see *Map of State Cruelty Laws*, ANIMAL LEGAL & HIST. CENTER, <http://www.animallaw.info/articles/armstatecruelty.htm> (last visited Jan. 13, 2013).

³⁹ See *U.S. Jurisdictions With and Without Felony Animal Cruelty Provisions*, *supra* note 38 (listing the states and territories of the United States in which Felony Animal Cruelty provisions exist and the years in which these laws were first enacted).

⁴⁰ *Id.* To date, only South Dakota has not enacted any form of anti-cruelty law. *Id.*

⁴¹ See *About PETA: Our Mission Statement*, PETA, <http://www.peta.org/about/default.aspx> (last visited Sept. 20, 2012) (describing the history and mission of PETA); *About Us*, ANIMAL LEGAL DEF. FUND (Apr. 8, 2013), <http://aldf.org/section.php?id=3> (describing the history and mission of ALDF); *About Us: Overview*, HUMANE SOC’Y U.S. (Sept. 19, 2011), <http://www.humanesociety.org/about/overview/> (describing the establishment and work of the HSUS). PETA is a non-profit organization and is currently “the largest animal rights organization in the world” — focusing on areas where “the largest number of animals suffer the most intensely [and] for the longest periods of time.” *About PETA: Our Mission Statement*, *supra*. “PETA works through public education, cruelty investigations, research, animal rescue, legislation, special events, celebrity involvement, and protest campaigns” to achieve its missions. *Id.* ALDF is a non-profit charitable organization that, for over three

which only has access to a small fraction of the animal cruelty acts performed, has also helped to raise awareness by publishing stories of animal cruelty that surface, along with the psychological findings and statistics related to animal abuse.⁴² Other theories have also been advanced to explain the sudden influx in the harshness of animal cruelty laws among states, ranging from specific resolutions introduced by

decades, “has been fighting to protect the lives and advance the interests of animals through the legal system.” *About Us, supra*. ALDF works to protect animals by filing lawsuits to stop inhumane treatment of animals as well as to expand the outer limits of animal law, and ALDF also provides public education by holding seminars, workshops, and creating other outreach programs. *Id.* HSUS, established in 1954, “is the nation’s largest animal protection organization.” *About Us: Overview, supra*. According to its mission statement, HSUS works to create social change for animals and reduce their suffering “by advocating for sensible public policies, investigating cruelty and working to enforce existing laws, educating the public about animal issues, joining with corporations on behalf of animal-friendly policies, and conducting hands-on programs that make [for] a more humane world.” *Id.*

⁴² See, e.g., Luke Lavoie, *Columbia Woman in Animal Cruelty Trial Denies Charges*, BALTIMORE SUN, Sept. 5, 2012, at 5A, available at 2012 WLNR 18978117 (describing the current status of an animal cruelty case set to go to trial in which a woman was arrested after forty animals were found dead inside her home and showed signs of neglect and abuse); Charles Siebert, *The Animal-Cruelty Syndrome*, N.Y. TIMES, June 13, 2010, at MM, available at 2010 WLNR 12019022 (addressing generally the issue of animal cruelty and its link to other crimes); Ann Givens, *Hempstead Woman Charged with Animal Neglect*, NEWSDAY, (Sept. 7, 2012), <http://www.newsday.com/long-island/nassau/hempstead-woman-charged-with-animal-neglect-1.3966986> (providing information about a woman’s severe neglect of her pet dog and the subsequent charges brought against her); see also Ian Urbina, *Animal Abuse as Clue to Additional Cruelties*, N.Y. TIMES, Mar. 18, 2010, at A16 (describing an extreme hoarding case in which over \$1.2 million in costs were expended to rescue and provide for more than 170 dogs); *Animal Cruelty*, CNN, http://topics.cnn.com/topics/animal_cruelty (last visited Sept. 20, 2012) (presenting an entire topic page on CNN’s website entitled “Animal Cruelty,” which serves as a one-stop source for all of the current animal cruelty related news stories); Tanya Drobness, *Chester Township Woman Pleads Guilty to Animal Cruelty Charges, Must Pay More Than \$35,000 in Fines*, NJ.COM (July 10, 2009, 12:45 AM), http://www.nj.com/news/index.ssf/2009/07/chester_township_woman_pleads.html (detailing the events of a hoarding case in which 150 cats were removed from a New Jersey home and a fine of \$35,000 was imposed on the hoarder to offset some of the costs incurred by the community); Joseph B. Frazier, *Miriam Sakewitz, Oregon “Bunny Lady,” Arrested Again*, HUFFINGTON POST (June 17, 2009, 10:02 PM), http://www.huffingtonpost.com/2009/06/18/miriam-sakewitz-oregon-bu_n_217348.html (telling the story of an animal hoarder reoffending, despite being banned from owning animals, after authorities found around 250 rabbits at her house, including roughly 100 dead rabbits in her freezer); Michelle Kretzer, *PETA Catches Illegal Exhibitor in the Act*, PETA (Nov. 1, 2012), <http://www.peta.org/b/thepetafiles/archive/2012/11/01/peta-catches-illegal-exhibitor-in-the-act.aspx> (explaining a scenario where a company that exhibited animals had its license revoked and criminal charges brought against it because of its neglect toward its animals; nevertheless, the company still managed to later acquire animals again).

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Congress to the general increasing awareness of society as a whole regarding the seriousness of animal cruelty crimes.⁴³

B. *The "Link"*

Speculation regarding a possible link between violence toward animals and violence toward people can be traced back as far as writings from philosophers in the fourteenth century.⁴⁴ In the nineteenth century, Societies for the Prevention of Cruelty to Animals ("SPCAs") began to form in the United States, arguing that there was a link between animal cruelty and other acts of violence.⁴⁵ The SPCAs theories were well-received by some courts; however, there was little factual information to

⁴³ See, e.g., H.R. Con. Res. 338, 106th Cong. (2000) (urging social workers and other mental health professionals to evaluate and carefully monitor individuals who abuse animals, in order to prevent violence against humans). The Third Circuit commented on this resolution in a recent decision, noting Congress's reasoning for passing such a resolution. See *United States v. Stevens*, 533 F.3d 218, 237-39 (3d Cir. 2008) (commenting on the laws passed by Congress that address animal cruelty offenses). Additionally, one commentator noted that:

Some would argue that a growing awareness of the link between animal abuse and human violence has played a key role. Others may argue that our society has evolved to recognize that violence in any form is abhorrent and must be punished appropriately. Still others may argue that increasing penalties for animal abuse is consistent with this nation's recent trend toward tougher treatment of violent offenders, as evidenced by "three strikes" legislation, and the criminalization of activity that had previously been viewed as generally benign behavior, such as drunk driving.

Frasch, *supra* note 37, at 59.

⁴⁴ *Facts About the Link Between Violence to People and Violence to Animals*, *supra* note 22. Also of this viewpoint was seventeenth century philosopher, John Locke, who believed that children who abused animals would grow up to do the same to humans: "They who delight in the suffering and destruction of inferior creatures, will not be apt to be very compassionate or benign to those of their own kind." Margit Livingston, *Desecrating the Ark: Animal Abuse and the Law's Role in Prevention*, 87 IOWA L. REV. 1, 45 & n.267 (2001) (quoting John Locke, *Some Thoughts Concerning Education*, in 9 THE WORKS OF JOHN LOCKE IN TEN VOLUMES 112 (11th ed. London, W. Otridge & Son 1812)). For a further display of this viewpoint, see the artist William Hogarth's series of four engravings published in 1751 and entitled "The Four Stages of Cruelty." *Hogarth: Hogarth's Modern Moral Series, The Four Stages of Cruelty*, TATE, <http://www.tate.org.uk/whats-on/tate-britain/exhibition/hogarth/hogarth-hogarth-modern-moral-series/hogarth-hogarth-4> (last visited Sept. 2, 2013). The four stages began with animal cruelty to a dog, progresses to the cruelty of a horse, then continues to robbery, seduction, and murder, before finally ending in punishment for these crimes. *Id.* William Hogarth's art demonstrates that, even in the 1700s, people viewed animal cruelty as a stepping stone to more serious crimes. *Id.*

⁴⁵ Phil Arkow, *The Evolution of Animal Welfare as a Human Welfare Concern*, in CHILD ABUSE, DOMESTIC VIOLENCE, AND ANIMAL ABUSE 19, 19 (Frank R. Ascione & Phil Arkow eds., 1999). These societies "were founded on the premise that persons who harmed animals would escalate their violent acts to include vulnerable humans." *Id.*

support the theories, leading some courts to often consider them unpersuasive.⁴⁶ In the last few decades, however, psychologists have been able to confirm the existence of this link through various studies.⁴⁷ According to a study conducted in 1997, “[s]eventy percent of the people who committed violent crimes against animals also had criminal records for violent, property, drug, or disorder crimes.”⁴⁸ This study further demonstrated that, “[w]hen compared to their next-door neighbors, people who abused animals were five times more likely to commit violent crimes against people, four times more likely to commit property crimes, and three times more likely to have a record for drug or disorderly conduct offenses.”⁴⁹

Some acts of animal cruelty occur in private, while others occur through the means of commercial exploitation including labor, fights, experimentation, and indiscriminate breeding.⁵⁰ This type of cruelty, especially in the case of dog fighting and cock fighting, has a high

⁴⁶ See, e.g., *Stevens v. State*, 3 So. 458, 459 (Miss. 1888) (recognizing a link between the cruel treatment of men and the harsh treatment of animals). In *Stevens v. State*, the court stated:

Cruelty to [animals] manifests a vicious and degraded nature, and it tends inevitably to cruelty to men. . . . Often their beauty, gentleness, and fidelity suggest the reflection that it may have been one of the purposes of their creation and subordination to enlarge the sympathies and expand the better feelings of our race. But, however this may be, human beings should be kind and just to dumb brutes; if for no other reason than to learn how to be kind and just to each other.

Id. Despite the court’s recognition of the seriousness of conduct involving animal cruelty, the court held that the alleged crime did not fit under the text of the statute and consequently, that no animal cruelty had occurred in this matter. *Id.* at 458–59.

⁴⁷ See, e.g., LINDA MERZ-PEREZ & KATHLEEN M. HEIDE, *ANIMAL CRUELTY: PATHWAY TO VIOLENCE AGAINST PEOPLE* 118 (2004) (concluding that a study exhibited the connection between animal cruelty and subsequent acts of violence against persons).

⁴⁸ MASS. SOC’Y PREVENTION CRUELTY ANIMALS, *CRUELTY TO ANIMALS AND OTHER CRIMES: A STUDY BY THE MSPCA AND NORTHEASTERN UNIVERSITY* 8 (1997), available at <http://www.mspca.org/programs/cruelty-prevention/animal-cruelty-information/cruelty-to-animals-and-other-crimes.pdf>. This statistic was found in a study conducted by Northeastern University and Massachusetts Society for the Prevention of Cruelty to Animals (“MSPCA”). *Id.* at 2. The study took place over the course of three years in three parts and found that “animal abuse crimes are anything but isolated events.” *Id.* The study also noted that “[i]t’s clear that the criminal justice system does not take animal abuse very seriously,” considering that less than half of all adjudicated cases examined ended in guilty verdicts, and of those that did, the sentences were minimal. *Id.* at 6.

⁴⁹ *Id.* at 8.

⁵⁰ See, e.g., MERZ-PEREZ & HEIDE, *supra* note 47, at 15 (describing cockfighting as an example of animal cruelty); Stephanie S. Kochera, *Private Ownership of Wild Animals Including Endangered Species: Conflict on the Urban Fringe* (June 2002) (unpublished M.A. thesis, Ohio University) (on file with author) (listing labor, fights, indiscriminate breeding, and experimentation as forms of commercial animal abuse).

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correlation with gambling, drug offenses, illegal weapons, and gang activity.⁵¹ Scott Giacoppo, who has served for several years as both a law enforcement officer and a street gang specialist, stated “that in many cases, a gang member’s dogs are literally sitting on top of a stash of drugs hidden in the base of the dogs’ cages. These same dogs are often used to intimidate neighborhood residents to keep them from going to the police.”⁵²

Research has also linked animal abuse to crimes of domestic violence.⁵³ In fact, a study conducted by the National Link Coalition revealed that “[a] history of [animal] abuse is one of the four most

⁵¹ *Dogfighting*, PETA, <http://www.peta.org/issues/animals-in-entertainment/dogfighting.aspx> (last visited Sept. 20, 2012). “A detective told the *New York Daily News* that ‘you can get more drugs and guns off the street by breaking up dog rings than you would breaking up drug rings.’” *Id.* “Illegal weapons have also been found at cockfights because of the large amounts of cash present. Moreover, law enforcement raids across the country have established that cockfights are well attended by gang members, further encouraging venues for violence, illegal drug use and firearms.” *Cockfighting*, ASPCA, <http://www.asPCA.org/fight-cruelty/animals-in-entertainment/cockfighting> (last visited Sept. 20, 2012). Phillip Cline, superintendent of the Chicago Police Department, stated that according to their own department’s statistics, “dog fighting is directly connected to the violent world of gangs, drugs, and weapons.” Mary Lou Randour & Tio Hardiman, *Creating Synergy for Gang Prevention: Taking a Look at Animal Fighting and Gangs*, in PROCEEDINGS OF PERSISTENTLY SAFE SCHOOLS: THE 2007 NATIONAL CONFERENCE ON SAFE SCHOOLS 199, 200 (2007), available at <http://gwired.gwu.edu/hamfish/merlin-cgi/p/downloadFile/d/19173/n/off/other/1/name/HFI2007pdf/>. The particular statistics Cline refers to come from a study conducted from 2001 to 2004, in which the determination was made that:

“when compared to offenders arrested for non-animal related offenses, persons who act violently toward animals are much more likely to carry and use firearms in the commission of other crimes, and are involved in the illegal narcotics trade. Further, a strikingly large percentage [are] members of criminal street gangs.” For example, 59[%] of offenders arrested for animal cruelty crimes either admitted or were established to be gang members; 70[%] of those arrested for animal crimes have also been arrested for other felonies.

Id. (citation omitted).

⁵² Randour & Hardiman, *supra* note 51. Scott Giacoppo is an officer for the Massachusetts Society for the Prevention of Cruelty to Animals. *Id.*; see *Cockfighting and Dogfighting – Workshop on Blood “Sports,”* HUMANE REV., Winter 2000, available at <http://www.nyshumane.org/articles/dogfighting.htm> (asserting that Giacoppo, along with others, “presented a powerful and disturbing array of information on animal fighting”). Many courts have acknowledged that this form of animal abuse has many possible adverse consequences. For instance, in 1844, the Chief Justice of the Massachusetts Supreme Court described cockfighting as “barbarous and cruel, leading to disorder and danger, and tending to deaden the feelings of humanity, both in those who participate in it, and those who witness it.” *Commonwealth v. Tilton*, 49 Mass. 232, 234–35 (Mass. 1844).

⁵³ MERZ-PEREZ & HEIDE, *supra* note 47, at 50.

significant risk factors for becoming a domestic violence batterer.”⁵⁴ According to a Texas study, domestic abusers who also abuse pets tend to be even more dangerous than the batterers who do not abuse animals, as they exhibit behaviors of increased violence and control.⁵⁵ Domestic abusers sometimes use animals as a means of power and control over their spouse or children, and as a result, in many of these situations, the victims will remain in an abusive relationship to protect their pets.⁵⁶

The exposure of children to violence towards animals raises additional issues, which include the children repeating the behavior they observe.⁵⁷ Research indicates that children exposed to domestic violence are “three times more likely to be cruel to animals than children in nonviolent households.”⁵⁸ Acts of animal cruelty are some of the earliest diagnostic indicators of conduct disorders in children and often surface as early as the age of six and a half years.⁵⁹ These actions of cruelty to animals may serve as a “rehearsal crime” where children “experiment

⁵⁴ *The Link: How You Can Use It to Inform Your Work*, NAT'L LINK COALITION, <http://nationallinkcoalition.org/wp-content/uploads/2013/01/LinkSummaryBrochure3-panel.pdf> (last visited Oct. 23, 2012).

⁵⁵ *Facts About the Link Between Violence to People and Violence to Animals*, *supra* note 22; see *Fight Cruelty: Domestic Violence and Animal Cruelty*, ASPCA, <http://www.aspc.org/fight-cruelty/report-animal-cruelty/domestic-violence-and-animal-cruelty> (last visited Jan. 18, 2014) (explaining that the batterers who also abuse pets usually have one or more of the following motivations in doing so: “[t]o demonstrate power and control over the family[;] [t]o isolate the victim and children[;] [t]o enforce submission[;] [t]o perpetuate an environment of fear[;] [t]o prevent the victim from leaving or coerce her to return[;] [and] [t]o punish for leaving or showing independence”).

⁵⁶ *Facts About the Link Between Violence to People and Violence to Animals*, *supra* note 22. Pet abuse is listed as a form of intimidation on the “Power and Control Wheel,” a landmark chart developed by the Domestic Abuse Intervention Project. *Power and Control Wheel*, NAT'L CENTER ON DOMESTIC & SEXUAL VIOLENCE, <http://www.ncdsv.org/images/PowerControlwheelnoshading.pdf> (last visited Sept. 3, 2013). “In a Wisconsin study, 68% of battered women reported their animals had been the target of violence. Of these incidents, 87% occurred in the presence of the women to intimidate and control them, and 75% occurred in the presence of children.” *Facts About the Link Between Violence to People and Violence to Animals*, *supra* note 22. Fortunately, many states have recognized this issue and have passed laws that change the definition of domestic violence to include harm to the pets and have enacted laws that give judges the authority to issue protective orders that include the protection of animals. Rebecca F. Wisch, *Domestic Violence and Pets: List of States that Include Pets in Protection Orders*, ANIMAL LEGAL & HIST. CTR., <http://www.animallaw.info/articles/ovusdomesticviolencelaws.htm> (last visited Jan. 18, 2014).

⁵⁷ MERZ-PEREZ & HEIDE, *supra* note 47, at 80.

⁵⁸ *Facts About The Link Between Violence to People and Violence to Animals*, *supra* note 22. Also, important to note is the statistic that “[t]hirty-two percent of battered women reported that their children had hurt or killed animals.” *Id.*

⁵⁹ *The Link Between Violence Toward Animals and Violence Toward People*, ANIMAL PROTECTION N.M., http://apnm.org/publications/link_overview.pdf (last visited Sept. 20, 2012).

