

RECREATIONAL BREEDERS AND THE COMPANION ANIMAL OVERPOPULATION CRISIS

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I. INTRODUCTION

“Free to a good home” can be seen on signs outside of homes, in newspapers, and recently, on social media. One doesn’t have to look for long before seeing people all over trying to dispose of litters of dogs and cats for various reasons. It appears to be a hassle finding homes for these animals, so why were they bred in the first place? Some breed because they believe there is no better way to teach their kids about life and birth, others believe they can craft the perfect replication of their beloved Fido by breeding him, others may have left the dog unattended outside just a little too long. Intentional or not, recreational breeding is adding to the overpopulation of dogs and cats throughout the nation and is competing with adoption from shelters.¹ As a result of overpopulation, shelters are overcrowded and frequently have to turn to euthanasia.² Dogs and cats that don’t make it to the shelter find themselves among the millions of strays.³ The unnerving sight of a dog or cat hit by a car happens all too frequently. However, with the great quantity of stray animals, it’s inevitable. Despite the abundance of animal laws throughout the country and in Illinois specifically, recreational breeders continue to contribute to the overpopulation crisis.⁴

Recreational breeders do not fall within the scope of current Illinois law. This note proposes an amendment to Illinois law which aims to discourage recreational breeding by imposing standards and requirements on people who choose to breed their pet. Part II of this note discusses the evolution of animal law in the United States. Following national law, there is an examination of the difference in animal law between Kentucky, Nebraska, and the country’s top state for animal law, Illinois. Part III analyzes how law in Illinois fails to provide standards regarding recreational breeding and why this is a problem. Lastly, Part IV proposes a change to Sections 2 and 2.3 of the Illinois Animal Welfare Act to bring the problem within reach of state law.

¹ The Ten Worst Excuses Not to Spay or Neuter Your Pet, THE PET PRESS, <http://www.thepetpress-la.com/10excuses.html>, (last visited Nov. 6, 2019).

² Animal Companion Overpopulation, PETA, <https://www.peta.org/issues/animal-companion-issues/overpopulation>, (last visited Nov. 6, 2019).

³ *Id.*

⁴ *Id.*

II. BACKGROUND

Today, sixty-two percent of all households in the United States have one or more pets for the purpose of “companionship,”⁵ amounting to more than 72.9 million households.⁶ A companion animal is a domesticated animal “whose physical, emotional, behavioral, and social needs are met as companions in the home, or in close daily relationship with humans.”⁷ The most common companion animals are dogs and cats; however, horses, birds, rabbits, goats, gerbils, snakes, rats, mice, fish, and amphibians are also kept for companionship.⁸ The regularity of household pets is no surprise when studies show pet ownership to be correlated with benefits such as lower blood pressure, reduced stress, reduced incidences of heart disease, and lower overall health care problems.⁹ A survey of children five years of age showed forty-two percent mentioned their pets when asked who they confide in.¹⁰ From studying the way relationships between humans and animals affect physical and psychological well-being of people and their health, it is proven companion animals promote healthy emotional youth development.¹¹ This conclusion is attributed to theories of secure attachment and the ability to give and receive affection.¹²

However, youth are not the only people benefitting from owning pets.¹³ Among adults, companion animals have been found to reduce loneliness, and even surpass the ability of humans to provide self-esteem, calmness, soothing, and acceptance.¹⁴ These findings indicate that our pets not only make us happier, but healthier.¹⁵ Given the bond and benefits pets provide, care and protection of companion animals is important.¹⁶ Because animals are given such great prominence in the lives of many, their overpopulation and the resulting consequences are a topic of concern.

⁵ Companion Animals, ANIMAL WELFARE INSTITUTE, <https://awionline.org/content/companion-animals>, (last visited Nov. 6, 2019).

⁶ *Id.*

⁷ ASPCA Policy and Position Statements, AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, <https://www.aspc.org/about-us/aspc-policy-and-position-statements/definition-companion-animal>, (last visited Nov. 6, 2019).

⁸ Companion Animals, *supra* note 5.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Harold Herzog, The Impact of Pets on Human Health and Psychological Well-Being: Fact, Fiction or Hypothesis? 20(4) CURRENT DIRECTIONS IN PSYCHOLOGICAL SCIENCE. 236, 237 (2011).

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Companion Animals, *supra* note 5.