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with violence against animals before moving on to humans.”⁶⁰ The Federal Bureau of Investigation (“FBI”) has found that this type of graduation occurred in the lives of most serial killers, with the majority of these individuals torturing or killing animals before eventually moving to human targets.⁶¹

While most types of animal abuse occur through active abuse that is both deliberate and intentional, there is also a form of abuse that is passive, most commonly seen in animal hoarders.⁶² “Animal hoarders

⁶⁰ Elizabeth Hess, *Cruelty on the Couch*, N.Y. MAG., <http://nymag.com/nymetro/news/crimelaw/features/2091/> (last visited Sept. 3, 2013). According to ASPCA therapist Dr. Stephanie LaFarge, “anyone who hurts animals has the potential to move on to people.” *Id.* LaFarge explains that often children and teenagers experiment with a “rehearsal crime.” *Id.* For an example of such a situation, see Frank R. Ascione, *The Abuse of Animals and Human Interpersonal Violence*, in CHILD ABUSE, DOMESTIC VIOLENCE, AND ANIMAL ABUSE, *supra* note 45, at 50, 50. In the example provided by one author, a sixteen-year-old boy named Luke Woodham murdered his mother and two of his high school classmates and also injured seven other classmates. *Id.* Prior to this “episode,” Woodham wrote in his diary about his experience torturing and killing Sparkle, his dog. *Id.* He beat Sparkle with clubs, covered her with lighter fluid, and set her on fire before finally disposing of her in a pond. *Id.* These disturbing entries included the following statements, “I’ll never forget the sound of her breaking under my might’ . . . ‘I will never forget the howl she made. . . . It sounded almost human. We laughed and hit her more.’” *Id.* An adult neighbor witnessed the killing and torture of Sparkle, but apparently never reported the incident to the police. *Id.*

⁶¹ Hess, *supra* note 60. The FBI conducted an extensive study from 1977 to 1983 of thirty-six incarcerated multiple murderers, discovering that almost all of these offenders had committed an act of cruelty toward animals in the past. *Id.* The FBI continues to study this link to date at its National Center for the Analysis of Violent Crime, with two special agents dedicated solely to studying animal cruelty. *Id.* Researchers have identified three major warning signs or “red flags” that are often found in the background of serial murderers which include: bed-wetting, fire-starting, and animal torture. HAROLD SCHECHTER, *THE SERIAL KILLER FILES: THE WHO, WHAT, WHERE, HOW AND WHY OF THE WORLD’S MOST TERRIFYING MURDERERS* 25 (2003). According to this author, animal torture is not a stage for these people in childhood; rather, it serves as rehearsal. *Id.* at 27. For example, famous serial killer Jeffrey Dahmer, who murdered seventeen men and boys from 1978 to 1991, started his acts of torture and killing with animals as a child. *Id.*; *supra* text accompanying note 7. He liked to “nail live frogs to trees, cut open goldfish to see how their innards worked, and perform impromptu surgery on stray dogs and cats.” SCHECHTER, *supra*, at 27.

⁶² Gary Patronek, *Animal Hoarding: A Third Dimension of Animal Abuse*, in THE INTERNATIONAL HANDBOOK OF ANIMAL ABUSE AND CRUELTY: THEORY, RESEARCH, AND APPLICATION, *supra* note 37, at 221, 225. Where active abusers intend to cause pain and distress and derive pleasure from these actions, passive abusers are indifferent to the animal suffering and their failure to remedy it. *Id.* Passive abusers do not take any pleasure in the suffering of the animal; they do not have motivations. *Id.* Active abusers, on the other hand may have a variety of motivations which include: to “control an animal[,] [t]o retaliate against an animal[,] [t]o satisfy a prejudice against a species or breed (e.g., hatred of cats)[,] [t]o express aggression through an animal[,] [t]o enhance one’s own aggressiveness[,] [t]o shock people for amusement[,] [t]o retaliate against other people[,] [or] [t]o displace hostility from a person to an animal.” *Id.* Examples of active cruelty

are people who amass dozens or even hundreds of cats, dogs, and other assorted creatures, purportedly out of concern and love for them, only to become overwhelmed and unable to provide even minimal standards of nutrition, sanitation, and veterinary care.”⁶³ These individuals neglect their animals and become unaware of the severity of the condition of both their pets and household environment.⁶⁴ Although it may seem that these hoarding cases are isolated and relatively uncommon, animal hoarders do in fact exist extensively throughout society, and without proper treatment, the majority of them will reoffend.⁶⁵ In conjunction with the enormous harm that hoarders inflict on their animals, many also create serious dangers for the other humans that live around them.⁶⁶

encompass: “[a]ssault, burning, poisoning, shooting, mutilation, abandonment,” and “[i]nstillation of fear, anguish, [or] anxiety.” *Id.*

⁶³ ARNOLD ARLUKE & CELESTE KILLEEN, *INSIDE ANIMAL HOARDING: THE CASE OF BARBARA ERICKSON AND HER 522 DOGS 1* (2009) (citation omitted). Evidence suggests the presence of a strong mental health component to the act of animal hoarding; however, the scientific data regarding this link continues to evolve. *Id.* at 171.

Animal hoarding is not yet recognized as indicative of any specific psychological disorder. Indeed, there is no specific mention of it in the latest version of the *Diagnostic and Statistical Manual (DSM)*, used by mental health workers to diagnose various disorders. However, evidence from case reports indicates that many hoarders are eventually placed under guardianship or other supervised living situations, suggesting their incapacity to make rational decisions and manage personal affairs.

Id.; see *Animal Hoarding Facts*, ANIMAL LEGAL DEF. FUND (Apr. 8, 2013), <http://aldf.org/resources/when-you-witness-animal-cruelty/animal-hoarding-facts/> (describing the phenomenon that is animal hoarding).

⁶⁴ See ARLUKE & KILLEEN, *supra* note 63, at 1 (describing how hoarders are affected by their illnesses). One author noted that:

Although disturbing to almost anyone else, hoarders fail to acknowledge the deteriorating condition of the animals (including disease, starvation, and even death), the household environment (severe overcrowding, very unsanitary conditions), and the negative effect of their behavior on their own and other household members’ health and well-being.

Id.; see ALLIE PHILLIPS, *DEFENDING THE DEFENSELESS: A GUIDE TO PROTECTING AND ADVOCATING FOR PETS 125* (2011) (noting that there are three different types of animal hoarders: “overwhelmed caregivers,” who try to provide care, but decline occurs in the end; “rescue hoarders,” who have a mission to save animals but do not understand when to stop; and “exploiter hoarders,” who lack empathy for the animals and keep the pets for only selfish reasons).

⁶⁵ ARLUKE & KILLEEN, *supra* note 63, at 167. “Based on the estimated national animal shelter population of six million, there are about twelve hundred to sixteen hundred cases per year, and based on the human population served, six hundred to two thousand cases per year in America with 60% being repeat offenders.” *Id.*

⁶⁶ Lisa Avery, *From Helping to Hoarding to Hurting: When the Acts of “Good Samaritans” Become Felony Animal Cruelty*, 39 VAL. U. L. REV. 815, 829 (2005). In severe cases of animal hoarding, the home conditions are simply deplorable:

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Hoarders who care for minor children or needy adults not only subject these dependent individuals to hazardous conditions but also severely neglect their needs.⁶⁷

Professionals in all areas that deal with instances of animal abuse seem to be in agreement regarding the need for these offenders to be taken seriously.⁶⁸ Social workers have acknowledged this link and have encouraged training among professionals in this area so that they can adequately confront the link in practice.⁶⁹ Law enforcement officials have recently started taking these matters much more seriously as well.⁷⁰

In extreme cases, animals and humans must be removed from the unhealthy conditions of hoarders' homes. Public health officials who deemed the ammonia level unsafe for habitation locked a Utah cat hoarder out of her home. . . . Not only does the neglected sanitation of a hoarder's dwelling compromise his or her health and safety, extreme deterioration places neighborhoods and communities at risk. Hoarders' home conditions can subject neighbors to fire hazards, insect and rodent infestation, and odor and noise. Even those part of a rescue team face health risks as animal control officers have suffered nosebleeds, severe eye irritation, and fleabites when rescuing hoarders' animals.

Id. (footnotes omitted).

⁶⁷ *Id.* While the majority of animal hoarders live alone, studies have found that in fifteen percent of hoarding cases, minor children or dependent adults live in these residences as well. *Id.* These studies also revealed that the hoarders' gross neglect of animals is nearly always performed in conjunction with extreme neglect for the dependent individuals in the hoarders' care. *Id.*

⁶⁸ Randall Lockwood, *Animal Cruelty and Societal Violence: A Brief Look Back from the Front*, in CHILD ABUSE, DOMESTIC VIOLENCE, AND ANIMAL ABUSE, *supra* note 45, at 3, 4. A December 1996 survey of 1000 American households revealed that the public is in favor of this view taken by professionals. *Id.* In this survey:

80 percent favored having social workers, animal welfare workers, and law enforcement officials share information on cases of animal abuse to help identify potential problems of child abuse. Eighty-three percent favored having teachers, social workers, animal welfare workers and law-enforcement officials share information on juveniles who abuse animals as a way to help identify violent criminals.

Id.

⁶⁹ See Catherine A. Faver & Elizabeth B. Strand, *Domestic Violence and Animal Cruelty: Untangling the Web of Abuse*, 39 J. SOC. WORK EDUC. 237, 245-46 (2003) (discussing that having adequate knowledge about the link between animal abuse and domestic abuse will allow social workers to better address the link in practice). The authors encourage incorporation of questions about animal abuse in psychological assessments in a wide range of practice settings. *Id.* They also stress that social workers should do their part to educate other professionals—domestic violence professionals, teachers, law enforcement officials, animal control and humane society workers, attorneys, and veterinarians—about the link because such individuals would benefit from further information. *Id.* at 246. Further, the authors assert that social workers would be wise to establish relationships with local animal welfare agencies so that they can be informed of animal cruelty cases. *Id.*

⁷⁰ Siebert, *supra* note 42.

Many police officers previously dismissed incidents of animal abuse, reasoning they had larger issues to deal with and that animal abuse was not important enough to spend significant time on.⁷¹ However, there has been an increasing shift in mentality as law enforcement officials become more educated on the issues associated with animal abuse and learn that “it’s part of a larger nexus of crimes and the psyche behind them.”⁷²

C. *The Lack of Animal Abuser Registries in the United States*

While many professionals are in favor of harsher punishments and monitoring of past offenders of animal abuse, they admit that there is no tracking system currently in place to effectively accomplish this objective.⁷³ Despite requests from many police departments, social workers, and animal welfare activists, there is no compilation of data on animal abuse in the FBI’s Uniform Crime Report, which is the typical source for tracking most crimes in the United States.⁷⁴ Various organizations have made some efforts to track the data that is accessible, but there is currently a limited amount of data available.⁷⁵ However, by

⁷¹ *Id.*

⁷² *Id.* Sgt. David Hunt explained that “the attitude has been that we have enough stuff on our plate, let the others worry about Fluffy and Muffy. But I’m starting to see a shift in that mentality now.” *Id.*; see RANDALL LOCKWOOD, AM. PROSECUTORS RES. INST., ANIMAL CRUELTY PROSECUTION: OPPORTUNITIES FOR EARLY RESPONSE TO CRIME AND INTERPERSONAL VIOLENCE 12 (2006), available at http://www.ndaa.org/pdf/animal_cruelty_06.pdf (noting that “[e]ffective enforcement of animal cruelty laws is increasingly seen as an important component of community-oriented policing”).

⁷³ See Randall Lockwood, *Counting Cruelty: Challenges and Opportunities in Assessing Animal Abuse and Neglect in America*, in THE INTERNATIONAL HANDBOOK OF ANIMAL ABUSE AND CRUELTY: THEORY, RESEARCH, AND APPLICATION, *supra* note 37, at 87, 99 (describing the lack of a uniform reporting system for animal abuse crimes).

⁷⁴ See LYNN A. ADDINGTON & MARY LOU RANDOUR, ANIMAL CRUELTY CRIME STATISTICS: FINDINGS FROM A SURVEY OF STATE UNIFORM CRIME REPORTING PROGRAMS 3 (2012), available at <http://awionline.org/sites/default/files/uploads/documents/ca-12fbireportfinal040312.pdf> (noting the lack of statistics available regarding crimes of animal cruelty). Although the FBI has not granted these requests, it is not because it does not see the importance of collecting animal cruelty data. *Id.* The FBI instead has stated that there are three main obstacles in its way: “technical challenges, costs, and acceptance by local police agencies.” *Id.* For example, the local police agencies would have to cooperate with collecting this data so that the data could be complete. *Id.* Also, a more uniform definition of “animal cruelty” would need to be established and the methods in which each state compiles its data would need to become more uniform. *Id.*

⁷⁵ Lockwood, *supra* note 73, at 99. Some examples of efforts to track the animal abuse data that is available include statistics compiled by HSUS and the Animal Abuse Registry Database Administration System (“AARDAS”) project, made available via Pet-Abuse.com. *Id.* HSUS statistics placed significant demands on HSUS staff and consequently were eventually discontinued in 2004. *Id.* at 101. HSUS reported that it “was difficult to ensure standardization of data entry of the more than 1,500 cases entered each year. This effort also proved to be challenging for staff that faced the task of reading and reviewing dozens

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no means is this data uniform, nor does it paint an accurate picture of the amount of abuse that occurs in different areas.⁷⁶ The people operating the sites have little resources to cover the expenses and can only do so much to report instances of abuse.⁷⁷

Very few law enforcement agencies consistently keep track of statistics on animal abuse.⁷⁸ In fact, when law enforcement officers were asked in a national poll about statistics on animal abuse in their respective jurisdictions, none boasted of “maintaining excellent statistical records on animal cruelty reports, investigations, or prosecutions.”⁷⁹ Instead, they admitted that the statistics they had available were incomplete and, for the most part, confusing.⁸⁰ Nearly all interviewees agreed that maintaining statistics on animal abuse cases would be “invaluable for targeting ‘hot spots’ within the community, conducting comparative analysis of similar types of cases, and assessing the

of disturbing stories of animal torment each day.” *Id.* To date however, the AARDAS project continues to strive to expose not only those offenders who have been convicted of animal cruelty, but those who escaped prosecution and penalty. *Database of Criminal Animal Cruelty Cases*, PET-ABUSE.COM, http://www.pet-abuse.com/pages/cruelty_database.php (last visited Sept. 20, 2012). This website gathers its list of offenders from public sources, such as media stories and court dockets, and includes data for not only the United States, but also Canada, United Kingdom, New Zealand, Australia, and Spain. *Id.* Anyone who accesses this website can search under a number of criteria, including the abuse type, the type of animal, whether the offender was convicted, the date of the offense, the gender of the offender, and other specific advanced search queries. *Id.* This site also provides informational resources that explain, for example, how to prevent abuse. *Preventing Animal Abuse*, PET-ABUSE.COM, http://www.pet-abuse.com/pages/prevent_abuse.php (last visited Sept. 20, 2012). It also describes the current status of United States cruelty laws, including which states have felony statutes, what year these statutes were enacted, and what the maximum jail time and fines are under these statutes. *Animal Cruelty Laws: Felony vs. Misdemeanor*, PET-ABUSE.COM, http://www.pet-abuse.com/pages/cruelty_laws.php (last visited Sept. 20, 2012).

⁷⁶ See Lockwood, *supra* note 73, at 99 (“There are obvious limitations to this approach. The cases sampled are far from complete, representing only reported cases that have risen to the level of media awareness.”)

⁷⁷ See *id.* at 101 (noting that HSUS statistics were discontinued due to the heavy demands placed on HSUS staff).

⁷⁸ *Id.* at 99; see ADDINGTON & RANDOUR, *supra* note 74, at 4-5 (noting that in a survey of all fifty states, only twenty-eight responded, and out of these twenty-eight, only eighteen kept statistics relating to animal cruelty crimes). Of the eighteen states in this survey that stated they kept statistics regarding animal cruelty crimes, fifteen of these states indicated that these offenses were reported with other crimes, and thus these animal cruelty offenses could not be easily identified in their crime statistics. *Id.* at 6. Only three states indicated that they report animal cruelty offenses separate from other crimes. *Id.*

⁷⁹ Frasch, *supra* note 37, at 60.

⁸⁰ *Id.*; see also ADDINGTON & RANDOUR, *supra* note 74, at 7 (noting that individual states that were contacted for follow-up interviews regarding the survey on their animal cruelty crime statistics asserted that collecting animal cruelty data would be useful, and they supported collecting such data at the state or national level).

appropriateness of future legislative proposals to amend the anti-cruelty statutes.”⁸¹ These law enforcement interviewees also agreed that statistics should be collected using a standardized method, as this would help to better identify the areas where the greatest amount of animal abuse is occurring and what forms of abuse are most common.⁸² Finally, the interviewees identified that “[i]nformation about the ‘link’ between animal abuse and human violence was . . . critical for purposes of creating community support for taking animal abuse seriously as a violent crime.”⁸³

D. An Overview of Criminal Registries in the United States

This Part discusses the many types of criminal registries in use throughout the United States, which offer models for designing animal abuser registries. First, Part II.D.1 discusses sex offender registries,

⁸¹ Frasch, *supra* note 37, at 60. The interviewees recognized the benefits a uniform tracking system could provide, namely the ability to detect the relationship between animal abuse and other crimes. *Id.* at 88. One author noted that:

Tracking animal cruelty and other offenses will improve our ability to conduct true longitudinal studies of the relationship between animal cruelty and other anti-social behaviors. If expending resources to investigate and prosecute animal cruelty can reduce the social and economic costs by helping to prevent later crimes or other social problems, then that is something well worth documenting.

Id. Animal abuser registry systems would also help to address some of the loophole cases in which offenders of crimes wind up going largely unnoticed; for instance, the crime of bestiality, which is not classified as an offense that warrants requiring the offender to be listed on sex offender registries. See, e.g., *People v. Haynes*, 760 N.W.2d 283, 284 (Mich. Ct. App. 2008) (holding that a man who had committed an “abominable and detestable crime against nature with a sheep” and who was a fourth-offense habitual offender should not have to register under the Sex Offender Registration Act for the state of Michigan (internal quotation marks omitted)).

⁸² Frasch, *supra* note 37, at 68. One commentator reported that:

Interviewees also stated that the most effective way of ensuring that statistics will be kept and maintained in an appropriate manner is to create a law that requires agencies to do so. Securing legislative appropriations to fund the technical infrastructure for such a database was also perceived as being critically important.

Id.

⁸³ *Id.* at 67. Others have voiced similar views, advocating for uniform tracking of animal abusers. See, e.g., Dana M. Campbell, *A Call to Action: Concrete Proposals for Reducing Widespread Animal Suffering in the United States*, 15 *ANIMAL L.* 141, 146 (2009) (advocating for the tracking of animal abuse on a national level, and arguing that having the ability to track animal abuse would significantly help law enforcement officials’ efforts in fighting animal abuse crimes).

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which are currently the only registry laws available on a national level.⁸⁴ Next, Part II.D.2 describes child abuse registries, which, to date, many states have implemented.⁸⁵ Finally, Part II.D.3 briefly reviews registry laws that select states have enacted to track other types of offenders, such as elder abusers, felony offenders, convicted arsonists, habitual drug offenders, and gang members.⁸⁶

1. Sex Offender Registries

The idea of requiring ex-offenders to register originated in the United States in the 1930s.⁸⁷ Over time, a variety of jurisdictions have passed registration laws with a large amount resulting in constitutional challenges.⁸⁸ These challenges discouraged states from pursuing the enactment of strict registries and resulted in states, instead, either enacting very modest restrictions or no restrictions at all.⁸⁹ However, in 1990 multiple ex-offenders sexually assaulted children, resulting in numerous high-profile cases that prompted a change of public policy and inspired legislative attention.⁹⁰ Over the course of the next decade, significant steps were taken by individual states and Congress to pass

⁸⁴ See *infra* Part II.D.1 (describing the implementation of sex offender registries in America).

⁸⁵ See *infra* Part II.D.2 (discussing child abuse registries employed in many American jurisdictions).

⁸⁶ See *infra* Part II.D.3 (explaining elder abuse registries as well as various other types of registries that have been adopted by various states).