¹⁶ *Id.*

A. A Brief Introduction to Animal Law in the United States

Pursuant to general police powers, individual states are responsible for preventing animal abuse, cruelty, and neglect.¹⁷ However, it is important to discuss how the federal government has enacted laws for the protection of animals, as it is evidence of the public awareness and support for animal protection.¹⁸

The increased use of animals for research, followed by public backlash, necessitated the need for the protection of domesticated animals.¹⁹ Animal research dates back to the 1600s.²⁰ However, until the 1800s, no laws existed governing how animals were used in research.²¹ With the early domestication of animals, cultures around the world developed codes, laws, and regulations protecting animals as property.²² Great Britain passed the first national law regulating the use of animal research in 1876.²³ After the passing of Great Britain's bill, many European countries adopted regulations pertaining to animal research.²⁴

In the United States, individual states began adopting laws concerning animal welfare between 1828 and 1898.²⁵ However, animal cruelty laws did not gain federal recognition until 1966 with the Animal Welfare Act.²⁶ The U.S. Animal Welfare Act (AWA) was signed into law by President Lyndon B. Johnson on August 24, 1966.²⁷ The purpose of the bill stated that,

to protect the owners of dogs and cats from theft of such pets, to prevent the sale or use of dogs and cats which have been stolen, and to insure that certain animals intended for use in research facilities are provided humane care and treatment, it is essential to regulate the transportation, purchase, sale, housing, care, handling and treatment of such animals by persons or organizations engaged in using them for research or experimental purposes or in transporting, buying, or selling them for such use.²⁸

¹⁷ Federal Anti-Cruelty Laws, NATIONAL ANTI-VIVISECTION SOCIETY, https://www.navs.org/what-we-do/keep-you-informed/legal-arena/companion-animal-issues/federal-anti-cruelty-laws/#.W9yILS2ZM_V.

¹⁸ *Id.*

¹⁹ Benjamin Adams & Jean Larson, Legislative History of the Animal Welfare Act: Introduction, U.S. DEP'T OF AGRIC. NAT'L AGRIC. LIBR., <https://www.nal.usda.gov/awic/legislative-history-animal-welfare-act-introduction>.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ Animal Welfare Act, Pub. L. No. 89-544 (1996).

The early AWA appears to have had limited scope as it addressed only research and theft.²⁹ However, the 1970 Amendment expanded the scope of the AWA by eliminating the state-border crossing prerequisite.³⁰ It also increased the species of animals within its coverage to include all warm-blooded animals in research.³¹ This Amendment reflected an “increased understanding of the importance of animal welfare, and the need for minimal standards of care for research animals.”³² Congressional Hearings, held by Congressman Thomas Foley, exposed evidence of the underground dog fighting business which ultimately led to the approval of the 1976 Amendment to the AWA.³³ Following the Amendment, interstate fighting was outlawed and all “carriers,” as defined in the bill, were required to be licensed.³⁴

The 1985 Amendment further improved standards for laboratory animals due to the increased scope of the United States Department of Agriculture’s jurisdiction over animals in research.³⁵ Another amendment in 1990 addressed the issue of animals being stolen in order to be sold to research facilities.³⁶ The amendment in 2002 further expanded the species of animals protected under the AWA’s research requirements to include rats, mice, and birds.³⁷ The final amendment in 2007, the Animal Fighting Prohibition Act, amended the AWA to prevent animal fighting by expanding activities that fall within the scope of protection.³⁸ In order to accomplish such protection, the amendment prohibited selling, buying, transporting, or delivering, birds with sharp objects attached to their legs, likely for fighting purposes.³⁹

B. Animal Law at State Level

Each and every state has enacted law regarding companion animals, with most focusing on abuse prevention by imposing criminal penalties.⁴⁰ Each state, operating under its police powers, has discretion to determine the scope of the laws and penalties they wish to incorporate.⁴¹ Furthermore, state laws grant municipalities power to regulate animals more locally through

²⁹ *Id.*

³⁰ Federal Anti-Cruelty Laws, *supra* note 17.

³¹ *Id.*

³² Adams & Larson, *supra* note 19.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

ordinances.⁴² When comparing the overall strength and comprehensiveness of animal law, Kentucky, Iowa, Wyoming and Utah are ranked among the worst in the country.⁴³ A study, conducted yearly by the Animal Legal Defense Fund, ranks Kentucky fiftieth for their lack of strength and comprehensiveness of animal law.⁴⁴ The report cited, among other factors, inadequate definitions and standards of basic care.⁴⁵ Similarly, there is no felony provision for neglect and abandonment, only misdemeanor charges.⁴⁶ Likewise, officers lack authority to enforce the law.⁴⁷ Kentucky prohibits veterinarians from reporting suspected cruelty or animal fighting,⁴⁸ while most other states permit or even require such reporting with consequences imposed for failure to report suspected abuse.⁴⁹ Similarly, Kentucky law lacks adequate animal fighting provisions.⁵⁰ In Kentucky, provisions exist prohibiting animal fighting, but only apply to certain animals.⁵¹ Many of these gaps in law were common among the five lowest ranking states.⁵²