⁸⁷ Wayne A. Logan, *Sex Offender Registration and Community Notification: Past, Present, and Future*, 34 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 3, 4 (2008). The government became concerned with activities of gang members spreading nationwide and their growing population. *Id.* Thus, state and local governments enacted laws that required people convicted of various acts, both felonious and non-felonious, to register. *Id.*

⁸⁸ See *id.* (discussing various challenges to offender registration laws). In 1957, the Supreme Court of the United States decided in *Lambert v. California* that a Los Angeles anti-gangster act was unconstitutional, as it violated substantive due process. 355 U.S. 225, 229-30 (1957). Another challenge brought against a California registration law in the California Supreme Court, in 1960, resulted in the law being invalidated on preemption grounds. *Abbott v. Los Angeles*, 349 P.2d 974, 984 (Cal. 1960). A similar result occurred in New Jersey, in 1969, when the New Jersey Supreme Court held a registration statute unconstitutional on preemption grounds. *State v. Ulesky*, 252 A.2d 720, 723 (N.J. 1969).

⁸⁹ Logan, *supra* note 87, at 5. The states that had registry laws in effect tended to only require individuals with felony offenses of "moral turpitude" to register. *Id.* Because of this deterrent effect, by 1989, only twelve states had enacted any form of registration law. *Id.*

⁹⁰ *Id.* These occurrences prompted the state of Washington to "enact[] the nation's first registration and community notification law, permitting dissemination of identifying information on registrants to communities in which registrants lived." *Id.*

laws that would make the community aware of these offenders.⁹¹ Eventually, Congress directed states to pass laws that mandated community notification and registration of these offenders.⁹² During this time, Congress also took the first step toward a national registration system by passing an act in 1996 that allowed for the creation of a federal database that local law enforcement and the FBI could use to track those on the registry.⁹³

In 2003, Congress took a substantial step in furthering its community notification goals when it passed another law that “required states to create and maintain Internet websites for the release of registrants’ information.”⁹⁴ Three years later President Bush joined in advancing this goal and signed into law the Adam Walsh Child Protection and Child Safety Act of 2006 (“the Adam Walsh Act”), which further strengthened registration and notification.⁹⁵ The Adam Walsh Act made it a federal

⁹¹ *Id.* at 5–6. Perhaps the most notable case to spark the beginning of Congress’s movement was the case involving the disappearance of an eleven-year-old boy named Jacob Wetterling. Daniel M. Filler, *Making the Case for Megan’s Law: A Study in Legislative Rhetoric*, 76 *IND. L.J.* 315, 330 n.95 (2001). Jacob Wetterling was abducted by a masked man armed with a gun while walking with his brother and a friend in their hometown of St. Josephs, Minnesota. *Id.* These events inspired Congress to pass the Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Registration Act (“the Wetterling Act”) in 1994. Logan, *supra* note 87, at 5 & n.14. This Act “directed states to register sex offenders and offenders whose victims were children, and allowed (but did not require) community notification.” *Id.* The Wetterling Act was actually first proposed by Congress in 1991, but a federal registration provision did not occur until 1994. *Id.* To back its directive to the states that they must implement registration community notification laws, Congress threatened that it would withhold ten percent of their federal funding if they failed to implement such a system. *Id.* at 5–6.

⁹² Filler, *supra* note 91, at 316. In 1994, New Jersey was prompted to pass laws similar to that of the Wetterling Act when a seven-year-old girl, Megan Kanka, was sexually assaulted and murdered by a convicted sex offender who was living in her neighborhood. *Id.* at 315. This case received national attention and eventually led Congress to pass Megan’s Law in 1996, which differed from the Wetterling Act in that it mandated—rather than merely encouraged—notification to occur. *Id.* at 316. Megan’s Law received overwhelming support in Congress. *Id.* It “required states to adopt some form of community notification for those offenders already covered by the Wetterling Act.” *Id.* at 327. Megan’s Law passed in every state, for the most part, with the similar ease that it passed in Congress. *Id.* at 316–17.

⁹³ Logan, *supra* note 87, at 6. This Act was called the Pam Lychner Sexual Offender Tracking and Identification Act of 1995 (“the Pam Lyncher Act”). *Id.* at 6 & n.19. The Pam Lyncher Act was named for Pam Lyncher, a Texas anti-crime activist who had died in a plane crash. Filler, *supra* note 91, at 330 n.95.

⁹⁴ Logan, *supra* note 87, at 6. This Act was called the Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act of 2003 (“the PROTECT Act”). *Id.* at 6 n.20.

⁹⁵ *Id.* at 7 & n.22. The Adam Walsh Act was named after a six-year-old boy who was abducted in 1981 while at a shopping mall in Florida. *Id.* The abduction received national

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felony for individuals to fail to register or update their registration information when they move across state lines, and the act also created a three-tier registration classification system to rank the severity of the registrants' offenses.⁹⁶ Since the enactment of the Adam Walsh Act, sex offender registry laws have faced a series of constitutional challenges, including two Supreme Court cases, *Smith v. Doe I* and *Connecticut Department of Public Safety v. Doe*; however, the registry laws survived the challenges and thus have remained largely in effect to date.⁹⁷ Critics have also voiced concerns regarding the overall effectiveness of the sex-offender registry laws; nevertheless, to date, these criticisms have not had much of an impact on the existence of the laws currently in effect.⁹⁸

2. Child Abuse Registries

In addition to sex offender registries, select states have also implemented child abuse registries.⁹⁹ The first child abuse registries

attention through his family's advocacy. *Id.* at 7 n.21. His remains were eventually found, but to this day, it is unknown who took him or whether the boy was sexually abused. *Id.*

⁹⁶ *Id.* at 7, 10.

⁹⁷ See *Smith v. Doe I*, 538 U.S. 84, 105–06 (2003) (holding the Alaska sex offender registry law constitutional when challenged on the basis of the *Ex Post Facto* Clause); Conn. Dep't of Pub. Safety v. Doe, 538 U.S. 1, 4 (2003) (upholding the Connecticut sex offender registry law as constitutional after finding that it did not violate the due process rights of offenders); see also Wayne A. Logan, *The Ex Post Facto Clause and the Jurisprudence of Punishment*, 35 AM. CRIM. L. REV. 1261, 1275 (1998) (explaining the *Ex Post Facto* Clause, a common doctrine cited to by opponents of offender registry laws); Corey Rayburn Yung, *One of These Laws Is Not Like the Others: Why the Federal Sex Offender Registration and Notification Act Raises New Constitutional Questions*, 46 HARV. J. ON LEGIS. 369, 383–86 (2009) (explaining the challenges raised regarding the sex offender registry laws).

⁹⁸ See *No Easy Answers: Sex Offender Laws in the US*, HUMAN RIGHTS WATCH, Sept. 2007, at 1, 3, available at <http://www.hrw.org/sites/default/files/reports/us0907webwcover.pdf> (arguing that sex offender laws are overbroad and overall ineffective). Among studies conducted on the topic, results have been inconsistent. Compare ELIZABETH J. LETOURNEAU ET AL., MED. UNIV. OF S.C., *EVALUATING THE EFFECTIVENESS OF SEX OFFENDER REGISTRATION AND NOTIFICATION POLICIES FOR REDUCING SEXUAL VIOLENCE AGAINST WOMEN* 4–5 (2010), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/231989.pdf> (indicating there is no evidence that broad notification reduces sex crime recidivism), with J.J. Prescott & Jonah E. Rockoff, *Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?*, 54 J.L. & ECON. 161, 161 (2011) (indicating that requiring sex offenders to register with police may significantly reduce the chances that these offenders will reoffend). There is additional commentary on sex offender registries available from a variety of sources. See generally Jill S. Levenson, et al., *Megan's Law and Its Impact on Community Re-Entry for Sex Offenders*, 25 BEHAV. SCI. & L. 587 (2007) (analyzing the impact of community notification on sex offenders); Stephen R. McAllister, "Neighbors Beware": *The Constitutionality of State Sex Offender Registration and Community Notification Laws*, 29 TEX. TECH L. REV. 97 (1998) (discussing the constitutionality of sex offender registration laws).

⁹⁹ Maryann Zavez, *Child Abuse Registries and Juveniles: An Overview and Suggestions for Change in Legislative and Agency Direction*, 22 SETON HALL LEGIS. J. 405, 409–10 (1998).

were founded in the mid-1960s and “originated through administrative action by medical and social services groups” on a citywide level in select large cities like New York and Los Angeles.¹⁰⁰ Soon after, more states began to create registries.¹⁰¹

Of the state child abuse registries created to date, they generally “vary widely in how they are structured and operated, particularly regarding access to the registries, the information maintained in the registries, and the appeal procedures for accused persons who seek expungement of their names from the registries.”¹⁰² Because of this lack of uniformity, in 1974, an attempt was made to systematically identify and manage issues of child abuse and neglect when Congress passed the Child Abuse Prevention and Treatment Act (“CAPTA”).¹⁰³ CAPTA encouraged the states without any form of child abuse registry to create a registry system and also encouraged states that already had child abuse registries to refine their methods.¹⁰⁴ These registries keep record

¹⁰⁰ *Id.* at 409; see Douglas J. Besharov, *Putting Central Registers to Work: Using Modern Management Information Systems to Improve Child Protective Services*, 54 CHI.-KENT L. REV. 687, 689–90 (1978) (describing in depth the first enacted child abuse registries in the United States). In addition to New York and Los Angeles, Denver also developed a registry in 1964. Besharov, *supra*, at 689. The following year, Cincinnati and Milwaukee also created a registry. *Id.*

¹⁰¹ See Besharov, *supra* note 100, at 689 (discussing the increased implementation of child abuse registries). Between 1965 and 1966, the four states that enacted legislation to create a registry were California, Illinois, Maryland, and Virginia. *Id.* There was not a model framework for how the registries should operate at this time, but two main frameworks were used. *Id.* at 690. The first was based on a medical model, which would utilize a registry to assist in diagnosing suspicious injuries. *Id.* The second was based on a social services model, which utilized registries to better understand child abuse through gathering statistical data. *Id.*

¹⁰² Zavez, *supra* note 99, at 410.

¹⁰³ See Child Abuse Prevention and Treatment Act, Pub. L. No. 93-247, 88 Stat. 4 (1974) (addressing child abuse and neglect among states) (originally codified at 42 U.S.C. §§ 5101–5106 (1976)). Congress has amended and expanded the CAPTA by enacting a number of amendments since the original version. See, e.g., Child Abuse Prevention and Treatment Act Amendments of 1996, Pub. L. 104-235, 110 Stat. 3063; Child Abuse, Domestic Violence, Adoption and Family Services Act of 1992, Pub. L. 102-295, 106 Stat. 187; Child Abuse Prevention Challenge Grants Reauthorization Act of 1989, Pub. L. 101-126, 103 Stat. 764; Child Abuse Prevention, Adoption, and Family Services Act of 1988, Pub. L. 100-294, 102 Stat. 102; Child Abuse Amendments of 1984, Pub. L. 98-457, 98 Stat. 1749; Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, Pub. L. 95-266, 92 Stat. 205.

¹⁰⁴ Child Abuse Prevention and Treatment Act, Pub. L. No. 93-247, 88 Stat. 4 (originally codified at 42 U.S.C. §§ 5101–5106); see John Sherman, Note, *Procedural Fairness for State Abuse Registries: The Case for the Clear and Convincing Evidence Standard*, 14 J. GENDER RACE & JUST. 867, 869 (2011) (asserting that, as of 2008, approximately forty states had child-abuse registries); George L. Blum, *Constitutional Challenges to State Child Abuse Registries*, 36 A.L.R.6TH 475, 488 (2008) (noting that multiple child abuse registries have faced constitutional challenges). Most of these laws have been upheld. See, e.g., *People v. Adams*, 581 N.E.2d 637, 642, 644 (Ill. 1991) (upholding a child abuse registry law challenged

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of alleged incidents of child abuse and neglect but are not available for community notification.¹⁰⁵

3. Other Registries Implemented by Select States

In addition to sex offender and child abuse registries, many states also maintain stand-alone registries, such as habitual felony offender registries that collect data regarding a variety of felonious crimes.¹⁰⁶ One of the more prevalent registry systems implemented by states is elder abuse registries.¹⁰⁷ Although many states have implemented some form of an elder abuse registry, each state's registry law seems to vary in its

on equal protection grounds); *Roth v. Reagen*, 422 N.W.2d 464, 468, 469 (Iowa 1988) (upholding a child abuse registry law challenged under the due process clause). However, a few child abuse registry laws have not been upheld. See, e.g., *Jamison v. State, Dep't of Soc. Servs., Div. of Family Servs.*, 218 S.W.3d 399, 417 (Mo. 2007) (en banc) (holding that the listing of nurses' names on the Child Abuse and Neglect Review Board prior to a hearing violated their due process rights because there was no adequate notice of the claims or an adequate opportunity to be heard in response).

¹⁰⁵ See, e.g., *Welcome to the Child Abuse Registry Statistics Application (CARSA) for Children and Family Services*, CHILD ABUSE REGISTRY STATS., http://ssaapps.ocgov.com/Abuse_Reporting/Child_Abuse/CFSSStats/CFSSStats.htm (last visited Sept. 28, 2012) (follow hyperlink "https://ssax.ocgov.com/SSA_CARSA/") (providing child abuse statistics for Orange County, California, which does not include the identifying information about the abusers or any specifics regarding the crimes they committed). Although registries are now more uniform in the kind of information recorded and what the registry goals are, there are still great variations with some of the registries among states, including who has access to view the registries, the level of specificity for the information contained on the registries, and procedures an individual must go through to get his or her name expunged from the registry. See, e.g., ARK. CODE ANN. § 12-12-505 (2003) (granting the central registry within the Department of Human Services the power to adopt rules and regulations); DEL. CODE ANN. tit. 16, §§ 901, 903, 921-922 (2003 & Supp. 2012) (establishing registries for reported child abuse or neglect cases); HAW. REV. STAT. § 350-2(c) (1993) (establishing the authority to create a central child abuse registry).

¹⁰⁶ WAYNE A. LOGAN, KNOWLEDGE AS POWER: CRIMINAL REGISTRATION AND COMMUNITY NOTIFICATION LAWS IN AMERICA 73 (2009).

¹⁰⁷ See *Factsheets: Elder Abuse and the Law*, N.Y.C. ALLIANCE AGAINST SEXUAL ASSAULT, http://www.svfreenyc.org/survivors_factsheet_74.html (last visited Sept. 4, 2013) (recognizing that most states mandate that certain professionals report the suspected abuse or neglect of elders); see also *Types of Abuse*, NAT'L CENTER ON ELDER ABUSE, http://www.ncea.aoa.gov/FAQ/type_Abuse/ (last visited Aug. 17, 2013) (discussing various forms of elder abuse and their associated warning signs). Elder abuse is defined as, "any knowing, intentional, or negligent act by a caregiver or any other person that causes harm or a serious risk of harm to a vulnerable adult." *Be Alert for Signs of Elder Abuse*, ADMIN. ON AGING, www.aca.gov/AoA_programs/Elder_Rights/EA_Prevention/whatIsEA.aspx (last visited Dec. 20, 2013). The registries recognize a variety of abusive forms, including: physical, sexual, emotional or psychological abuse, as well as, neglect, abandonment, financial exploitation, material exploitation, or self-neglect. *Types of Abuse, supra*.

operational requirements.¹⁰⁸ There have not been substantial efforts to create a national elder abuse registry; however, in 1987, Congress passed the Nursing Home Reform Act that introduced a new system for federal regulation of nursing homes and required states to implement nursing aid registries.¹⁰⁹ Because of this Act, nursing homes must now check their state's registry to confirm that a potential nursing aid is in good standing before offering an employment opportunity.¹¹⁰

Of the other registries used in select states, most were implemented so law enforcement could track offenders and were not developed for community notification purposes.¹¹¹ For example, Florida and Mississippi have systems that require all felons to register.¹¹² Similarly, Alabama has laws requiring multiple felony offenders to register.¹¹³

¹⁰⁸ See, e.g., MINN. STAT. ANN. § 626.557 (West 2009) (mandating coordination between police and local welfare agencies during investigation and with reciprocal notification upon receipt of a report of abuse); TENN. CODE ANN. § 63-1-149 (2010) (requiring health care professionals to perform a "registry check" before offering employment to any person who would care for patients).

¹⁰⁹ Stacy A. Nowicki, Comment, *On the Lamb: Toward a National Animal Abuser Registry*, 17 ANIMAL L. 197, 206 (2010); see Hollis Turnham, *OBRA '87 Summary*, NAT'L CONSUMER VOICE FOR QUALITY LONG-TERM CARE, <http://www.ltombudsman.org/sites/default/files/norc/Summary-History-Federal-%20Nursing-Home-%20Reform-Act.doc> (last visited Dec. 20, 2012) (explaining the effect of the Federal Nursing Home Reform Act).

¹¹⁰ Nowicki, *supra* note 109, at 207. These nurse aid registries include information about the aid's full name, identifying information, certification date, and any finding that the individual has been found guilty of abuse, neglect, or misappropriation of property. *Id.* See generally VIRGINIA DIZE ET AL., NURSING HOME ABUSE RISK PREVENTION PROFILE AND CHECKLIST (2005), available at <http://mnvac.pbworks.com/f/NursingHomeRisk.pdf> (providing information about nursing home abuse prevention and also establishing a checklist for assessing future home abuse risks).

¹¹¹ See LOGAN, *supra* note 106, at 74 (recognizing the different requirements for disclosure of data between sex offender registries and other registration systems, such as child abuse registries). See generally Licia A. Esposito, Annotation, *State Statutes or Ordinances Requiring Persons Previously Convicted of Crime to Register with Authorities*, 36 A.L.R.5TH 161 (1996) (discussing the case law that challenged the registry requirements many states impose on convicted offenders of various crimes).

¹¹² See FLA. STAT. ANN. § 775.13(2) (West 2010) (requiring any person who has been convicted of a felony in the state of Florida to register with the sheriff of the county in which they reside); MISS. CODE ANN. § 97-35-27(1) (2006) (requiring any person residing in Mississippi who was convicted in any state of a crime that would be considered a felony in Mississippi to register with the law enforcement in the jurisdiction in which he or she resides); see also LOGAN, *supra* note 106, at 73 (noting that Florida's law, which has been in place since 1957, added an amendment in 2002 requiring lifetime registration for "any person designated a 'habitual violent offender,' a 'violent career criminal,' a 'three-time violent felony offender,' or a 'prison releasee reoffender.'").

¹¹³ See ALA. CODE § 13A-11-181 (LexisNexis 2005) (imposing a duty to register with law enforcement officials in Alabama on any person living in Alabama who has been convicted more than twice of a felony in any state in the United States); see also LOGAN, *supra* note 106, at 73 ("Nevada requires registration of persons convicted of two or more felonies in any state and persons convicted of a crime warranting 'category A' felony status in Nevada;

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Other states, such as Connecticut, Indiana, Kansas, Montana, and Oklahoma, have enacted laws that require violent offenders to register.¹¹⁴ California has implemented registries for both arsonists and gang-related offenders.¹¹⁵ Many states have also implemented drug-related offense registries.¹¹⁶ Various other states have proposed registries to address domestic violence, hate crimes, and dangerous dog owners, but to date no states have enacted these types of registries.¹¹⁷

E. Proposed and Enacted Legislation for Animal Abuser Registries

In 2001, ALDF drafted an “Offender Registration and Community Notification” model law for animal abuse based on statutory equivalents that all states have adopted for sex offenders.¹¹⁸ This model law was the

and Alabama requires registration of persons convicted of three or more felonies.” (footnote omitted)).