Ranked at number twenty-five, Nebraska state law provides far more regulation than Kentucky.⁵³ The state authorizes felony convictions for first-time offenders for abandonment and neglect, although the circumstances are limited to scenarios which lead to serious injury, illness or death.⁵⁴ Further, Nebraska allows for licensed veterinarians to report animal neglect or cruelty upon a reasonable belief that such circumstances exist, and additionally gives authority to law enforcement to enforce the laws.⁵⁵

Animal law is evolving and the trend of improvement is prevalent among even the lowest ranking states.⁵⁶ For example, laws pertaining to leaving dogs in hot cars have led to improved rankings for some of the lowest

⁴² *Id.*

⁴³ Best and Worst States for Animal Protection Laws, 2017 Report Released, ANIMAL LEGAL DEFENSE FUND, (Jan. 18, 2018), <https://aldf.org/article/best-worst-states-animal-protection-laws-2017-report-released/>.

⁴⁴ 2017 US. Animal Protection Laws Rankings, Comparing Overall Strength and Comprehensiveness, ANIMAL LEGAL DEFENSE FUND (Jan. 2018), https://aldf.org/wp-content/uploads/2018/06/Rankings-Report-2017_FINAL.pdf.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ Kerry Lengyel, Kentucky: Ranked Worst State for Animal Safety, AMERICAN VETERINARIAN, (Jan. 13, 2017), <https://www.americanveterinarian.com/news/kentucky-ranked-worst-state-for-animal-safety>.

⁵⁰ 2017 US Animal Protection Laws Rankings, *supra* note 44.

⁵¹ Lengyel, *supra* note 49.

⁵² *Id.*

⁵³ Animal Legal Defense Fund, ANIMAL PROTECTION LAWS OF THE USA & CANADA: ANIMAL PROTECTION LAWS OF NEBRASKA 2 (12th ed. 2017) <https://aldf.org/wp-content/uploads/2018/06/NEBRASKA.pdf>.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Lengyel, *supra* note 49.

ranked states.⁵⁷ The trend makes it evident that when one state evolves and improves their law, others will follow.⁵⁸ This shows the importance of improving the law among the highest ranked states in order to set the standard high.

C. Illinois Animal Law

Illinois is ranked number one for the tenth year in a row for the strongest and most comprehensive animal law in the country.⁵⁹ The most important Illinois state animal laws will be discussed subsequently.

1. 510 ILCS 5 Animal Control Act

The Illinois Animal Control Act (ACA) was approved September 11, 1973.⁶⁰ One purpose was and still is stray animal control and rabies prevention.⁶¹ Additional purposes include imposing liability on owners of dogs who have attacked or injured someone and providing penalties for those who violate related restrictions.⁶² In defining the term “animal,” the statute broadly covers “every living creature, other than man, which may be affected by rabies.”⁶³

a. County Board Authority

The ACA grants the board of commissioners for each county a wide array of authority.⁶⁴ Each county board may appoint and compensate Animal Control wardens and administrators.⁶⁵ The administrator, or deputy administrator, is explicitly given the duty of controlling rabies and the dog and cat population through sterilization, humane education, rabies inoculation, stray control, impoundment, or any other means necessary.⁶⁶ With that duty, each county is authorized to determine the extent of their power and the means of enforcement in pursuance of the duties required by the ACA.⁶⁷ The board has the authority to establish a “county animal population control program” similar to that provided by the state discussed

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ Best and Worst States for Animal Protection Laws, 2017 Report Released, *supra* note 43.

⁶⁰ 510 ILL. COMP. STAT. 5/1 (2019).

⁶¹ *Id.*

⁶² *Id.*

⁶³ 510 ILL. COMP. STAT. 5/2.02 (2019).

⁶⁴ 510 ILL. COMP. STAT. 5/3 (2019).

⁶⁵ *Id.*

⁶⁶ 510 ILL. COMP. STAT. 5/5(a) (2019).

⁶⁷ 510 ILL. COMP. STAT. 5/5(b) (2019).

below.⁶⁸ The board is entitled to use the money from their General Corporate Fund to further the purposes of the ACA.⁶⁹ The ACA enables each board to provide personnel, training, equipment, supplies and facilities, and to operate or contract for the operation of pounds.⁷⁰ The board has the authority to enact ordinances requiring microchipping of dogs and cats, and registration.⁷¹

b. County Fees

The ACA suggests each county conduct a clinic for microchipping pets of county residents at least once a year with a maximum charge of \$15.⁷² The proceeds are to be placed in the county's animal control fund.⁷³ If the county chooses to establish a pet registration fee, there must be a \$10 differential for dogs which have not been spayed or neutered.⁷⁴ The \$10 differential "shall be placed in a county animal population control fund."⁷⁵ The population control fund may be used for two purposes.⁷⁶ One authorized purpose is to spay, neuter, vaccinate, or sterilize dogs or cats which are adopted, or to spay, neuter, vaccinate, or sterilize dogs or cats owned by low income county residents eligible for low-income benefits.⁷⁷ Second, funds may be used for feral cat programs recognized by the county.⁷⁸ For counties with a population greater than 3,000,000, the requirements of use placed on the \$10 differential fees do not apply.⁷⁹ However, the ACA requires counties with a population under 3,000,000 to use collected fees "for the purpose of paying claims for loss of livestock or poultry," or for limited purposes as established by ordinance.⁸⁰ Such purposes include the purchase of human rabies anti-serum to treat those infected with rabies, human vaccines, the cost of administration of the serum or vaccine, minor medical care, and for paying the cost of stray dog control, impoundment, education on animal control and rabies, or other costs incurred relating to animal control, except as set out in a specific section of the Act.⁸¹ That specific section allows for recovery of damages for owners

⁶⁸ 510 ILL. COMP. STAT. 5/3 (2019).

⁶⁹ *Id.*

⁷⁰ *Id.* Pound or animal control facility may be used interchangeably and mean any facility used as a shelter for seized, stray, homeless, abandoned, or unwanted dogs or other animals. 510 ILL. COMP. STAT. 5/2.18 (2019).

⁷¹ 510 ILL. COMP. STAT. 5/3 (2019).

⁷² *Id.*

⁷³ 510 ILL. COMP. STAT. 5/16.5 (2019).

⁷⁴ 510 ILL. COMP. STAT. 5/3 (2019).

⁷⁵ *Id.*

⁷⁶ 510 ILL. COMP. STAT. 5/3.5 (2019).

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ 510 ILL. COMP. STAT. 5/8 (2019).

⁸¹ 510 ILL. COMP. STAT. 5/7 (2019).

of livestock, poultry, or horses killed or injured by a dog, upon making a claim with the administrator of the board.⁸² Those damages are to be paid from the animal control fund if the owner is a resident of the state.⁸³

c. Animal Impoundment

The ACA discusses the apprehension and impoundment of dogs running at large and dog bites with a focus on ensuring no issue of rabies.⁸⁴ Administrators are authorized to enter upon private premises to capture stray animals, dangerous or viscous animals, or animals thought to have rabies.⁸⁵ If an owner does not deliver an animal that is requested by the administrator, the owner is considered in violation of the Act.⁸⁶ The ACA discusses classification and treatment of “vicious” and “dangerous” dogs and animal attacks, and enables owners of livestock or poultry to kill dogs seen killing or wounding such animals.⁸⁷ Dog owners are liable for damages caused by “pursuing, chasing, worrying, wounding, injuring, or killing any sheep, goats, cattle, horses, mules, poultry, ratites,⁸⁸ or swine belonging to that person.”⁸⁹ If the plaintiff receives damages from the owner after receiving damages from the county animal control fund, the amount paid by the county is to be reimbursed to the fund.⁹⁰

The ACA has great potential to be an operative means of controlling animal population, however, it remains unclear how many county boards give effect to their authority and participate in animal control funds. The suggestions made to each county are only suggestions, not requirements. Because the suggestions are not binding requirements, counties may choose to forego any of the useful regulations provided by the ACA. Likewise, the authority for counties to take proactive measures is permitted, but again not required. Turning the suggestions into requirements and ensuring they are enforced could potentially increase the effectiveness of the ACA. Further, the amount of county funds actually used for animal population control programs is unclear due to the usage limitations which are dependent on population. The ACA restricts fund usage to low cost spay and neuter.⁹¹ However, the ACA qualifies that requirement for counties with populations

⁸² 510 ILL. COMP. STAT. 5/19 (2019).

⁸³ *Id.*

⁸⁴ 510 ILL. COMP. STAT. 5/9-13 (2019).