¹¹⁴ See, e.g., CONN. GEN. STAT. ANN. § 54-252 (West 2009) (requiring those found guilty of a sexually violent offense to register); IND. CODE ANN. § 11-8-8-7 (West Supp. 2013) (mandating a violent offender or sex offender to register in Indiana); KAN. STAT. ANN. § 22-4902 (2007) (including violent offenders in its definition of offenders who are required to register in Kansas); MONT. CODE ANN. § 46-23-02 (2013) (defining violent offender as “a person who has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual or violent offense”); OKLA. STAT. ANN. tit. 57, § 593 (West 2004 & Supp. 2013) (requiring registration from offenders who are guilty of committing first or second degree murder or first degree manslaughter, shooting with intent to kill, assault and battery committed with a deadly weapon, use of a vehicle to facilitate use of a firearm, crossbow, or other weapon, assault with intent to kill, or bombing and explosives violations).

¹¹⁵ See CAL. PENAL CODE § 457.1 (West 2010) (imposing a requirement on all offenders convicted of arson to register with California authorities while residing in the state); CAL. PENAL CODE § 186.30 (West 1999 & Supp. 2013) (requiring all offenders convicted of gang-related crimes to register with the police chief or sheriff in the jurisdiction where the offender lives). Illinois has also enacted registry laws for persons convicted of arson-related offenses. See 730 ILL. COMP. STAT. 148/10 (West 2007) (requiring offenders convicted of arson to register with Illinois state officials).

¹¹⁶ LOGAN, *supra* note 106, at 73. Tennessee enacted the nation’s first methamphetamine registry in 2005. *Id.*

¹¹⁷ *Id.* at 74; see Joyce Y. Young, Note, *Three Strikes and You’re in: Why the States Need Domestic Violence Databases*, 90 TEX. L. REV. 771, 781 (2012) (explaining the movement for implementation of domestic violence databases). New York and Texas are among jurisdictions that have proposed laws that would require those convicted of domestic violence to register with the state. *Id.* To prevent overbreadth, most of the laws proposed are set to only impose registry requirements on individuals who have offended three or more times. *Id.* To date, however, no states have enacted such registry. *Id.*

¹¹⁸ See *Model Animal Protection Laws*, ANIMAL LEGAL DEF. FUND 21–22 (2010), http://aldf.org/downloads/ALDF_Model_Laws_v15_0.pdf (outlining a model offender registration and community notification law for animal abuse crimes).

first of its kind in the nation.¹¹⁹ It contained a detailed outline of relevant provisions for an animal abuser registry, including what information would be included on the registry, how long an offender would be required to register, what would qualify as animal cruelty, and possible defenses that would exempt an individual from having to register.¹²⁰ One year after ALDF's model law was constructed, Colorado legislators used its text as guidance to construct the first animal abuser registry proposal.¹²¹ This bill was never enacted; however, this marked the first of many states to propose such laws.¹²²

From 2003 to 2005, as well as in 2007, 2010, and 2011, Rhode Island proposed a similar bill.¹²³ In 2008, New Jersey and Tennessee each tried to pass their own versions of an animal registry with Tennessee's bill passing the Senate but dying in the House.¹²⁴ In 2009, New York and Tennessee each proposed another set of bills that died in the House.¹²⁵ Finally, in 2010, after six jurisdictions proposed different versions of an animal abuser registry law, one county was successful: Suffolk County, New York.¹²⁶

¹¹⁹ *Legislative Updates & Background*, ANIMAL LEGAL DEF. FUND (Feb. 12, 2010), <http://aldf.org/press-room/legislative-updates-background/>. The model law is now in the fifteenth edition. *Model Animal Protection Laws*, *supra* note 118, at 1.

¹²⁰ See *Model Animal Protection Laws*, *supra* note 118, at 6-12, 21 (providing suggested text for general prohibitions and defenses, as well as principles for offender registration and community notification).

¹²¹ See *Legislative Updates & Background*, *supra* note 119 (listing Colorado as the first state to propose an animal abuser registry law in 2002). This website provides a comprehensive list of proposed and enacted legislation for animal abuser registry laws in the United States to date. *Id.*

¹²² See *id.* (listing multiple other states that subsequently proposed animal abuser registry laws).

¹²³ See *id.* (identifying each of the laws proposed by Rhode Island in the years 2003 to 2005, 2007, 2010, and 2011).

¹²⁴ *Id.* For the text of the 2008 Tennessee bills, see H.B. 2803, 105th Gen. Assemb., Reg. Sess. (Tenn. 2008); S.B. 2676, 105th Gen. Assemb., Reg. Sess. (Tenn. 2008). For a later version of the New Jersey bill, see Assemb. 1817, 214th Leg., Reg. Sess. (N.J. 2010).

¹²⁵ See *Legislative Updates & Background*, *supra* note 119 (listing the bills that New York and Tennessee each proposed in 2009, which include: S. 4328, 2009 Assemb., Reg. Sess. (N.Y. 2009), H.B. 385, 106th Gen. Assemb., Reg. Sess. (Tenn. 2009), and S.B. 182, 106th Gen. Assemb., Reg. Sess. (Tenn. 2009)); see also *Bill Summary: HB 0385*, TENN. GEN. ASSEMBLY, <http://wapp.capitol.tn.gov/apps/billinfo/BillSummaryArchive.aspx?BillNumber=HB0385&ga=106> (last visited Sept. 7, 2013) (providing a summary of the 2009 bill); *Bill Summary: SB 0182*, TENN. GENERAL ASSEMBLY, <http://wapp.capitol.tn.gov/apps/billinfo/BillSummaryArchive.aspx?BillNumber=SB0182&ga=106> (last visited Sept. 7, 2013) (providing a summary of the 2009 Tennessee bill).

¹²⁶ See *Legislative Updates & Background*, *supra* note 119 (providing that, in 2010, California, Louisiana, Pennsylvania, Rhode Island, New Jersey, and New York all proposed animal abuse registry laws); see also *Animal Abuser Registry Proposed in California*, ANIMAL LEGAL DEF. FUND (Mar. 2, 2010), <http://aldf.org/press-room/animal-abuser-registry-proposed->

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Suffolk County thereby became the first jurisdiction in the United States to enact an animal abuser registry.¹²⁷ This enactment seemed to spark interest from other jurisdictions, which led to eighteen different state jurisdictions proposing thirty-four bills the following year.¹²⁸ Two counties in New York—Albany County and Rockland County—enacted what became the second and third animal abuser registries in the nation.¹²⁹ Then, in 2012, Westchester County, New York became the fourth jurisdiction to adopt an animal abuser registry law, followed closely by New York City, which voted unanimously in 2013 to also create a registry for animal abusers.¹³⁰ The five jurisdictions that have

in-california/ (describing the financial obstacles that the California bill faced, which proved to be the main reason the law was not enacted); Judson Berger, *California Considers Tracking Animal Abusers Like Sex Offenders*, FOX NEWS (Mar. 5, 2010), <http://www.foxnews.com/politics/2010/03/05/california-considers-tracking-animal-abusers-like-sex-offenders/> (suggesting a pet food tax to offset registry costs); *Dean Florez Wants Animal Abusers to Register Publicly*, BAKERSFIELD CALIFORNIAN (Feb. 22, 2010, 6:29 PM), <http://www.bakersfieldcalifornian.com/politics/local/x431719747/Dean-Florez-wants-animal-abusers-to-register-publicly> (describing the estimated cost breakdown for pet owners if a tax was imposed on pet food). For the complete text of the Suffolk County, New York law that was the first-ever enacted animal abuser registry law, see SUFFOLK CNTY., N.Y., CODE § 299-25 to -33 (2010), <http://ecode360.com/14944149>.

¹²⁷ See Frank Eltman, *Animal Abuse Registry: Suffolk County, NY Creating Nation's First Public Database Tracking Animal Cruelty Offenders*, HUFFINGTON POST (Oct. 14, 2010, 6:12 PM), http://www.huffingtonpost.com/2010/10/14/animal-abuse-registry-suf_n_762905.html (explaining that Suffolk County enacted the first animal abuser registry in the United States and discussing the significance of this legislation).

¹²⁸ *Legislative Updates & Background*, *supra* note 119. The jurisdictions that each proposed one bill included Alabama, Florida, Maine, Nevada, New Hampshire, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Vermont, and Virginia. *Id.* States proposing multiple state bills included: Connecticut (5), Hawaii (4), Massachusetts (2), New York (7), Tennessee (2), and Washington (2). *Id.*

¹²⁹ *Id.* On May 17, 2011, Rockland County, New York became the second jurisdiction in the nation to enact an abuser registry. *Id.*; ROCKLAND CNTY., N.Y., Code § 230-4 to -12 (2011), <http://ecode360.com/15306523#15306523>. This law also prohibits pet dealers from selling animals to those on the abuser registry. *Id.* § 230-8(H). On October 11, 2011, Albany County, New York became the third jurisdiction in the nation to enact an abuser registry. *Legislative Updates & Background*, *supra* note 119. This law also requires anyone selling, offering for adoption, or otherwise transferring animals to check the registry to ensure that the potential owner is not listed as an abuser. Albany Cnty., N.Y., Local Law No. K (Oct. 11, 2011); see Carol Demare, *County Law Targets Animal Abusers*, TIMES UNION (Oct. 12, 2011, 12:00 AM), <http://www.timesunion.com/local/article/County-law-targets-animal-abusers-2214124.php> (explaining the relevant provisions of the Albany County, New York law).

¹³⁰ See *Legislative Updates & Background*, *supra* note 119 (listing Westchester County, New York as the fourth jurisdiction to enact an animal abuser registry law); *Westchester to Establish Registry of Animal Abuse Offenders*, TALK SOUND NEWS'S BLOG (Nov. 19, 2012, 5:56 PM), <http://www.newrochelletalk.com/content/westchester-legislators-establish-county-registry-animal-abuse-offenders> (describing the Westchester, New York animal abuser registry law); see also Steven Wells, *Legally Brief: Christmas Comes Early for Animals – As*

been successful in enacting animal abuser registry laws each have slightly different requirements, such as what the offender's minimum age must be to register, the length of time that an offender must remain on the registry, and the consequences for failing to register.¹³¹ The following sections discuss the requirements of each of these animal abuser registry laws.¹³²

1. Suffolk County, New York Registry Law

The first ever enacted animal abuser registry in the United States was passed in 2010 in Suffolk County, New York.¹³³ This jurisdiction's legislature seemed to overwhelmingly welcome this legislation and voted to approve the bill 18-0.¹³⁴ As noted in the legislative intent

Abuser Registry Takes Hold in NYC, ANIMAL LEGAL DEF. FUND (Dec. 20, 2013), <http://aldf.org/blog/christmas-comes-early-for-animals-as-abuser-registry-takes-hold-in-nyc/> (recognizing that the New York City Council unanimously approved a registry for animal abusers). For the full text of the Westchester County animal abuser registry law, see WESTCHESTER CNTY., N.Y., CODE § 680.01-.11 (2012), <http://ecode360.com/print/WE0640?guid=26995984&children=true>.

¹³¹ Compare SUFFOLK CNTY., N.Y., CODE § 299-28, -31 (requiring offenders to register if at least eighteen years of age, remain on the registry for a period of five years, and pay a fine of up to \$1000 and/or serve jail time of up to one year for failing to register), with ROCKLAND CNTY., N.Y., CODE § 230-8, -11 (mandating that offenders register if at least eighteen years of age, remain on the registry for a period of four years, and be charged with an "A" misdemeanor for failing to register), WESTCHESTER CNTY., N.Y., CODE § 680.05, .08 (requiring offenders to register if at least eighteen years of age, requiring an offender to remain on the registry for a period of ten years, and punishing those who fail to register by imposing a fine of \$250-\$1000, imprisonment for up to fifteen days, or both), and Albany Cnty., N.Y. Local Law No. K (Oct. 11, 2011) (commanding offenders to register if at least sixteen years of age, remain on the registry for a period of ten years, and be charged with a fine of up to \$1000 per day that an offender fails to register and/or jail time of up to one year).

¹³² See *infra* Parts II.E.1-5 (examining animal abuse registry laws from Suffolk County, Rockland County, Albany County, Westchester County, and New York City).

¹³³ Eltman, *supra* note 127. For the full text of the Suffolk County, New York bill, see SUFFOLK CNTY., N.Y., CODE § 299-25 to -33.

¹³⁴ Suffolk Cnty., N.Y., Intro. Res. 917 (Oct. 12, 2010), available at <http://legis.suffolkcountyny.gov/resos2010/i1879-10.pdf> (recognizing that the bill passed unanimously). The law's author, Majority Leader Jon Cooper, was very enthusiastic about the outcome, stating, "I'm extremely proud that Suffolk County has established the nation's first animal abuser registry and I applaud the ALDF for all their pioneering hard work on this important issue over the years." *Historic Vote in Suffolk County, New York Creates Nation's First Registry for Animal Abusers*, ANIMAL LEGAL DEF. FUND (Oct. 12, 2010), <http://aldf.org/press-room/press-releases/historic-vote-in-suffolk-county-new-york-creates-nations-first-registry-for-animal-abusers-2/>. He went on to state:

"I hope that states across America will use our success as the impetus to enact similar laws. A society is judged by the way it treats those who are most vulnerable, and the creation of this registry sends a

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section of the law, the advancement of many interests were considered in passing the bill.¹³⁵ This section primarily cites to the fact that animal cruelty is a serious problem, and despite the criminalization of the cruel treatment, it continues to occur.¹³⁶ It also indicates that the Suffolk County legislature took into consideration the fact that, at the time, the California and Tennessee state legislatures had legislation pending for the implementation of an animal abuser registry.¹³⁷ The individuals affected by the Suffolk County law are Suffolk County residents who are at least eighteen years of age and convicted of one or more various animal cruelty crimes defined by New York law, including: (1) "overdriving, torturing, and injuring animals;" (2) "failure to provide proper sustenance;" (3) "aggravated cruelty to animals;" (4) "abandonment of animals;" (5) "failure to provide proper food and drink to impounded animals;" (6) "interference with or injury to certain domestic animals;" and (7) "harming a service animal in the first degree."¹³⁸

Included on the Suffolk County registry is an individual's name, aliases, residence information, and photograph.¹³⁹ If an offender moves

strong message that all of God's creatures deserve protection from torture and abuse."

Id.

¹³⁵ See SUFFOLK CNTY., N.Y., CODE § 299-25 (recognizing various reasons for passing the animal abuse registry).

¹³⁶ *Id.*

This Legislature hereby finds and determines that animal cruelty is a serious problem, resulting in the abuse of thousands of animals each year in the United States. . . . [W]hile New York State has criminalized the cruel treatment of animals, animal abuse continues to occur in Suffolk County and throughout the State. This Legislature finds that statistically, individuals who abuse animals are more likely to commit violent acts against humans. . . . [A] strong correlation has been established linking individuals who abuse animals with incidents of domestic violence.

Id. It seems that ensuring public safety is the number one interest in mind. *Id.*

¹³⁷ *Id.* "This Legislature also finds that legislation is currently pending before the State Legislatures of California and Tennessee to establish statewide registries of individuals convicted of animal abuse offenses. This Legislature further finds that it is in the best interests of Suffolk County residents to establish a similar system." *Id.* For the text of the Tennessee and California bills that helped influence the Suffolk County, New York bill, see S. 1277, 2009-2010 Leg., Reg. Sess. (Cal. 2010); H.B. 385, 106th Gen. Assemb. (Tenn. 2009); S.B. 182, 106th Gen. Assemb. (Tenn. 2009).

¹³⁸ SUFFOLK CNTY., N.Y., CODE § 299-26. This covers people who are convicted of the crime through legal proceedings including pleas of guilt and nolo contendere. *Id.*

¹³⁹ *Id.* § 299-28(B). The photograph of the offender is to display "his or her head and shoulders from the front." *Id.* § 299-28(B)(4).

residences, he or she must send notification to local law enforcement.¹⁴⁰ The law requires that offenders remain on the registry “for five years following [their] release from incarceration or the date the judgment was rendered, whichever is later.”¹⁴¹ As for funding, the law requires each offender to pay fifty dollars per year to cover the maintenance and administration of the registry.¹⁴² The Suffolk County law applies only to those convicted of crimes after its effective date, and thus, it is not retroactive.¹⁴³ The registry website also provides visitors with important material regarding legal information and how to identify and fight animal cruelty.¹⁴⁴

2. Rockland County, New York Registry Law

The second jurisdiction to enact an animal abuser registry was Rockland County, New York in 2011.¹⁴⁵ This registry again was approved by a unanimous vote.¹⁴⁶ Its legislative intent includes similar reasoning behind that of Suffolk County’s registry and cites to some of the proposed registries that were considered by a number of states.¹⁴⁷

¹⁴⁰ *Id.* § 299-28(C). Alternatively, if an offender does not move residences, he or she must update his or her information annually. *Id.*

¹⁴¹ *Id.* § 299-28(D). If offender has been convicted of multiple animal cruelty crimes that apply to this law, the timing will be based off of the most recent offense. *Id.* Failure to register or otherwise comply with this registry will result in a Class A misdemeanor, punishable by incarceration for a maximum of one year and/or a fine of no more than \$1000. *Id.* § 299-31.

¹⁴² *Id.* § 299-29.

¹⁴³ *Id.* § 299-32. “This article shall apply to all persons convicted of animal abuse crimes on or after the effective date of this article.” *Id.*

¹⁴⁴ See SUFFOLK COUNTY S.P.C.A., <https://suffolkspca.org/Abuser%20Names.html> (last visited Sept. 25, 2012) (displaying the Suffolk County, New York registry website). There are links located along the left-hand side of the page that give valuable information of all types to the visitors. *Id.* Some of the general information includes materials about the organization responsible for maintaining the website—the Suffolk County SPCA (Society for the Prevention of Cruelty to Animals)—such as its mission statement and contact information. *Id.* Additionally, the website contains information about local law enforcement, as well as material about how to detect and handle cruelty and neglect, dog fighting, and cockfighting. *Id.* There are also links for legal information, information about disaster planning, travel, emergency services, safety tips, and adoption services. *Id.*

¹⁴⁵ *Legislative Updates & Background*, *supra* note 119. For the full text of the Rockland County, New York animal abuser registry law, see ROCKLAND CNTY., N.Y., CODE § 230-4 to -12 (2011), <http://ecode360.com/15306523#15306523>.

¹⁴⁶ Stephan Otto, *Rockland County, New York Unanimously Approves Animal Abuser Registry!*, ANIMAL LEGAL DEF. FUND (May 18, 2011), <http://aldf.org/blog/rockland-county-new-york-unanimously-approves-animal-abuser-registry/> (arguing that animal abuser registries have the potential to save taxpayer dollars in the long run).

¹⁴⁷ ROCKLAND CNTY., N.Y., CODE § 230-5.

While a number of states in recent years have considered legislation to establish statewide registries of individuals convicted

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Rockland County's registry requirements are very similar to those adopted by Suffolk County, with the registry publishing the names of convicted abusers, subjecting them to a fifty dollar yearly fee, and promoting similar legislative goals.¹⁴⁸ One notable difference is that the offenders in Rockland County are only listed on the registry for a four-year time span, as opposed to the five years required by Suffolk County.¹⁴⁹ Also, the Rockland County registry law makes it a punishable offense for a pet dealer to sell or offer to sell an animal to any individual listed on the abuser registry.¹⁵⁰ However, like Suffolk County's law, Rockland County's registry only applies to individuals found guilty of animal abuse after the law's effective date and therefore is not retroactive.¹⁵¹

3. Albany County, New York Registry Law

Albany County, New York passed the nation's third animal abuser registry.¹⁵² This law, like that of Rockland County, protects the welfare of animals by keeping animals away from abusers and requiring pet

of animal abuse offenses, Suffolk County in New York is the nation's first municipality to adopt a local law creating such a registry. This Legislature finds that it is in the best interests of Rockland County residents to establish a similar system.

Id. § 230-5(B).

¹⁴⁸ *Id.* § 230-5 (recognizing the legislative intent behind passing the registry law); *id.* § 230-8 (outlining the requirements of the registry, which includes that any person convicted of animal abuse register with the county registry within five days of release from incarceration); *id.* § 230-9 (imposing a fifty dollar fee on those persons required to register).

¹⁴⁹ *Id.* § 230-8(F); see Otto, *supra* note 146 ("The online registry is to be maintained by the Rockland County Sheriff's Department, with administrative costs being offset by a \$50 fee paid by the convicted animal abusers who are required to be listed on the registry for four years.").

¹⁵⁰ ROCKLAND CNTY., N.Y., CODE § 230-8(G)-(H).

Before selling or offering to sell an animal to a consumer, every pet dealer, duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter, or any authorized agents thereof must check the Animal Abuse Registry to see if the prospective consumer is a registered animal abuser.

... [None] shall knowingly sell or offer to sell an animal to a consumer who is a registered animal abuser.

Id. This law considers knowingly selling or offering to sell an animal to an abuser on the registry to be a Class A misdemeanor. *Id.* § 230-11(B). It also considers failing to check the registry and selling or offering to sell an animal to such an individual to be a Class A Misdemeanor as well. *Id.* § 230-11(C)-(D).

¹⁵¹ *Id.* § 230-12.

¹⁵² *Legislative Updates & Background*, *supra* note 119. For the full text of the Albany County, New York animal abuser registry law, see Albany Cnty., N.Y., Local Law No. K (Oct. 11, 2011).

dealers to check the registry before selling any animals or offering any animals for adoption.¹⁵³ Albany County's law is more specific in defining "animal shelter" and "pet seller" by specifying who exactly is subjected to these terms.¹⁵⁴ The language of the registry law makes it applicable to not only shelters and breeders but also private individuals, subjecting all of these groups to a possible fine of up to \$5000 if violated.¹⁵⁵

Albany County's law is also stricter than the previous two counties, imposing the registration requirement on individuals who are sixteen years of age or older, as opposed to eighteen, and requiring that these individuals remain on the registry for ten years rather than four or five.¹⁵⁶ It also demands that any offender who is convicted of a

¹⁵³ Albany Cnty., N.Y., Local Law No. K § 2 (Oct. 11, 2011). Under Section 2, entitled "Legislative Findings," the law provides:

The Legislature further finds and determines that it is in the best interests of the residents of Albany County and their animals that an online registry be established identifying individuals residing in Albany County convicted of animal abuse crimes that will prevent these individuals convicted of animal cruelty from adopting, purchasing, or otherwise obtaining animals from any animal shelter, pet seller, or other person or entity involved in the exchange of animals by adoption, sale, or other means.

Id.

¹⁵⁴ *Id.* § 3. Under Albany County's animal abuser registry law, an "Animal Shelter" is defined as:

Any public or privately owned organization including, but not limited to, any duly incorporated humane society, pound, animal protective association or animal rescue group which maintains buildings, structures, or other property for the purpose of harboring animals which may be stray, unwanted, lost, abandoned, or abused and seeks to find appropriate temporary or permanent homes for such animals.

Id. A "Pet Seller" is defined as "[a]ny individual, person, partnership, firm, corporation or other entity which offers animals for sale or is engaged in the sale, exchange, or other transfer of ownership of animals." *Id.* The registry law also specifies that violation by these entities will subject them to a fine no greater than \$5000. *Id.* § 7(B).

¹⁵⁵ *Id.* §§ 3, 7(B); see Demare, *supra* note 129 (discussing the different aspects of the Albany County law). One report identified that:

Under the law, animal shelters, pet stores, breeders or individuals in Albany County wishing to sell a pet, have one adopted or transfer a pet must check first with the registry. Those violating that section of the law could be subject to a fine not to exceed \$5,000, unless the abuser failed to register and therefore the seller won't be held responsible.

Id.

¹⁵⁶ Albany Cnty., N.Y., Local Law No. K § 5(A), (D) (Oct. 11, 2011). "Offenders remain on the registry for ten years following a first offense and for life following any subsequent offenses." Ian Carr, *Albany County, NY Passes Nation's Third Animal Abuser Registry Law*,

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subsequent animal abuse crime be placed on the registry for life following a second conviction.¹⁵⁷ Despite the much harsher terms and much more invasive effects on the offenders, Albany County's registry requirement was passed unanimously by legislators.¹⁵⁸ Interestingly, many bills that states have proposed containing less stringent requirements have died in legislation; however, these bills that failed to pass cite to other concerns for the failed enactment, primarily funding matters.¹⁵⁹

4. Westchester County, New York Registry Law

In 2012, Westchester County, New York became the fourth jurisdiction to enact an animal abuser registry law after a unanimous vote of approval by the Westchester County Board of Legislators.¹⁶⁰ The Westchester County legislature considered the passage of local laws by Suffolk County, Albany County, and Rockland County in its decision to pass a registry law.¹⁶¹ As such, the Westchester County law has many

ANIMAL LEGAL DEF. FUND (Oct. 12, 2011), <http://aldf.org/blog/albany-county-ny-passes-nations-third-animal-abuser-registry-law/>.

¹⁵⁷ Albany Cnty., N.Y., Local Law No. K § 5(D) (Oct. 11, 2011).

¹⁵⁸ See Carr, *supra* note 156 (detailing the enactment of the Albany County, New York law, which passed the Albany County legislature by a unanimous vote); see also *Legislative Updates & Background*, *supra* note 119 (listing states whose laws were not passed).

¹⁵⁹ See, e.g., H.B. 1930, 2011 Gen. Assemb., Reg. Sess. (Va. 2011) (as introduced) (applying requirements analogous to the Virginia sex offender registry). This law failed to pass legislation after estimating steep costs for its initial setup. See D.W. MARSHALL, DEP'T PLANNING & BUDGET, 2011 FISCAL IMPACT STATEMENT: HB 1930 (Va. 2011) (providing the Virginia State Police's cost estimate for creating a new registry); D.W. MARSHALL, LD11100966, FISCAL IMPACT STATEMENT FOR PROPOSED LEGISLATION: H.B. 1930 (2010) (providing estimated costs of approximately \$1,000,000 for initial setup of an animal abuser registry). The Virginia bill would have required the Sheriff to notify every residence and business within a one-half mile radius of the abuser's residence or location within ten days of initial registration. H.B. 1930. It would have further required the information to be maintained in a central registry by the State Police and posted on their website. *Id.*

¹⁶⁰ See *Legislative Updates & Background*, *supra* note 119 (listing Westchester County, New York as the fourth jurisdiction to enact an animal abuser registry law); *Westchester to Establish Registry of Animal Abuse Offenders*, *supra* note 130 (describing the Westchester, New York animal abuser registry law). For the full text of the Westchester County animal abuser registry law, see WESTCHESTER CNTY., N.Y., CODE § 680.01-.11 (2012), <http://ecode360.com/print/WE0640?guid=26995984&children=true>.

¹⁶¹ WESTCHESTER CNTY., N.Y., CODE § 680.02.

While a number of states in recent years have considered legislation to establish statewide registries of individuals convicted of animal abuse offenses, Suffolk County, Albany County and Rockland County have all adopted a local law creating such a registry. The County Board finds that it is in the best interests of Westchester County residents to establish a similar system. Therefore, the purpose

similarities to the laws of Suffolk County, Rockland County, and Albany County, including the fact that the law is not retroactive.¹⁶² One difference is that the Westchester County law provides an exception for “youthful offenders or . . . persons whose convictions or adjudications include sealed records.”¹⁶³ However, Westchester County’s law also has stricter requirements, similar to the Albany County law, which states that offenders must remain on the registry for a period of ten years and imposes lifetime registration on offenders who are convicted of a second animal abuse crime.¹⁶⁴

of this law is to establish an online registry for individuals residing in Westchester County who are convicted of animal abuse crimes.

Id. Another large factor that impacted Westchester County’s decision was the County’s ranking of “ninth out of the 62 counties in the state for cases filed for animal abuse, according to the Animal Law Committee of the Westchester County Bar Association.” *Westchester Animal Abuse Offenders’ Registry Established*, DAILY FREEMAN (Nov. 19, 2012, 11:26 PM), <http://www.dailyfreeman.com/articles/2012/11/19/news/doc50aa1f506e8aa449229539.txt>; see WESTCHESTER CNTY., N.Y., CODE § 680.02 (“Animal cruelty is a serious problem, resulting in the abuse of thousands of animals each year in the United States. While New York State has criminalized the cruel treatment of animals, animal abuse continues to occur in Westchester County and throughout the State.”).

¹⁶² Compare WESTCHESTER CNTY., N.Y., CODE § 680.05(1) (stating that this law shall apply to persons “convicted of an animal abuse crime on or after the effective date of this law”), with ROCKLAND CNTY., N.Y., CODE § 230-12 (2011), <http://ecode360.com/15306523#15306523> (“This article shall apply to all persons convicted of animal abuse crimes on or after the effective date of this article.”), SUFFOLK CNTY., N.Y., CODE § 299-32 (2010), <http://ecode360.com/14944149> (“This article shall apply to all persons convicted of animal abuse crimes on or after the effective date of this article.”), and Albany Cnty., N.Y., Local Law No. K § 9 (Oct. 11, 2011) (“This local law shall . . . apply to all transactions occurring on or after the effective date of this local law.”). Also similar to the laws of Suffolk County, Rockland County, and Albany County, the Westchester County law imposes a fifty dollar yearly registration fee. Compare WESTCHESTER CNTY., N.Y., CODE § 680.06 (“Every person required to register with the Registry shall pay to the Department a fee of fifty dollars (\$50.00) . . .”), with ROCKLAND CNTY., N.Y., CODE § 230-9 (“Every person required to register with the Animal Abuser Registry must pay an annual fee of \$50 to the Rockland County Sheriff’s Department.”), SUFFOLK CNTY., N.Y., CODE § 299-29 (“Every person required to register with the Animal Abuse Registry must pay an annual fee of \$50 to the Suffolk County Police Department.”), and Albany Cnty., N.Y., Local Law No. K § 5(E) (Oct. 11, 2011) (“Every person required to register with the Animal Abuse Registry shall pay an annual fee of fifty (\$50.00) dollars to the Albany County Sheriff’s Department.”).

¹⁶³ See WESTCHESTER CNTY., N.Y., CODE § 680.05(1) (listing those who are required to register as “[a]ll persons eighteen (18) years of age or older who reside in Westchester County and who are convicted of an animal abuse crime”). This Westchester County law further states that “each person required to register with the Registry is prohibited from possessing, adopting, owning, purchasing or exercising control over any animal at any time while the person is required to be listed on the Registry.” *Id.* § 680.05(6).

¹⁶⁴ See *id.* § 680.05(5) (“Each person required to register with the Registry shall remain on the Registry for ten (10) years following: a. their release from incarceration; or b. if not incarcerated, from the date of entry of judgment. Persons required to register with the Registry shall remain on the registry for life following a second conviction for an animal

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5. New York City, New York Registry Law

In 2013, New York City became the fifth jurisdiction to enact an animal abuser registry law and the largest jurisdiction in the nation to enact a law of this type to date.¹⁶⁵ The New York City legislature was offered \$10,000 by ALDF to help fund the start-up costs associated with establishing the city-wide registry, thereby also marking New York City's registry as the first enacted animal abuser registry to receive funding from an outside organization.¹⁶⁶

Under New York City's law, individuals convicted of aggravated neglect, abandonment, animal fighting, and aggravated cruelty are required to register upon their date of release from incarceration, or if not incarcerated, within five days of sentencing.¹⁶⁷ This registry law further requires these individuals who are first time offenders to register for a period of five years and those guilty of subsequent offenses to remain on the registry for a period of ten years.¹⁶⁸ The New York City law also requires pet sellers to check the registry before selling, adopting,

abuse crime."); see also Albany Cnty., N.Y. Local Law No. K § 5(D) (Oct. 11, 2011) ("Every person required to register pursuant to this Local Law shall remain on the Animal Abuse Registry for ten (10) years following their release from incarceration or the date the judgment of conviction was rendered, whichever is later. Any currently or previously registered Animal Abuse Offender convicted of a subsequent Animal Abuse Crime shall be placed on the registry for life following the second conviction.").

¹⁶⁵ Wells, *supra* note 130. The New York City Council passed this law by a unanimous vote. *Id.* Council Member Peter F. Vallone Jr. introduced the bill, and cited to an area man's recent act of violence toward a dog for inspiration of the bill. *Id.* Milan Rysa, a local body builder, threw his dog—weighing about fifty pounds—out of his third-floor apartment window to the sidewalk below, nearly striking two women who were walking by. Christian Murray, *City to Introduce Animal Abuse Registry*, LONG ISLAND CITY POST (Dec. 19, 2013), <http://licpost.com/2013/12/19/city-to-introduce-animal-abuse-registry/>.

¹⁶⁶ Wells, *supra* note 130. Although ALDF worked closely with the other four jurisdictions that enacted registry laws, it did not begin to offer funding help until its work with the New York City registry. *Id.* ALDF also offered start-up grants to three states in 2013—Arizona, Michigan, and Texas—to encourage the establishment of state-wide registries. *Id.* ALDF's ultimate goal is to establish a national animal abuser registry which "would provide a valuable public tool to help ensure that no animal is ever adopted out or sold to a convicted animal abuser even when abusers cross state or county lines to do so." *Id.*

¹⁶⁷ *New York City Introduces Animal Abuser Registry*, EXAMINER.COM (Dec. 19, 2013), <http://www.examiner.com/article/new-york-city-introduces-animal-abuser-registry>.

¹⁶⁸ *Id.* Additionally, if any convicted animal abuser fails to report to the registry or is found to be in the possession of an animal during the required period of registration, the individual will face penalties of up to one year in prison and a fine of \$1000. Murray, *supra* note 165. The passage of this law occurred just before Christmas in 2013, which prompted Council Member Peter F. Vallone Jr. to state that this registry was "a Christmas present not only to New York City animals, but animals in all of the areas that will now move forward with similar registries . . . Abusers are now on a short leash and this registry will help prevent them from being able to torture another animal." *Id.*

or transferring a pet in their care to that of another individual.¹⁶⁹ Notably, in an effort to affect more potential transfers of pets, the New York City law imposes the requirement broadly to “rescues, shelters, and pet sellers.”¹⁷⁰

The gradual evolution of animal law over the years and the greater understanding of psychology, specifically the link between animal cruelty and other acts of violence, has caused states and counties to propose animal abuser registry laws.¹⁷¹ Many jurisdictions have attempted to model such laws after existing criminal registries in use today.¹⁷² However, thus far, only a few jurisdictions have actually succeeded in enacting animal abuser registry laws.¹⁷³ Experts now agree that these laws would be of great use to law enforcement officials and other professionals seeking to effectively track these offenders and prevent future crimes.¹⁷⁴ Thus, it seems that achieving results now simply requires encouraging other jurisdiction to pass such laws.

III. ANALYSIS

There are multiple reasons why society would benefit from the implementation of animal abuser registry laws.¹⁷⁵ Unfortunately, there are some unsettled issues that are making legislatures hesitant when it comes to deciding whether to enact these laws.¹⁷⁶ This Part analyzes the

¹⁶⁹ *New York City Introduces Animal Abuser Registry*, *supra* note 167. The New York City law further prohibits sellers from selling or adopting any pet to any person currently listed on the registry. *Id.* “This registry will provide electronic information to law enforcement, pet stores, shelters, veterinarians, and animal protection groups and require them to consult the registry before adopting out or selling an animal to anyone.” Wells, *supra* note 130.

¹⁷⁰ *See New York City Introduces Animal Abuser Registry*, *supra* note 167 (explaining details of the New York City registry’s requirements); *see also supra* notes 153–55 and accompanying text (detailing the various parties that must comply with the Albany County, New York registry check requirements).

¹⁷¹ *See supra* Parts II.A–B (explaining the relevant history of animal law and the “link” between animal abuse and violence toward people).

¹⁷² *See supra* Parts II.D–E (discussing the different types of criminal registries in effect today in the United States and describing the different animal abuser registry laws proposed and enacted to date).

¹⁷³ *See supra* Part II.E (outlining the animal abuser registry laws that five jurisdictions have successfully enacted).

¹⁷⁴ *See supra* Part II.C (explaining the impact that the lack of animal abuser registries has on society).

¹⁷⁵ *See infra* Parts III.A–B (examining the value of animal abuser registries from a societal standpoint and the effect not having a uniform tracking system in place has had on tracking known animal abusers).

¹⁷⁶ *See infra* Parts III.C–D (analyzing the challenges and criticisms that legislatures have raised regarding other registries currently in effect in the United States, and applying these

benefits that animal abuser registries could offer to society as well as the obstacles that stand in the way of the implementation of future registries. First, Part III.A examines the potential value animal abuser registries could have for society.¹⁷⁷ Second, Part III.B considers the consequences of not having a uniform system for tracking animal abusers and how enacting animal abuser registries could remedy these problems.¹⁷⁸ Next, Part III.C analyzes challenges and criticisms—including constitutional challenges, criticisms of community notification aspects, and questions of recidivism rates—of other criminal registries in the United States and applies these criticisms to the proposed and enacted animal abuser registry laws.¹⁷⁹ Finally, Part III.D evaluates unsuccessful animal abuser registry bills that failed primarily because of funding concerns.¹⁸⁰

A. *The Potential Value of Animal Abuser Registries*

Psychologists and sociologists recognize that “animals are part of both the natural environment and the intimate home environments of human beings. In both contexts, the well-being of animals is inextricably connected to the well-being of their human counterparts and companions.”¹⁸¹ Because pets are so highly valued in American families, animal abuse registries are necessary to protect these essential members of the family unit.¹⁸²

challenges to the animal abuser registry laws as well as the animal abuser registry bills that states have proposed but not passed, primarily because of funding concerns).

¹⁷⁷ See *infra* Part III.A (considering the potential value of animal abuser registries).

¹⁷⁸ See *infra* Part III.B (assessing the impact not having a uniform tracking system has had on keeping track of known animal abusers).

¹⁷⁹ See *infra* Part III.C (evaluating the animal abuser registry laws by applying the critiques and criticisms other registry laws have received to the animal abuser registry legislation).

¹⁸⁰ See *infra* Part III.D (analyzing the bills that states proposed but failed to enact).

¹⁸¹ Faver & Strand, *supra* note 69, at 238. One article notes that the importance of the human-animal bond to personal health and well-being is so great that social worker literature has focused on “grief after loss of pets, animal-assisted therapies, the importance of maintaining the relationship between elderly people and their pets, and social work in veterinary clinic settings.” *Id.* (citations omitted); see CRUELTY TO ANIMALS AND OTHER CRIMES: A STUDY BY THE MSPCA AND NORTHEASTERN UNIVERSITY, *supra* note 48, at 10 (noting that a pet owner who experiences the loss of a pet through the violence of another person can only be expected to be devastated). One pet owner who was interviewed after her dog had been kidnapped, tortured, and killed stated that the effect this violence had on her was similar to that of post-traumatic stress disorder, stating, “I couldn’t laugh, couldn’t cry . . . I was totally shut down.” *Id.* (internal quotation marks omitted). Effects such as these on pet owners demonstrate the impact cruelty to animals has on society at large and underscore the importance of preventing future crimes.

¹⁸² See Faver & Strand, *supra* note 69, at 238 (explaining the significant value Americans place on the well-being of their pets).