⁸⁵ 510 ILL. COMP. STAT. 517 (2019) (although not into any buildings).

⁸⁶ *Id.*

⁸⁷ 510 ILL. COMP. STAT. 5/14-17 (2019).

⁸⁸ Amy Tikkanen, Ratite, ENCYCLOPEDIA BRITANNICA (2009) (any bird whose sternum is smooth, or raftlike, because it lacks a keel to which flight muscles could be anchored).

⁸⁹ 510 ILL. COMP. STAT. 5/18.1 (2019).

⁹⁰ 510 ILL. COMP. STAT. 5/20 (2019).

⁹¹ 510 ILL. COMP. STAT. 5/3.5 (2019).

both over and under 3,000,000.⁹² Cities with a population under 3,000,000 must use funds to satisfy claims for loss of livestock or selected services.⁹³ This means most towns and cities are excluded from using funds to reduce animal population. With a population over 3,000,000 there need not be a differential collected on unsterilized animals if a registration fee is collected.⁹⁴ This reduces the potential funds available overall. In conclusion, the ability to use funds for population control is less effective.

2. 510 ILCS 70 Humane Care for Animals Act

The Illinois Humane Care for Animals Act (HCAA), approved September 21, 1973, promotes humane care and treatment of animals and provides penalties for those who demonstrate less than proper care and treatment.⁹⁵ The HCAA covers all animals, meaning all living creatures, domestic or wild, aside from man.⁹⁶ Here, animals include “companion animals” which are animals “commonly considered to be a pet.”⁹⁷

a. Owner Duties

The HCAA places specific duties on owners of animals, including providing a “sufficient quantity of good quality, wholesome food and water, adequate shelter and protection from weather, veterinary care when needed, and humane care and treatment.”⁹⁸ Standards placed on owners include specifics such as lawful tethering.⁹⁹ Tethering requirements provide protection from choking and the dangers of other dogs, as well as proscribed leash lengths and space requirements.¹⁰⁰ Violations of owner duties have criminal penalties ranging from a Class B misdemeanor to a Class 4 felony.¹⁰¹

b. Cruelty and Abuse

Cruel treatment prohibited by the HCAA includes beating, tormenting, starving, overworking, or other forms of abuse to any animal.¹⁰² Cruel

⁹² *Id.*

⁹³ 510 ILL. COMP. STAT. 5/7 (2019).

⁹⁴ *Id.*

⁹⁵ 510 ILL. COMP. STAT. 70/1 (2019).

⁹⁶ 510 ILL. COMP. STAT. 70/2.01 (2019).

⁹⁷ 510 ILL. COMP. STAT. 70/2.01(a) (2019).

⁹⁸ 510 ILL. COMP. STAT. 70/3(a) (2019).

⁹⁹ 510 ILL. COMP. STAT. 70/3(b) (2019).

¹⁰⁰ *Id.*

¹⁰¹ 510 ILL. COMP. STAT. 70/3(d-e) (2019). In Illinois a Class B misdemeanor is punishable by a sentence up to six months. 730 ILL. COMP. STAT. 5/5-4.5-60 (2019). A Class 4 felony in Illinois is punishable by imprisonment between one and three years. 730 ILL. COMP. STAT. 5/5-4.5-45 (2019).

¹⁰² 510 ILL. COMP. STAT. 70/3.1 (2019).

treatment penalties also encompass the abandonment of an animal where it is put in danger of injury, hunger, or exposure to extreme heat or cold.¹⁰³ Law enforcement is given the authority to take temporary custody of a companion animal in a life-threatening situation for such an extended time during which injury or death may result from the extreme conditions.¹⁰⁴ Aggravated cruelty under the HCAA occurs when one intentionally causes a companion animal to suffer serious injury or death.¹⁰⁵ Aggravated cruelty is punishable under the HCAA as a Class 3 or Class 4 felony.¹⁰⁶ Animal torture occurs when one knowingly or intentionally inflicts extreme physical pain, motivated by an intent to increase or prolong the pain, suffering, or agony of an animal, without justification.¹⁰⁷ Animal torture is punishable as a Class 3 felony and courts shall order psychological or psychiatric evaluation of such offender.¹⁰⁸ The statute also criminalizes possessing, selling, or marketing any visual or auditory depiction of animal cruelty.¹⁰⁹ Veterinarians who observe cruel treatment of an animal are required to file a report and are immune from any liability which may result from making such report.¹¹⁰

c. Detailed Restrictions

The HCAA restricts specific actions including selling or giving away a pet that has been dyed or colored artificially.¹¹¹ Similarly, neither chicks nor rabbits may be awarded as a prize.¹¹² Animals who were forfeited under the HCAA due to cruel treatment or fighting are not to be sold or given back to the previous owner or any person living in that person's household.¹¹³ The HCAA also ensures animals are not owned, possessed, sold, shipped, transported, or delivered for the purpose of killing for entertainment, sport, or wagering.¹¹⁴ The HCAA not only prohibits injuring or killing police animals, service animals, accelerant detection dogs, or search and rescue dogs, but also teasing, striking, or tampering with such dogs.¹¹⁵ The HCAA also prohibits various treatments of horses, guide, hearing and support dogs,