The public at large, including both pet owners and non-pet owners, has expressed its view in favor of harsher punishments for violating animal laws, which will in turn help to protect animals from cruel treatment and abuse.¹⁸³ In a recent survey, 97% of the public considered “protecting animals from cruelty and abuse’ to be important, with more than two-thirds of respondents saying that it was ‘very important.’”¹⁸⁴ In a similar survey conducted of law enforcement officials, officers recognized the potential threat that animal abusers pose, and as such, these officials have advocated for legislation that pursues more offenses and imposes harsher punishments.¹⁸⁵ This information indicates that the public as a whole would be largely in favor of implementing animal abuser registries.¹⁸⁶

Congress has listened to society’s pleas and has recognized the importance of preventing future crimes through enacting laws that protect animal welfare.¹⁸⁷ For example, in 2000, Congress issued a

¹⁸³ See Lockwood, *supra* note 73, at 103–04 (discussing public opinion on animal abuse).

¹⁸⁴ *Id.* at 103. It appears that the public has a general understanding about the link between cruelty and other crimes as well. *Id.* at 103–04. In the same survey, “eighty-five percent of the public agreed with the statement: ‘It has been demonstrated that people who repeatedly and intentionally harm animals are more likely to show violence towards people.’ Only 4% disagreed, and 11% did not know.” *Id.*; see LOCKWOOD, *supra* note 72, at 12 (noting the intense reactions communities exhibit when learning about an incident of animal abuse: “[h]igh-profile cases involving animal victims often result in substantial offers of rewards and hundreds or even thousands of dollars and many individuals demanding that local officials take action”).

¹⁸⁵ Frasch, *supra* note 37, at 60. This survey of officers was conducted nationwide, varying in areas of population and other demographics. *Id.* at 59. Law enforcement officers listed the following as potential advantages of harsher punishment on animal abusers, particularly felony convictions:

- (1) convicted felons cannot own guns; (2) in some jurisdictions, the conviction cannot be wiped clean from the record absent a full pardon;
- (3) a felony conviction gives judges the ability to impose more meaningful sanctions; (4) the outcome of restraining orders, child custody disputes, and similar civil proceedings likely will be impacted;
- (5) in “three strikes” states, the animal abuse felony conviction sometimes counts as one of the strikes; and (6) a felony conviction can keep a perpetrator from getting into positions of special public trust, such as becoming a legal guardian, schoolteacher, or police officer.

Id. at 60.

¹⁸⁶ See *supra* notes 183–86 and accompanying text (describing society’s interest in preventing animal abuse).

¹⁸⁷ See, e.g., 7 U.S.C. § 1901 (2012) (mandating that the slaughter of livestock must be done in a humane manner); *id.* § 2142 (establishing guidelines that govern the purchase, sale, and handling of animals at auctions to ensure that these animals are handled humanely); *id.* § 2156 (prohibiting animal fighting); *id.* § 2158 (creating standards to protect pets in pounds and shelters); 15 U.S.C. §§ 1821–25 (2006) (creating means to prevent the cruel treatment of horses in various ventures); 16 U.S.C. §§ 1331–40 (2006) (protecting free-roaming horses from capture, branding, harassment, and death); *id.* §§ 1361–1421h (creating standards to

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concurrent resolution encouraging federal agencies to support more research on the connection between animal abuse and interpersonal violence.¹⁸⁸ The courts have commented that this resolution, as well as others in this area, illustrates Congress's care and concern for animal welfare, which comes from animal welfare being "so interwoven into the fabric of society."¹⁸⁹ This indicates that the lawmakers on the national level would see the value of animal abuser registries. Thus, it seems it is now just a matter of convincing state legislatures to recognize the benefit of these registries.

B. *Animal Abuser Registries Could Serve as a Uniform Tracking System*

A significant issue that the implementation of animal abuser registries could address is the current lack of a uniform system for reporting incidences of animal abuse.¹⁹⁰ Animal abuser registries are vital to better understanding the link between animal abusers and other crimes, aiding law enforcement officials in better understanding and targeting problem areas in their jurisdictions, and helping animal shelters and dealers identify persons who are poor candidates for adopting or purchasing a pet.¹⁹¹ If such a system for reporting

help protect and conserve endangered species of animals); 18 U.S.C. § 48 (2006) (prohibiting the distribution of obscene animal cruelty depictions).

¹⁸⁸ H.R. Con. Res. 338, 106th Cong. (2000). Within the resolution, Congress urged social workers and other mental health professionals to evaluate and carefully monitor individuals who abuse animals in order to prevent violence against humans. *Id.*

¹⁸⁹ See *United States v. Stevens*, 533 F.3d 218, 239 (3d Cir. 2008) (commenting on the laws passed by Congress that address animal cruelty offenses). In *Stevens*, the court noted that this interest being "interwoven into the fabric of society" has resulted in "the Internal Revenue Code grant[ing] tax-exempt status to organizations [that] strive[] to prevent cruelty to animals." *Id.* (citing 26 U.S.C. § 501(c)(3) (2006)). The Third Circuit in *Stevens* also acknowledged previous courts' recognition of the importance of animal abuse prevention, citing multiple cases and agreeing with their assertions. *Id.* Of note was an early case arising in 1873, which stated:

[the anti-cruelty statute] truly has its origin in the intent to save a just standard of humane feeling from being debased by pernicious effects of bad example—the human heart from being hardened by public and frequent exhibitions of cruelty to dumb creatures, committed to the care and which were created for the beneficial use of man.

Broadway & E.S. Stage Co. v. Am. Soc'y for the Prevention of Cruelty to Animals, 15 Abb. Pr. (n.s.) 51, 77 (N.Y. Com. Pl. 1873), available at 1873 WL 9871.

¹⁹⁰ See Campbell, *supra* note 83, at 146 (arguing that having the ability to track animal abuse nationally "will allow lawmakers and law enforcement officers to identify the problem areas of their jurisdictions and respond to them better, will assist with determining policy decisions and funding levels needed to fight these crimes, and will make animal cruelty offenses harder to minimize or ignore").

¹⁹¹ See *id.* (pointing out the value to tracking animal abusers).

incidences was created, it “would allow the public and law enforcement to monitor the physical movements of animal abusers.”¹⁹² Additionally, such a system could help maintain a list of individuals who are not allowed to adopt animals, which would “go a long way toward preventing cruelty by keeping shelter and rescue animals from being adopted by abusers.”¹⁹³ Although most animal shelters and dealers have an application process that determines the suitability of an individual to be a pet owner, there is no way for shelters to know if the individual interested in adopting a pet is a past animal abuser.¹⁹⁴ This particular issue was a large motivating factor for the implementation of New York City’s animal abuser registry, as Council Member Vallone explained:

“Right now, there’s nothing stopping an animal abuser from walking out of prison, going to his neighborhood pet shop, and buying a new animal to hurt Our shelters are doing an excellent job of trying to keep animals safe, but they have no way of knowing if they are handing a puppy off to a violent criminal—[our] registry fixes that problem.”¹⁹⁵

Just as the New York City law seeks to remedy the issue of identifying past abusers and closing off their means of acquiring additional animals, other registry laws could potentially do the same, if implemented correctly.¹⁹⁶

Standardized reporting of these crimes would also help police officers target their problem areas and implement systems to solve these

¹⁹² *Id.*

¹⁹³ *Id.*; see *supra* notes 62–67 and accompanying text (discussing hoarders’ extreme recidivism rates and noting the effect this tracking could have on offender recidivism rates).

¹⁹⁴ See, e.g., *The Adoption Process: What to Expect*, HUMANE SOC’Y U.S. (Nov. 9, 2009), http://www.humanesociety.org/issues/adopt/tips/adoption_process_what_expect.html (describing the application information requested by most pet shelters for individuals looking to adopt a pet). According to the Humane Society of the United States, most shelters require adopters to complete an application that asks about the individual’s basic contact information, the individual’s housing situation, the number and ages of children in the individual’s household, the number and type of other pets the individual owns, the name and contact information of the individual’s veterinarian, the individual’s previous experience with pets, the individual’s activity level, lifestyle, and expectations in adopting a new animal, and any other questions they see fit to ask. *Id.*

¹⁹⁵ See Wells, *supra* note 130 (explaining the implementation of the New York City animal abuser registry law).

¹⁹⁶ See *id.* (“This registry will provide electronic information to law enforcement, pet stores, shelters, veterinarians, and animal protection groups and require them to consult the registry before adopting out or selling an animal to anyone.”).

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issues.¹⁹⁷ However, before states can effectively adopt such a system, states first must figure out how to consistently describe crimes, as there is a current lack of consistency in the crime reports.¹⁹⁸ Officers often label the same crime scenarios with different titles, which later creates confusion when trying to compile statistics.¹⁹⁹

The creation of animal abuser registries would also help to cover some of the loophole cases by identifying certain offenders that the sex offender registries cannot list.²⁰⁰ For example, in 2008, a Michigan appellate court held that a man "charge[d] [with] committing an 'abominable and detestable crime against nature' with a sheep," as a fourth-offense habitual offender, should not have to register under the Michigan Sex Offender Registration Act.²⁰¹ There, bestiality offenses did not comport with the language of the Sex Offender Registration Act, and thus, the court could not compel the offender to register.²⁰² If more animal abuser registries were enacted, offenders such as these that slip through the cracks because of a poorly drafted statute could still be made known to the public and placed on a tracking system to monitor the habitual offender.²⁰³

¹⁹⁷ See *supra* Part II.C (asserting why the lack of animal abuser registries has adverse effects on law enforcement efforts).

¹⁹⁸ See Lockwood, *supra* note 73, at 89 (describing the inconsistency of law enforcement reporting of animal abuse crimes). One article recognized that "efforts to improve tracking of animal cruelty will require improved standardization of descriptions of these crimes." *Id.* Accordingly, even if all of these statistics were compiled, they would have very little meaning, as there would be no consistency among the data. *Id.*; see LOCKWOOD, *supra* note 72, at 15-16 (noting that "every state law defines 'animal' and 'animal cruelty' in its own way" and that "most state animal cruelty laws have specific exemptions for certain socially accepted practices, even when these practices might be seen as resulting in pain or death").

¹⁹⁹ See Lockwood, *supra* note 73, at 89 (discussing the lack of uniformity when it comes to labeling animal cruelty crimes and the changes that should be implemented).

²⁰⁰ See, e.g., MICH. COMP. LAWS ANN. § 750.158 (West 2004) (stating that the Michigan sex offender law has been read to only allow for registration of individuals convicted of an "abominable and detestable crime against nature").

²⁰¹ *People v. Haynes*, 760 N.W.2d 283, 284 (Mich. Ct. App. 2008) (quoting MICH. COMP. LAWS ANN. § 750.158). The prosecution advanced many arguments, one of which was a policy argument that bestiality is within the offenses listed under the Sex Offenders Registration Act and that "[i]t is unlikely that many people would not find the defendant's behavior disturbing, to the extent that it could endanger the 'health, safety, morals, and welfare of the people, and particularly the children, of [Michigan].'" *Id.* at 286 (internal quotation marks omitted).

²⁰² *Id.* The court emphasized that the Sex Offender Registration Act only compels registration of an offense if the victim is a human being under the age of eighteen; thus, animals do not qualify as victims under the act. *Id.*

²⁰³ See Campbell, *supra* note 83, at 146 (describing how animal abuser registries could help to address the loophole cases).

C. *Challenges and Criticisms of Other Criminal Registries in the United States as Applied to Proposed and Enacted Animal Abuser Registry Laws*

Because implementation of animal abuser registries is a relatively new concept, there is limited in-depth analysis or criticism available.²⁰⁴ However, probable arguments likely to be advanced in opposition of animal abuser registries can be discerned by looking to challenges faced by other criminal registries currently in use today.²⁰⁵ Examining the outcomes of the challenges and criticisms of the other criminal registries should offer a good indication of how animal abuser registries would fare if enacted.²⁰⁶ First, Part III.C.1 analyzes the constitutional challenges faced by other criminal registries and applies those challenges to the proposed and enacted animal abuser registry laws.²⁰⁷ Following the analysis of constitutional challenges, Part III.C.2 applies concerns about recidivism rates for criminal registries and criticisms of community notification to the proposed and enacted animal abuser registry laws.²⁰⁸

1. Constitutional Challenges

Of the sex offender registry laws that have been adopted by the states, two state provisions, in Alaska and Connecticut, have been challenged on constitutional grounds before the United States Supreme Court.²⁰⁹ One of the first challenges the Supreme Court heard came from *Smith v. Doe I* in 2002, challenging the Alaska Sex Offender Registry Act.²¹⁰ The challengers in this case were convicted sex offenders who

²⁰⁴ See *supra* Part II.E (noting that the concept of enacting animal abuser registry laws has only been advanced since 2001 and that many states did not even consider this idea until the first law was actually enacted in 2010).

²⁰⁵ See *supra* Part II.D (briefly describing the other types of criminal registries in effect throughout the United States).

²⁰⁶ See *supra* notes 97-98 and accompanying text (noting the existence of challenges to sex offender registries).

²⁰⁷ See *infra* Part III.C.1 (describing constitutional challenges that were brought against other criminal registries currently in effect in the United States and applying these challenges to the proposed and enacted animal abuser registry laws).

²⁰⁸ See *infra* Part III.C.2 (describing criticisms of recidivism rates and community notification aspects of other criminal registries currently in effect in the United States and applying these critiques to the animal abuser registry laws).

²⁰⁹ See *Smith v. Doe I*, 538 U.S. 84, 89 (2003) (challenging the Alaska sex offender registry law); see also *Conn. Dep't of Safety v. Doe*, 538 U.S. 1, 3-4 (2003) (challenging the Connecticut sex offender registry law in 2002); Yung, *supra* note 97, at 369-70 ("The Supreme Court opinions seemingly ensured that registries would remain a permanent fixture of America's sex offender policy.").

²¹⁰ *Smith*, 538 U.S. at 89. Under the Alaska Sex Offender Registration Act, any sex offender or child kidnapper incarcerated in Alaska had to register with the Department of Corrections or law enforcement officials. *Id.* at 90. That information was then "forwarded

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were subjected to the act retroactively.²¹¹ The challengers argued that the Alaska Sex Offender Registry Act should be declared void as applied to them under the *Ex Post Facto* Clause of Article I Section 10 of the United States Constitution.²¹² This type of challenge would have no merit as applied to the animal abuser registries; the animal abuser registry laws seek only to be enforced against offenders who are convicted of a crime after the date of the registry's enactment.²¹³

Another challenge to sex offender registries also occurred in 2002, in the case of *Connecticut Department of Safety v. Doe*, which challenged the constitutionality of Connecticut's "Megan's Law."²¹⁴ The challenger in this case, a convicted sex offender, argued that Megan's Law violated his due process rights.²¹⁵ The Supreme Court held in this case—as well as in

to the Alaska Department of Public Safety, which maintain[ed] a central registry of sex offenders." *Id.* Some of the data about the offenders was kept confidential. *Id.* at 90–91. However, much of the information was not, including:

"the sex offender's . . . name, aliases, address, photograph, physical description, description, license and identification numbers of motor vehicles, place of employment, date of birth, crime for which convicted, date of conviction, place and court of conviction, length and conditions of sentence, and a statement as to whether the offender or kidnapper is in compliance with the [Act's] update requirements . . . or cannot be located."

Id. at 91. This act was applied retroactively. *Id.* at 90.

²¹¹ *Id.* at 91. The challengers were convicted of aggravated sex offenses. *Id.* Both were released from prison and finished rehabilitative programs for sex offenders. *Id.* Although convicted before the act's passage, they were both subjected to its requirements. *Id.*

²¹² *Id.* Under the *Ex Post Facto* Clause of the United States Constitution, a statute is deemed an *ex post facto* law when it "imposes a punishment for an act which was not punishable at the time it was committed; or imposes additional punishment to that then prescribed." Logan, *supra* note 97, at 1275 (internal quotation marks omitted). "The Framers of the U.S. Constitution adopted the *Ex Post Facto* Clause to protect future Americans against oppressive, retroactively imposed, legislative enactments." *Id.* (emphasis added).

²¹³ See, e.g., SUFFOLK CNTY., N.Y. CODE § 299-32 (2010), <http://ecode360.com/14944149> (stating that this law would only be enforced against offenders who are convicted on or after the registry law's effective date).

²¹⁴ *Conn. Dep't of Pub. Safety*, 538 U.S. at 3–4. "Megan's Law' applie[d] to all persons convicted of criminal offenses against a minor, violent and nonviolent sexual offenses, and felonies committed for a sexual purpose." *Id.* at 4. Offenders who fit into one of these categories were required to register with the Connecticut Department of Public Safety upon their release into the community. *Id.* The pieces of information that these offenders were required to disclose included: the offender's name, address, photograph, and DNA sample. *Id.* The offenders were also required to notify the Connecticut Department of Public Safety of any change in residence and were also mandated to periodically submit an updated photograph. *Id.*

²¹⁵ *Id.* at 5–6. John Doe, a convicted sex offender, who was subject to the law, brought the suit. *Id.* He argued that the Fourteenth Amendment's Due Process Clause required that persons convicted of sexual offenses under Megan's Law receive a hearing to determine whether they were likely to be "currently dangerous" before the disclosure of their

Smith v. Doe I—that the statutes in question were constitutional, stating that the acts were intended as a civil and non-punitive means of identifying previous offenders for protection of the public.²¹⁶ The primary purpose of requiring animal abusers to register is also to ensure public safety.²¹⁷ Therefore, if the animal abuser registries were challenged on similar grounds, looking to the Court’s reasoning in these cases, they would likely be upheld as well.²¹⁸

information on the registry. *Id.* at 6–7. Because he was not granted such a pre-deprivation hearing, he argued that he was deprived of his liberty interests. *Id.* at 7.

²¹⁶ *Id.*; see *Smith*, 538 U.S. at 105–06 (finding the statute constitutional). The Court in *Connecticut Department of Public Safety v. Doe* unanimously held that due process does not require the opportunity to prove a fact that is not material to the state’s statutory scheme. 538 U.S. at 4. “[E]ven if respondent could prove that he is not likely to be currently dangerous, Connecticut has decided that the registry information of *all* sex offenders—currently dangerous or not—must be publicly disclosed.” *Id.* at 7. Because the law was not based on an offender’s dangerousness, but rather only on convictions, the Court reasoned that disclosing an offender on the registry without a hearing did not violate due process. *Id.* The Court in *Smith* similarly held that the retroactive application of the Act did not violate the *Ex Post Facto* Clause because the Act was not punitive. 538 U.S. at 105–06. The Court noted that the stigma that could result from the registration of these individuals did not render the Act punitive:

[t]he publicity may cause adverse consequences for the convicted defendant, running from mild personal embarrassment to social ostracism. . . . [H]owever, the State does not make the publicity and the resulting stigma an integral part of the objective of the regulatory scheme.

. . . The purpose and the principal effect of notification are to inform the public for its own safety, not to humiliate the offender. Widespread public access is necessary for the efficacy of the scheme, and the attendant humiliation is but a collateral consequence of a valid regulation.

Id. at 99.

²¹⁷ See, e.g., *supra* notes 135–37 and accompanying text (noting the goals and intentions of the Suffolk County legislature in passing its animal abuser registry law).