¹⁰³ 510 ILL. COMP. STAT. 70/3.01 (2019).

¹⁰⁴ *Id.*

¹⁰⁵ 510 ILL. COMP. STAT. 70/3.02 (2019).

¹⁰⁶ *Id.* Class 3 felonies in Illinois are punishable by imprisonment between two and five years. 730 ILL. COMP. STAT. 5/5-4.5-40 (2019). A Class 4 felony in Illinois is punishable by imprisonment between one and three years. 730 ILL. COMP. STAT. 5/5-4.5-45 (2019).

¹⁰⁷ 510 ILL. COMP. STAT. 70/3.03 (2019).

¹⁰⁸ *Id.*

¹⁰⁹ 510 ILL. COMP. STAT. 70.3.03-1 (2019).

¹¹⁰ 510 ILL. COMP. STAT. 70.3.07 (2019).

¹¹¹ 510 ILL. COMP. STAT. 70/4 (2019).

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ 510 ILL. COMP. STAT. 70/4.01 (2019).

¹¹⁵ 510 ILL. COMP. STAT. 70/4.03-4 (2019).

and animals incapable of walking, such as tripping, poisoning, and confining.¹¹⁶

Complaints of suspected violations of the HCAA enable law enforcement to enter any premises where the animal or animals described are kept.¹¹⁷ Upon recognition of a violation, the investigator should provide the violator with notice and may allow forty-eight hours to take corrective action in order to come to compliance.¹¹⁸ If the violator refuses to come to compliance or has not been identified, impoundment may occur.¹¹⁹ However, emergency impoundment may occur if there is a life threatening situation.¹²⁰

In totality, the HCAA seeks to prevent abusive behaviors. Criminalization of such behavior serves as a deterrent. The HCAA also seeks to protect animals from uncharacteristic forms of abuse. Such law serves vital purposes. However, neither the HCAA nor ACA impose standards on an equally important matter—breeding.

3. 510 ILCS 92 Animal Population Control Act

The Illinois Animal Population Control Act (APCA) was approved August 22, 2005.¹²¹ The Animal Control Act grants authority to county boards to enact and enforce local population control efforts, while the APCA was created to “establish and implement an Illinois Public Health and Safety Animal Population Control Program.”¹²²

a. Animal Population Control Program

The Animal Population Control Program was established after a woman was attacked and killed by stray dogs in a Chicago neighborhood.¹²³ The Act was intended to provide a means to increase public safety by reducing the number of dangerous dogs, stray dogs, and feral cats throughout the state.¹²⁴ The Illinois General Assembly concluded that controlling animal population would aid in preventing dog attacks, bites, and car accidents caused by feral animals.¹²⁵ The Illinois General Assembly found:

¹¹⁶ 510 ILL. COMP. STAT. 70/5-7 (2019).

¹¹⁷ 510 ILL. COMP. STAT. 70/10 (2019).

¹¹⁸ 510 ILL. COMP. STAT. 70/11 (2019).

¹¹⁹ *Id.*

¹²⁰ 510 ILL. COMP. STAT. 70/12 (2019).

¹²¹ 510 ILL. COMP. STAT. 92/1 (2019).

¹²² 510 ILL. COMP. STAT. 92/20 (2019).

¹²³ ANIMAL POPULATION CONTROL PROGRAM, ILLINOIS DEPARTMENT OF PUBLIC HEALTH (2007), http://www.idph.state.il.us/envhealth/pdf/Animal_Population_Control.pdf.