²¹⁸ See *Smith*, 538 U.S. at 105–06 (explaining why the Alaska sex offender registry law was intended as a non-punitive means of identifying previous offenders for the protection of the public, and thus constitutional). The animal abuser registry laws have the same intentions in mind. See, e.g., Albany Cnty., N.Y., Local Law No. K § 2 (Oct. 11, 2011) (stating the legislative intent of the Albany County law, which includes informing the public of dangerous offenders); see also *Conn. Dep’t of Pub. Safety*, 538 U.S. at 7–8 (explaining that because the Connecticut sex offender law chose individuals required to register based on their previous convictions, there was no need for a hearing before disclosing the offender’s information to the public, and it was not a violation of due process to not provide such a hearing). The animal abuser registry laws also would choose the offenders required to register based on previous convictions, and thus would not face any due process challenges in this regard. See, e.g., SUFFOLK CNTY., N.Y., CODE § 299-26 to -28 (listing the conditions under which an individuals must register for the animal abuser registry).

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Additionally, some argue that sex offender registry laws are overbroad and affect individuals who are not public safety risks.²¹⁹ The existing animal abuser registry legislation should withstand challenges of overbreadth because they are narrowly tailored to only apply to individuals who are in fact a public safety risk.²²⁰ Animal abuser registry laws also would require convicted offenders to remain on the registry for a much more reasonable length of time compared to sex offender registries, which require individuals convicted of sex offenses to remain on the registry for life.²²¹ Assuming the offenders fully comply, animal abuser registry laws would only require registration for a period of years, ranging from four years to ten years.²²²

²¹⁹ See, e.g., *No Easy Answers: Sex Offender Laws in the US*, *supra* note 98, at 3 (arguing that sex offender laws are overbroad and largely ineffective). Many critics also argue that the laws are overlong in duration, noting that, because anyone can access these databases, harassment and violence toward registrants has resulted in some cases. *Id.*

²²⁰ See, e.g., SUFFOLK CNTY., N.Y., CODE § 299-28 (listing the conditions under which an individuals must register for the animal abuser registry as those who are at least eighteen years of age and Suffolk County residents who are convicted of various animal cruelty crimes as defined by New York law, including: (1) “overdriving, torturing, and injuring animals;” (2) “failure to provide proper sustenance;” (3) “aggravated cruelty to animals;” (4) abandonment of animals;” (5) “failure to provide proper food and drink to impounded animal[s];” (6) interference with or injury to certain domestic animals;” and (7) “harming a service animal in the first degree”). Whereas many sex offender registries require individuals to register who have faced a conviction for merely urinating in public, these would only be geared toward individuals who have been convicted of animal abuse or neglect. *Id.* Individuals who have committed such crimes are indeed a public risk, as is evident in the “link.” See *supra* Part II.B (explaining the link between animal cruelty and violence toward people).

²²¹ See *supra* Part II.D.1 (describing the requirements imposed on convicted sex offenders).

²²² See, e.g., ROCKLAND CNTY., N.Y., CODE § 230-8(F) (2011), <http://ecode360.com/15306523#15306523> (requiring offenders to remain on the registry for four years following release from incarceration or date of judgment, whichever is later); SUFFOLK CNTY., N.Y., CODE § 299-28(D) (requiring offenders to remain on the registry for five years following release from incarceration or date the judgment was rendered, whichever is later); WESTCHESTER CNTY., N.Y., CODE § 680.05(5) (2012), <http://ecode360.com/print/WE0640?guid=236995984&children=true> (requiring offenders to remain on the registry for ten years following release from incarceration or date of entry of judgment); Albany Cnty., N.Y., Local Law No. K § 5(D) (Oct. 11, 2011) (requiring offenders to remain on the registry for ten years following the release from incarceration or the date of conviction, whichever is later). Based on constitutional challenges sex offender registry laws have faced, it will likely be important that the length of time offenders are required to register is kept reasonable in future legislation in order to keep animal abuser registry laws from being struck down as unconstitutional. See *supra* Part II.D.1 (discussing the major constitutional attacks sex offender registries have faced).

Constitutional challenges have also been raised against child abuse registry laws.²²³ These laws have generally withstood multiple different constitutional attacks, including questions of equal protection, due process, and cruel and unusual punishment.²²⁴ These unsuccessful constitutional challenges to child abuse registries provide further arguments that critics could potentially advance in opposition of animal abuser registry laws.²²⁵ Applying the challenges to the proposed and enacted animal abuser registry laws reveals that the challenges would also likely fail, as the animal abuser registry laws do not create a suspect class of individuals to raise equal protection concerns, there is no property interest involved regarding the offenders' reputation that would be sufficient enough to invoke due process protections, and imposing a requirement against a convicted offender of animal cruelty charges to register on a public database and pay a small fine would not constitute punishment under the Eighth Amendment.²²⁶

2. Questions of Recidivism Rates and Criticisms of Community Notification Aspects

Some critics of sex offender registries argue that registries actually do not reduce recidivism rates.²²⁷ However, there is no concrete evidence to support this notion, and the more general effects of such

²²³ See generally Blum, *supra* note 104 (describing the history of constitutional challenges brought against child abuse registry laws).

²²⁴ See, e.g., *People v. Adams*, 581 N.E.2d 637, 641–42 (Ill. 1991) (holding that a registration requirement contained in the Habitual Child Sex Offender Registration Act did not violate a defendant's equal protection rights because no suspect class was involved, did not affect any substantive due process right, and did not constitute cruel and unusual punishment because the registration requirement was not a form of punishment and therefore did not implicate the Eighth Amendment); *Roth v. Reagan*, 422 N.W.2d 464, 468 (Iowa 1988) (holding that reputation is not a property interest sufficient to invoke procedural protection under the Due Process Clause, and as a result, the accused's challenge to a child abuse registry statutory scheme would fail). Although the majority of these laws have been upheld, there have been a few instances of successful challenges to these registries' constitutionality. See, e.g., *Jamison v. State, Dep't of Soc. Servs., Div. of Family Servs.*, 218 S.W.3d 399, 410 (Mo. 2007) (holding that the listing of nurses' names on the Child Abuse and Neglect Review Board registry prior to a hearing violated the nurses' due process rights because there was no adequate notice of the claims or an adequate opportunity to be heard in response).

²²⁵ See generally Blum, *supra* note 104 (noting the constitutional challenges that critics have advanced against child abuse registries).

²²⁶ See *supra* Part II.E (describing the different proposed and enacted animal abuser registry laws and the requirements they would impose upon offenders); see also *supra* note 224 and accompanying text (describing cases that brought constitutional challenges against child abuse registries but ultimately failed).

²²⁷ See *supra* note 98 and accompanying text (discussing the impact of community notification laws).

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programs on offenders and communities are largely unknown.²²⁸ If this particular argument was advanced against animal abuser registry laws, the argument would likely fail; if an abuser's ability to easily acquire these animals is taken away, especially hoarders, rates inevitably will go down.²²⁹ Undoubtedly, there will always be alternative means for these individuals to acquire animals—just as people are able to obtain drugs and weapons illegally, people who are not allowed to own a pet will also find ways to obtain them.²³⁰ However, because the registry laws seek to impose a burden on pet shelters, pet stores, and breeders to check the registry before selling or allowing an individual to adopt one of their animals, there will be a much higher chance of success.²³¹ Additionally, the laws of Albany County, New York and New York City require individuals who sell pets or place them up for adoption to check the registry.²³² If other jurisdictions' laws also imposed this requirement on individuals, they would close a substantial number of forums that offenders use to acquire animals without detection.²³³

²²⁸ See *supra* note 98 and accompanying text (explaining that research of sex offender registries is inconsistent about whether the registries are effective).

²²⁹ See *supra* notes 62–67 and accompanying text (discussing animal hoarding and its negative implications).

²³⁰ See, e.g., Kretzer, *supra* note 42 (describing an incident in which a company that exhibited animals had its license revoked and criminal charges brought against it because of the neglect toward its animals, only to later acquire animals again).

²³¹ See, e.g., ROCKLAND CNTY., N.Y., CODE § 230-8(G)–(H) (2011), <http://ecode360.com/15306523#15306523> (stating that pet dealers and animal shelters must check the registry before allowing a consumer to purchase or adopt a pet from them or they will be subject to penalty).

²³² See *supra* notes 153–55, 169–70 and accompanying text (explaining the requirements of the Albany County, New York and New York City registry laws, which impose on different parties a duty to check the animal abuser registry before selling or adopting a pet to individuals). Under the Albany County, New York law, those who fail to check the registry could be subjected to a fine not to exceeding \$5000. Albany Cnty., N.Y., Local Law No. K § 7(B) (Oct. 11, 2011). If, however, the abuser failed to register, the seller will not be held responsible for the mistake. *Id.* The Albany County, New York registry is available online, so anyone who has Internet access can check for an offender on the database. *Id.* § 2. New York City has also imposed this requirement in its animal abuser registry law, imposing it broadly to apply to “rescuers, shelters, and pet sellers.” See *New York City Introduces Animal Abuser Registry*, *supra* note 167 (noting that under the New York City law, rescuers, shelters, and pet sellers are prohibited from selling or adopting any pet to any person currently listed on the registry).

²³³ See *supra* Part II.E.3 (explaining that the Albany County registry requires private individuals—as well as shelters and breeders—to check the registry before offering to sell or place a pet up for adoption). By extending this law to private individuals, there is a much greater deterrent effect because the potential fine is quite sizeable.

Community notification should further help to enforce the registry laws.²³⁴ Whereas it is fairly easy to conceal the illegal activity of possessing illegal drugs or weapons from one's neighbors, the same cannot be said about hiding the possession of an animal.²³⁵ If neighbors are made aware that someone living in their midst is not allowed to own a pet because they abused animals in the past, they are likely to watch for indications of animal possession and also to report any relevant information to the authorities, with the safety interests of their own pets, families, and community in mind.²³⁶ Additionally, if educational links were placed on the animal abuser registry websites to increase awareness of the seriousness of the issue and the proven psychological link, this would further encourage neighbors and the community at large to help enforce the animal abuser registry laws.²³⁷

Despite the many positive attributes that the notion of community notification seemingly possesses, it has actually been a concept that has received a fair amount of criticism for the sex offender registry laws.²³⁸ Since the enactment of these laws, a number of studies have been conducted to determine whether sex offender registries and their methods of community notification are actually effective tactics, with mixed results being reported.²³⁹ Critics argue it is not an effective practice, asserting that many states struggle to maintain up-to-date information on these ex-offenders because many of these individuals will not cooperate with the reporting process.²⁴⁰ Accuracy of offender

²³⁴ See generally *supra* note 98 and accompanying text (discussing sex offender registry laws and the community notification requirement imposed thereunder).

²³⁵ See *supra* text accompanying note 52 (providing an example of how drugs can easily be hidden from plain view by noting that gang members sometimes stash drugs under their dogs' cages); *supra* text accompanying note 183 (expressing the public's favorable view toward harsher punishments for violations of animal cruelty laws).

²³⁶ See generally Part III.A (analyzing the great emphasis that society places on animal welfare).

²³⁷ For further ideas about establishing a website link that would inform the community about animal abusers, see *infra* Part IV.C.

²³⁸ See *supra* note 98 and accompanying text (listing some of the criticisms commonly recognized in the debate over sex offender registries and community notification).

²³⁹ Compare LETOURNEAU ET AL., *supra* note 98, at 4-5 (providing a study conducted in South Carolina, which indicated that there was no evidence that broad notification reduced sex crime recidivism), with Prescott & Rockoff, *supra* note 98, at 161 (discussing a study, which found that requiring sex offenders to register with police may significantly reduce the chances that these offenders will reoffend; however, when this information is made available to the broader public, things seem to backfire and often higher rates of overall sex crimes occur).

²⁴⁰ See LOGAN, *supra* note 106, at 110, 115 (describing why critics contend that community notification is not an effective tactic). Despite the fact that there are laws in place that punish offenders for failure to register or update information upon moving residences, many will still choose not to comply. *Id.* at 110. "Expecting that ex-offenders, individuals

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reporting will always be a concern with any criminal registry, as reporting may not always be 100% accurate no matter what measures are taken.²⁴¹ Nevertheless, some success stories have been reported from registry tactics used on sex offenders, and as is evident in the reasoning that prompted the passage of sex offender registry laws, advocates would argue that if just one child is saved from a sexual assault, a kidnap, or a murder because of the registry, then it is a worthwhile law to enforce.²⁴² This same type of reasoning can be applied to the animal abuser registry laws, especially considering that these laws could help to protect not only animals but also people from future injury.²⁴³

D. Funding Concerns Raised Regarding Proposed Animal Abuser Registry Laws

Much of the analysis available for animal abuser registry laws is somewhat speculative, based mostly on the challenges that have been faced by other types of criminal registries.²⁴⁴ However, direct criticism of the proposed animal abuser registry laws can be found in the commentary of the bills that failed to pass in the legislature.²⁴⁵ Examination of these bills provides valuable insight as to what are the main concerns holding many legislatures back.²⁴⁶

with a proven capacity for antisocial conduct, will cooperate with the government in their ongoing surveillance and stigmatization would appear contrary to both logic and human experience." *Id.*

²⁴¹ See *supra* note 98 and accompanying text (illustrating that there are inconsistencies in the effectiveness of sex offender registries).

²⁴² See *supra* notes 91-92 and accompanying text (describing Megan's Law and the Wetterling Act, which were each inspired by tragic events involving the murder of innocent children by convicted sex offenders). In-depth research has not been conducted for the other types of criminal registries currently in effect; however, these registries at the very least have provided a uniform tracking system that can effectively compile statistics for future uses. See, e.g., *Welcome to the Child Abuse Registry Statistics Application (CARSA) for Children and Family Services*, *supra* note 105 (explaining the Child Abuse Registry and Statistics for Orange County, California).

²⁴³ See *supra* Part II.B (noting that a strong correlation exists between individuals who exhibit violence toward animals and toward other people); see also *supra* text accompanying notes 234-37 (providing reasons why community notification is likely to be effective and help to enforce the animal abuser registry laws).

²⁴⁴ See *supra* Part III.C (describing challenges and criticisms that have been raised regarding other registries currently enacted in the United States, and applying these challenges to the animal abuser registry laws).

²⁴⁵ See, e.g., *Animal Abuser Registry Proposed in California*, *supra* note 126 (describing the financial obstacles faced by the California bill, which ultimately proved to be the main reason the law was not enacted).

²⁴⁶ See *id.* (explaining that the California legislature struggled with passing an animal abuser registry because of the financial obligations).

The two states that proposed legislation prior to the Suffolk County enactment, inspiring Suffolk County's registry, were Tennessee and California.²⁴⁷ Tennessee's bill proposed requirements for a registry that were similar to the current requirements for sex offenders in the state.²⁴⁸ It required slightly more information than the five registries that are currently enacted and would have imposed a ten-year time frame for individuals to remain on the registry.²⁴⁹ However, after obtaining fiscal estimates, Tennessee's bill was assigned to a committee in both the Senate and the House, where it eventually died without any further action.²⁵⁰

The California bill was introduced in the Senate Judiciary Committee where it passed but failed to advance any further after steep cost

²⁴⁷ See *Legislative Updates & Background*, *supra* note 119 (listing states and counties that proposed animal abuser registries and the respective years such proposals took place); *supra* notes 135–37 and accompanying text (discussing Suffolk County's legislative intent in passing an animal abuser registry law).

²⁴⁸ H.B. 385, 106th Gen. Assemb., Reg. Sess. (Tenn. 2009); S.B. 182, 106th Gen. Assemb., Reg. Sess. (Tenn. 2009). As the General Assembly's summary of both bills stated: "[t]he requirements under this bill for the animal abuser registry are similar to the present law requirements for sex offenders." *Bill Summary: HB 0385*, *supra* note 125; *Bill Summary: SB 0182*, *supra* note 125. Tennessee's animal abuser registry bill would have also required a fifty dollar yearly fee and would have punished for violation of the bill, including falsifying of information, failure to timely disclose required information, and failure to pay the registration fee, if financially capable. H.B. 385; S.B. 182. These types of violations would have been punishable as a Class E felony through the execution of a fine only. H.B. 385; S.B. 182.

²⁴⁹ H.B. 385; S.B. 182. In addition to the offender's name, address, and photograph, the proposed Tennessee bill also would have required a copy of the judgment, the abuser's "date of birth, . . . all animal abuse offense convictions, conviction dates, [the] county and state of convictions, . . . and such other identifying data [that] the [Tennessee] [B]ureau of [I]nvestigation determines is necessary for the public to properly identify the [abuser]," not including the abuser's social security number. H.B. 385; S.B. 182.

²⁵⁰ See *Bill Summary: HB 0385*, *supra* note 125 (recognizing that there were not votes taken by the Tennessee House); *Bill Summary: SB 0182*, *supra* note 125 (identifying that the Tennessee Senate never voted on the bill). The bill was referred to the Senate Judiciary Committee by the Senate and the Judiciary: Government Operations committee by the House before the House passed the bill onto the Criminal Practice and Procedure of the Judiciary committee. *Id.* Subsequently, no further notes were made on activity for this bill. *Bill Summary: HB 0385*, *supra* note 125; *Bill Summary: SB 0182*, *supra* note 125. No votes were cast in either the House or Senate. *Bill Summary: HB 0385*, *supra* note 125; *Bill Summary: SB 0182*, *supra* note 125. The Fiscal Review committee concluded that there would be a one-time cost for state expenditures and no significant increase in local expenditures. JAMES W. WHITE, TENN. GEN. ASSEMBLY FISCAL REV. COMM., FISCAL NOTE SB 182-HB 385 (2009). Specifically, the Fiscal Summary stated that there would be a one-time increase in state expenditures of \$26,200 but that there would be nothing significant in local expenditures. *Id.* The state expenditure increase would be a result of "database design and programming (\$12,000), front-end application (\$8,000), Web site development (\$1,200), security certificate and domain name registration (\$500), and system testing, documentation, and product implementation (\$4,500)." *Id.*

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estimates gathered by the California Department of Justice were reported.²⁵¹ It appeared in this case that the legislators were in favor of the other aspects of the bill, which included the requirement of additional information being submitted, such as a complete set of fingerprints and a description of any tattoos, scars, or other distinguishing features on the person's body that would assist in identifying the person.²⁵² The costs reported, however, were substantially higher than that of the other states considering such a registry, and before the legislators could challenge these figures, the legislative deadline passed, which caused the bill to fail.²⁵³

Multiple other states also attempted to enact animal abuser registries but failed; for example, a bill that was introduced in Virginia in 2011 died in committee after the state police estimated high costs for its implementation.²⁵⁴ However, the 2011 Virginia bill differed from the others in that it would have required the offenders to register for fifteen

²⁵¹ See *Animal Abuser Registry Proposed in California*, *supra* note 126 (describing the financial obstacles the California bill faced, which proved to be the main reason the law was not enacted). For an analysis of the California bill, see MARK LENO, S. COMM. ON PUBLIC SAFETY: SB 1277, 2009-2010 Reg. Sess., (Cal. 2010), available at http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_1251-1300/sb_1277_cfa_20100419_141007_sen_comm.html.

²⁵² MARK LENO, S. COMM. ON PUBLIC SAFETY: SB 1277, 2009-2010 Reg. Sess., at F (Cal. 2010), available at http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_1251-1300/sb_1277_cfa_20100419_141007_sen_comm.html. This bill essentially was proposed to be an extension of other California registries in effect and would require individuals convicted of animal cruelty to register and remain on the database for ten years from the date of conviction. *Id.* at N. For an example of another California registry, see *supra* note 115 explaining briefly California's arsonist registry.

²⁵³ See *Animal Abuser Registry Proposed in California*, *supra* note 126 (explaining that the financial estimates were much larger than estimates compiled by other states). "[O]ther states considering abuser registry legislation have compiled fiscal estimates ranging from \$19,000 to \$60,000 for costs of implementation of such registries . . ." *Id.* The California Department of Justice, however, submitted estimates ranging between \$750,000 to \$2,000,000. *Id.*

²⁵⁴ See D.W. MARSHALL, DEP'T PLANNING & BUDGET, 2011 FISCAL IMPACT STATEMENT: HB 1930 (Va. 2011) (noting that the Virginia State Police estimated that it would cost around \$1,000,000 to create a new registry); see also D.W. MARSHALL, LD11100966, FISCAL IMPACT STATEMENT FOR PROPOSED LEGISLATION: H.B. 1930 (2010) (providing the requirements of the proposed animal abuse registry law and noting that this bill was also analogous to the state's sex offender registry law requirements). See generally H.B. 1930, 2011 Gen. Assemb., Reg. Sess. (Va. 2011) (as introduced) (outlining the proposed language of House Bill 1930). The Virginia law would have required the Sheriff to notify every residence and business within a one-half mile radius of the abuser's residence or location within ten days of initial registration and would have further required that the abuser's information be maintained in a central registry by the State Police that was also posted on their website. H.B. 1930.

years, which explains the higher costs estimated.²⁵⁵ Washington proposed a bill in 2011, in both its Senate and House, for which a fiscal evaluation was conducted; however, this bill eventually died due to inactivity.²⁵⁶ New Hampshire also proposed a bill in 2011, and the state's fiscal committee planned to determine the monetary impact.²⁵⁷ However, due to time constraints, this never actually occurred, and unfortunately, the bill died without any further action.²⁵⁸

The outcomes of all of these bills seem to indicate that the reason a majority of legislators have not enacted the proposed animal abuser registry bills in their jurisdiction is not due to a lack of interest in the idea but rather because of funding concerns.²⁵⁹ While there is no doubt that any registry would have startup and maintenance costs, it may be the case that some of these jurisdictions are not taking everything into account in their financial estimations.²⁶⁰ Proponents of animal abuser registries argue that enacting these laws would actually prevent crimes, ultimately resulting in taxpayer dollars being spared.²⁶¹ Citing the example of animal hoarders—whose recidivism rates are nearly 100%—proponents argue that the costs associated with these cases from veterinary care, property restoration, and animal housing costs can be

²⁵⁵ H.B. 1930. Once an offender was ordered to register, the bill would have required him or her to re-register annually for the duration of the fifteen years and failure to do so would have resulted in a Class 6 Felony. *Id.*

²⁵⁶ H.B. 1800, 62d Leg., 2011 Reg. Sess. (Wash. 2011); S.B. 5144, 62d Leg., 2011 Reg. Sess. (Wash. 2011); MATTHEW BRIDGES, MULTIPLE AGENCY FISCAL NOTE SUMMARY: S.B. 5144 (2011), available at <https://fortress.wa.gov/binaryDisplay.aspx?package=27518>. This bill would require a ten-year period of registering for offenders. H.B. 1800; S.B. 5144. Failure to register would be considered a “gross misdemeanor.” H.B. 1800; S.B. 5144. The fiscal estimates indicated that there would have been a cost of \$468,032 for the first year, \$355,200 in the second year, and \$271,352 in subsequent years. MATTHEW BRIDGES, MULTIPLE AGENCY FISCAL NOTE SUMMARY: S.B. 5144 (2011), available at <https://fortress.wa.gov/binaryDisplay.aspx?package=27518>. As for the impact on local government, “[t]he legislation would have a minimal impact on local government, resulting in costs of approximately \$1,182 per year to cities and counties.” *Id.* This took into consideration potential court costs and incarceration of offenders who fail to register. *Id.*

²⁵⁷ H.B. 526, 2011 Sess. (N.H. 2011) (as introduced).

²⁵⁸ *See id.* (“Due to time constraints, the Office of Legislative Budget Assistant is unable to provide a fiscal note for this bill at this time. When completed, the fiscal note will be forwarded to the House Clerk’s Office.”).

²⁵⁹ *See supra* notes 253–58 and accompanying text (listing the financial reasons multiple states cited for not enacting proposed bills for animal abuser registries).

²⁶⁰ *See, e.g.,* Otto, *supra* note 146 (arguing that these registries have the potential to save taxpayer dollars in the long run by sparing shelters and other local departments from paying the costs created by repeat offenders).

²⁶¹ *See, e.g., id.* (“The gravity of animal cruelty is reflected not only in the physical suffering of the animals and the emotional toll on any humans touched by such crimes, but also in the high monetary costs these cases demand from local government agencies, and ultimately the taxpayers.”).

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“staggering for community budgets,” even from a modest hoarding case.²⁶² By intervening in these criminal abuse cycles, proponents argue animal abuser registries have the ability to spare shelters and other city and county departments from having to absorb costs generated by repeat offenders.²⁶³ Taking these projected spared costs into account, legislatures would likely find these registries to be a much more reasonable investment; however, since most legislatures do not take these factors into account, they continue to reject these proposed registries based on funding concerns.²⁶⁴

A pet food tax has also been suggested to offset some of the costs that would be incurred from the implementation of an animal abuser registry.²⁶⁵ Legislators from California suggested such an idea in the state’s 2010 bill; however, it does not seem that the majority of legislators

²⁶² *Id.*; see, e.g., Urbina, *supra* note 42, at A16 (describing an extreme hoarding case in which over \$1.2 million in costs were expended to rescue and provide for over 170 dogs); see also *supra* note 65 and accompanying text (describing the prevalence of hoarders and their likelihood to reoffend).

²⁶³ See, e.g., Otto, *supra* note 146 (discussing the Rockland County, New York animal abuser registry law and stressing why it has the potential to carry out a vital role in society). According to one article:

A measure which seeks to prevent crime is a measure which seeks, in part, to save taxpayer dollars. In the case of **animal hoarders**, for example, the recidivism rate approaches 100%. While the number of animals in each of these cases varies dramatically, veterinary care, property renovation and animal housing costs in even a modest hoarding case can be **staggering for community budgets**. By intervening in criminal abuse cycles, animal abuser registries have the ability to spare shelters and other city/county departments from having to absorb **costs generated by repeat offenders**.

Id. See generally *Animal Hoarding Facts*, *supra* note 63 (explaining the concept of animal hoarding); Drobness, *supra* note 42 (reporting an extreme hoarding case that involved a New Jersey home with over 150 cats which resulted in significant costs to the community); Frazier, *supra* note 42 (providing an example of an animal hoarder who continued to reoffend despite being banned from owning animals).

²⁶⁴ See, e.g., MATTHEW BRIDGES, MULTIPLE AGENCY FISCAL NOTE SUMMARY: S.B. 5144 (2011), available at <https://fortress.wa.gov/binaryDisplay.aspx?package=27518> (indicating in its fiscal estimates a probable cost of \$468,032 for the first year, \$355,200 in the second year, and \$271,352 in subsequent years for House Bill 1800 and Senate Bill 5144); D.W. MARSHALL, DEP’T PLANNING & BUDGET, 2011 FISCAL IMPACT STATEMENT: HB 1930 (Va. 2011) (providing estimated costs of approximately \$1,000,000 for initial setup of an animal abuser registry in Virginia for House Bill 1930); see also *supra* notes 247–53 and accompanying text (discussing other various legislative proposals which have failed due to funding concerns).

²⁶⁵ See Berger, *supra* note 126 (suggesting a pet food tax to offset registry costs); Dean Florez Wants Animal Abusers to Register Publicly, *supra* note 126 (describing the estimated cost breakdown for pet owners if a pet food tax was imposed).

gave much consideration to the proposition.²⁶⁶ If such a tax was imposed, the cost to pet owners would be minimal, and the measures proposed in this Note could substantially help in resolving the funding issue as well.²⁶⁷

Receiving help from outside organizations is another idea that is worth consideration by legislatures that are lacking in funding.²⁶⁸ In 2013, ALDF offered start-up grants to the states of Arizona, Michigan, and Texas, and offered to donate \$10,000 to offset the costs connected with establishing the registry passed in New York City.²⁶⁹ While it is unlikely these grants and donations would cover all costs associated with such registries, it would undoubtedly help to make the costs much more manageable.²⁷⁰

Information gathered from sociologists, psychologists, law enforcement officials, and the public at large plainly suggests that pets are an integral part of American society, and the nation's laws should reflect this value.²⁷¹ Looking to other criminal registries for reference, it appears animal abuser registry laws would withstand challenges and criticisms that opponents may likely advance.²⁷² These laws would provide many benefits to society as a whole including creating a means for law enforcement officers to effectively track animal abusers, increasing public awareness of the seriousness of animal cruelty and public safety, and helping to cover some of the "loophole" cases that other laws fail to properly address.²⁷³ However, despite the

²⁶⁶ See *supra* note 253 and accompanying text (noting that the California bill was not passed because the legislative deadline passed before parties could challenge the steep financial estimates).

²⁶⁷ See *infra* Part IV.A (proposing possible solutions to the negative financial implications associated with creating a registry).

²⁶⁸ See Wells, *supra* note 130 (explaining that ALDF has offered funding to multiple jurisdictions that were considering implementing an animal abuser registry).

²⁶⁹ See *id.* (detailing some of ALDF's offers of funding to jurisdictions seeking to implement an animal abuser registry).

²⁷⁰ See, e.g., *supra* notes 251-58 and accompanying text (explaining the financial burdens the 2010 proposed registry in California faced, as well as the laws proposed in Virginia, Washington, and New Hampshire in 2011, which ultimately led to none of these laws being passed). If these state legislatures had received aid to help fund startup costs associated with animal abuser registries, these bills would have stood a better chance of being enacted into law.

²⁷¹ See *supra* Part III.A (examining the value of animal abuser registries from society's viewpoint).

²⁷² See *supra* Part III.C (analyzing challenges and criticisms that critics have raised regarding other criminal registries in the United States and applying these challenges to the animal abuser registry laws).

²⁷³ See *supra* Part III.B (explaining the effects of not having a uniform tracking mechanism for animal abuse).

persuasiveness of these facts, to date, most jurisdictions have yet to enact these animal abuser registry laws.²⁷⁴

IV. CONTRIBUTION

Although the text of the proposed animal abuser registry laws have been effective in a few jurisdictions, so far only legislators on the county and city level have been willing to enact these laws.²⁷⁵ This Part provides insight of possible changes that would increase the likelihood of these bills being enacted on the state level and changes that would increase the registries' likelihood of overall effectiveness. The states that have considered the registries seem to have great interest in the idea but have either voted in opposition of the bill or let the bill die primarily because of funding concerns.²⁷⁶ Part IV.A discusses these funding concerns and possible solutions.²⁷⁷ Next, Part IV.B discusses the necessity of a requirement for disclosure of additional information from the offenders to increase efficiency.²⁷⁸ Finally, Part IV.C considers the necessity of the registry providing educational information to the public with the goal of increasing effectiveness.²⁷⁹

A. Possible Funding Solutions

Every jurisdiction proposing this particular type of legislation has included in its plans the imposition of yearly fees on the offenders and additional fees for failure to register or other violations.²⁸⁰ This, of course, will only cover a portion of the fees necessary to set up and operate such a registry. There are also grants and donations to consider, like New York City received from ALDF to help implement its new

²⁷⁴ See *supra* Part III.D (analyzing the bills that states have proposed but not passed).

²⁷⁵ See *supra* Part II.E (explaining the jurisdictions that have proposed and enacted animal abuser registries).

²⁷⁶ See *supra* Part III.D (analyzing legislatures that were discouraged from passing animal abuser registry bills).

²⁷⁷ See *infra* Part IV.A (proposing solutions to the funding concerns associated with enacting an animal abuser registry).

²⁷⁸ See *infra* Part IV.B (suggesting the need for offender disclosure of additional information).

²⁷⁹ See *infra* Part IV.C (proposing that legislatures include educational information on the registries).

²⁸⁰ See *supra* note 248 (recognizing that the proposed Tennessee bills impose a fifty dollar yearly fee and punishment of a Class E felony for violation of the bill, including falsifying of information, failure to timely disclose required information, and failure to pay initial registration fee, if financially available).

registry.²⁸¹ However, it is still unlikely that these funds donated would be enough to offset the remaining costs. For those jurisdictions that have determined the remaining costs would be in excess of their budget allotment, there are some alternatives to consider, which a few jurisdictions have suggested.²⁸²

Specifically, California in the past has proposed a tax on pet food, up to a few cents per pound sold.²⁸³ While this has received criticism from some, arguing that this unfairly punishes those who have done nothing wrong, others think the small amount to pay would be worth it.²⁸⁴ If the amount taxed was \$0.03 per pound of pet food, it is estimated it would cost a cat owner around \$1.50 per year and a dog owner roughly \$9.50 per year, which many pet owners would likely find to be a reasonable price for the protection of their animals and the benefit to society as a whole.²⁸⁵ Given the high regard that American families hold their pets in, it is hard to imagine these owners objecting to such a small price for the protection of their beloved pets.²⁸⁶ Measures, such as a pet food tax, are ideas states should consider if faced with funding concerns.

B. Disclosure of Additional Offender Information

With the ultimate goal of effectively tracking these offenders, disclosure of more information is necessary. Most of these proposed registries already require the offenders to disclose their name, aliases, home address, and a photograph.²⁸⁷ This information is sufficient for community notification; however, additional information should be added for administrative use.²⁸⁸

²⁸¹ See *supra* text accompanying notes 166, 269 (discussing the aid the New York City registry law received from ALDF).

²⁸² See *supra* Part III.D (explaining that many legislatures did not take all factors into account when compiling their financial estimations, including the amount of money that the registries would save pet shelters and taxpayers by preventing future crimes).

²⁸³ See *supra* text accompanying notes 251–53, 265–66 (describing California’s proposed law and the suggestion of a pet food tax).

²⁸⁴ See Berger, *supra* note 126 (discussing the reaction to the idea of implementing a pet food tax to offset registry costs).

²⁸⁵ See Dean Florez *Wants Animal Abusers to Register Publicly*, *supra* note 126 (describing California’s proposed animal abuser law and the estimated cost breakdown for pet owners if a pet food tax was implemented).

²⁸⁶ See *supra* notes 22–25, 181 and accompanying text (discussing how much Americans value their pets).

²⁸⁷ See, e.g., *supra* note 139 and accompanying text (describing the information that offenders are required to disclose for the Suffolk County, New York registry law).

²⁸⁸ See *supra* notes 81–83 and accompanying text (noting that this information could be used for law enforcement purposes to track offenders as well as to conduct further research for a greater understanding of the issue and the “link”).

Model Provision for Future Animal Abuser Registry Proposals

Additional Disclosure for Non-Public Use: Offenders shall be required to disclose additional information for administrative purposes, which will not be available for public access. The following information shall be disclosed by the offender: (1) the individual's social security number; (2) the individual's driver's license number (if applicable); (3) a set of the individual's fingerprints; (4) the individual's place of employment; (5) the name of the individual's probation or parole officer(s); and (6) information indicating whether minors live with the individual.²⁸⁹

Commentary

The model provision is the most practical way to ensure efficiency in achieving the goals of the registry. Law enforcement can use this information to more effectively track offenders and to conduct studies to further understand the relationship between animal cruelty and other anti-social behaviors.²⁹⁰ Pet stores, shelters, and certified breeders can also use this information in their screening process to more accurately identify past offenders.²⁹¹ However, it is important that this information is not used for community notification purposes, as it is not necessary to further expose information about these offenders to the public when the basic information of their names, aliases, residence, and photograph is already available.²⁹² The goal is to put up a warning flag and keep pets away from these individuals, not to brand them for life.

C. Inclusion of Educational Information

To increase the effectiveness of these registries, the public needs to be educated further on the issue of animal abuse. Therefore, these databases should also include educational information covering a variety

²⁸⁹ This proposed amendment is the contribution of the author.

²⁹⁰ See *supra* Part II.C (discussing the lack of a uniform tracking system for law enforcement).

²⁹¹ See *supra* notes 193-96 and accompanying text (describing the need for animal shelters and pet dealers to also have this information, in addition to law enforcement officials); *supra* notes 232-33 and accompanying text (explaining the importance of also requiring private individuals to check the registry before selling or adopting a pet). This information should also be available, upon request, to private individuals who are seeking to confirm the status of another individual whom he or she is considering selling a pet.

²⁹² See *supra* note 139 and accompanying text (describing the requirements for disclosure to the public for Suffolk County, New York's registry law, which many other jurisdictions' laws mirror).

of topics.²⁹³ First, there needs to be information that describes the “link” and why it is important to identify these abusers and be aware of their existence.²⁹⁴ Educating the public on this important information will make individuals more likely to report violations of the registry laws.²⁹⁵ Next, there needs to be information describing how to report neighbors or acquaintances that are listed on the registry and in violation of one of the provisions, such as failing to list their updated current place of residence or being in possession of an animal.²⁹⁶ Finally, the databases should list information describing how to identify signs of abuse or neglect as well as how to report suspected acts of abuse or neglect.²⁹⁷

If these additional considerations are taken into account regarding funding, the probability of animal abuser registry laws being enacted on the state level will likely increase. Additionally, if small adjustments are made requiring disclosure of additional information from offenders for administrative purposes, and if educational links for public understanding of the issue are incorporated, the registries’ likelihood of overall effectiveness will inevitably increase as well.

V. CONCLUSION

Animal abuser registries, if implemented, have the potential to contribute to society in many noteworthy ways. The great value that society as a whole places on its pets’ safety and well-being indicates that most of the general public would be in favor of the implementation of more animal abuser registries. These registries would identify potentially dangerous offenders to the community, thereby increasing public safety and creating peace of mind for individuals. The implementation of these registries would also create the opportunity to gather more comprehensive statistical data about animal abuse, which

²⁹³ See, e.g., *supra* note 144 and accompanying text (explaining some of the educational links that are available on the Suffolk County, New York animal abuser registry website). Suffolk County’s website provides some educational information for the public; however, it could be more in depth and more geared to raising public awareness of the seriousness of animal cruelty.

²⁹⁴ For an example of the types of information that should be included, see *supra* Part II.B.

²⁹⁵ See *supra* Part III.C.2 (describing the public’s role in the community notification aspects of criminal registry laws).

²⁹⁶ If information regarding what a person should do in these situations is easy to access and if individuals see that the process is not complicated, they will be more likely to follow through with reporting violations.

²⁹⁷ If individuals suspect they may have observed signs of abuse but are unsure, they may not report the incidents out of fear of making false accusations. However, if they can read through helpful educational links to determine what kinds of signs are red flags and have their suspicions confirmed, they will be much more likely to come forward and make a report.

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would allow researchers to identify more patterns of animal cruelty. Law enforcement officials would be able to track these offenders, and pet shelters and dealers could more accurately screen individuals seeking to own a pet, which could prevent gruesome stories of repeated animal torture from occurring again, such as in the case of Shon Rahrig, and even potentially prevent individuals who are animal abusers from graduating to human targets, such as the case with Jeffrey Dahmer.²⁹⁸

These animal abuser registry laws have the potential to do more than protect animals; they have the potential to provide greater safety to society as a whole—maybe even saving some lives along the way. Given all of these interests, if improvements in the area of funding are made, legislatures will be much more inclined to enact these laws. Additionally, if the amount of information offenders are required to disclose is adjusted and educational information is added to the registries for the benefit of the public, the registries' likelihood of effectiveness will increase significantly.

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²⁹⁸ See *supra* notes 1–9 and accompanying text (detailing the gruesome stories of animal abuse that recurred and escalated into greater crimes of violence by Shon Rahrig and Jeffrey Dahmer).

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