¹²⁴ *Id.*

¹²⁵ *Id.*

(1) Controlling the dog and cat population would have a significant benefit to the public health and safety by aiding in the prevention of dog attacks, reducing the number of dog and cat bite cases involving children, decreasing the number of automobile accidents caused by stray dogs and cats. (2) Increasing the number of rabies-vaccinated, owned pets in low-income areas will reduce potential threats to public health and safety from rabies. (3) Controlling the dog and cat population will save taxpayer dollars by reducing the number of dogs and cats handled by county and municipal animal control agencies. Targeted low-cost spay or neuter programs for dogs and cats in select Illinois counties and other states have proven to save taxpayers money. (4) This Act is established to provide a variety of means by which population control and rabies vaccinations may be financed.¹²⁶

After enactment, the funds generated by the program were used to provide low-cost spay and neuter for dogs and cats.¹²⁷ In order to be eligible for the program, the owner was required to be a resident of Illinois who owns a dog or cat, and be eligible for the Food Stamp Program or the Social Security Disability Insurance Benefits program.¹²⁸ Eligible participants were required to fill out an application for low cost surgery and vaccinations, then, upon approval, the only fee imposed was \$15.¹²⁹ Sterilization was to be completed by a University of Illinois College of Veterinary Medicine veterinarian or supervised veterinary student.¹³⁰ The program also had the ability to match those in need with a participating veterinarian in their community.¹³¹ The APCA established the Pet Population Control Fund which was supported by the sale of Pet Friendly license plates.¹³² The use of proceeds was restricted to sterilization and vaccination of dogs and cats under the program, to promote the program, and to educate the public on the importance of sterilization.¹³³

b. The Shelter Medicine Program

In August of 2018, Senator Linda Holmes and Representative Katie Stuart sponsored an amendment which changed the administration of the spay and neuter program from the Illinois Department of Public Health to the

¹²⁶ 510 ILL. COMP. STAT. 92/5 (2019).

¹²⁷ ANIMAL POPULATION CONTROL PROGRAM, *supra* note 123.

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ 510 ILL. COMP. STAT. 92/25 (2019).

¹³¹ Shelter Medicine Program to Benefit from Illinois License Plate Sales, COLLEGE OF VETERINARY MEDICINE (Oct. 30, 2018), <https://vetmed.illinois.edu/shelter-medicine-program-to-benefit-from-illinois-license-plate-sales>.

¹³² 510 ILL. COMP. STAT. 92/45 (2019).

¹³³ *Id.*

University of Illinois College of Veterinary Medicine.¹³⁴ The money from the Pet Friendly License Plates previously used to sponsor the matching of pet owners with veterinarians in their geographic region or sterilization at the University, is now used to support the University of Illinois Shelter Medicine Program.¹³⁵ The new program still provides sterilization procedures for feral cats, adopted dogs or cats, and pets of low-income families.¹³⁶ In addition, the Shelter Medicine Program aims to educate veterinary students in the tools available to improve the care of shelter animals and reduce animal overpopulation.¹³⁷ Through the program, veterinary students are engaged in shelter rotations during their four years of graduate education.¹³⁸ Students are able to sterilize pets and shelter animals at a number of shelters which offer low cost sterilization programs to people who cannot afford sterilization independently.¹³⁹ The program also offers weekend “community sterilization clinics” for feral cats.¹⁴⁰ Like the APCA under the Illinois Department of Public Health, the Shelter Medicine Program administrated by the University of Illinois College of Veterinary Medicine seeks to reduce the overpopulation of dogs and cats, but aims to accomplish this goal by further promoting student education.¹⁴¹

While the APCA does not directly affect breeders, the Act serves to improve the animal overpopulation crisis.

4. 225 ILCS 605 Animal Welfare Act

The Illinois Animal Welfare Act (ILAWA) was approved August 13, 1965.¹⁴² The purpose of the ILAWA is to “provide for animal welfare by licensing and regulating dealers in animals, and to provide penalties for the violation thereof.”¹⁴³ The ILAWA regulates pet shop operators, dog dealers, kennel operators, boarding facilities, breeders, shelters, daycares, animal control facilities, foster homes, guard dog owners, and sentry dog owners.¹⁴⁴

¹³⁴ Shelter Medicine Program to Benefit from Illinois License Plate Sales, *supra* note 131.

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ Shelter Medicine Program, COLLEGE OF VETERINARY MEDICINE, <https://vetmed.illinois.edu/animal-care/shelter-medicine-program-illinois> (last visited Nov. 6, 2019).

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² 225 ILL. COMP. STAT. 605/1 (2019).

¹⁴³ *Id.*

¹⁴⁴ 225 ILL. COMP. STAT. 605/2 (2019).

a. Definitions

A pet shop operator is any person who offers to “sell, exchange, or offers for adoption with or without charge or donation dogs, cats, birds, fish, reptiles, or other animals customarily obtained as pets.”¹⁴⁵ A dog dealer is anyone who sells or gives away “with or without charge or donation, dogs in the state.”¹⁴⁶ Both dog dealers and pet shop operators exclude those who “sell only dogs that he has produced and raised.”¹⁴⁷ A kennel operator is any person who maintains a place of boarding, training and similar purposes for compensation.¹⁴⁸ A shelter is defined as a “facility operated, owned, or maintained by a duly incorporated humane society, animal welfare society, or other non-profit organization” for purposes of “animal welfare, protection, and humane treatment of animals.”¹⁴⁹

b. Pet Shops, Dealers, Breeders, Shelters and Animal Control Facilities

The ILAWA requires pet shop operators, dog dealers, breeders, shelters, and animal control facilities to maintain a license with the Department of Agriculture.¹⁵⁰ Licensees must maintain records of the origin and sale of dogs and proof of purebred pedigree.¹⁵¹ The ILAWA requires dog dealers to keep puppies with their mother for eight weeks prior to sale.¹⁵² Dog dealers are required to provide the age, sex, weight, breed, record of vaccinations and sterilization, the name and address of the breeder or anyone else who owned or kept the animal, and documentation on microchipping.¹⁵³ Similarly, animal shelter and animal control facilities must provide information at the time of adoption, including details on inoculation or medical treatment, record of the animal being returned, a specific written statement regarding the receipt of policy, and the license number of the facility.¹⁵⁴ Animals sold by an animal shelter or animal control facility are required to be sterilized and microchipped, unless there is written agreement the animal will be microchipped and sterilized within a certain time period.¹⁵⁵ Animal shelters are not allowed to accept stray animals unless it is reported to animal control or law enforcement in the county that the animal is found.¹⁵⁶

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ 225 ILL. COMP. STAT. 605/3 (2019).

¹⁵¹ 225 ILL. COMP. STAT. 605/2.2 (2019).

¹⁵² *Id.*

¹⁵³ 225 ILL. COMP. STAT. 605/3.1 (2019).

¹⁵⁴ 225 ILL. COMP. STAT. 605/3.5 (2019).

¹⁵⁵ 225 ILL. COMP. STAT. 605/3.3 (2019).

¹⁵⁶ 225 ILL. COMP. STAT. 605/3.6 (2019).

Shelters have the discretion to adopt, transfer, or euthanize animals after attempts have been made to locate the owner and the holding period has passed in accordance with local ordinance.¹⁵⁷ Pet shop operators must obtain pets from licensed breeders who have not been cited under the federal Animal Welfare Act.¹⁵⁸ Upon sale, pet shops must provide purchasers with information similar to that of a shelter or dealer.¹⁵⁹ Pet shops are required by the ILAWA to microchip animals before their sale.¹⁶⁰ In the case of any serious illness outbreak, pet shops are required to notify purchasers, and purchasers are entitled to remedies if their pet becomes ill or has a congenital or hereditary condition.¹⁶¹ The ILAWA details the process of obtaining a remedy from pet shop owners and remedies under warranties of the shop.¹⁶²

The ILAWA greatly differs in scope from that of the HCAA. Within the Illinois Compiled Statutes, the ILAWA is located under a chapter dedicated to professions and occupations, as opposed to animals.¹⁶³ The ILAWA promotes animal welfare and treatment, as does the Humane Care for Animals Act; however, it does this by imposing standards on those who deal in the sale and transfer of animals rather than on owners.¹⁶⁴

III. ANALYSIS

One might ask, with such comprehensive Illinois state law pertaining to the protection and welfare of animals, what could possibly be missing? As the champion of animal welfare and protection laws, Illinois sets the bar for all other states to follow, and with forty nine states attempting to catch up, that bar should be set high.¹⁶⁵ Despite the expansive scope of animal law, there is a “companion animal overpopulation crisis,” to which recreational breeders are contributing.¹⁶⁶ Approximately 3.3 million dogs and 3.2 million cats enter shelters in the United States each year.¹⁶⁷ Roughly 2-3 million dogs and cats are euthanized each year.¹⁶⁸ More than seventy percent of cats

¹⁵⁷ *Id.*

¹⁵⁸ 225 ILL. COMP. STAT. 605/3.8 (2019).

¹⁵⁹ 225 ILL. COMP. STAT. 605/3.15 (2019).

¹⁶⁰ *Id.*

¹⁶¹ 225 ILL. COMP. STAT. 605/ 3.15(f) (2019).

¹⁶² 225 ILL. COMP. STAT. 605/3.15(m) (2019).

¹⁶³ 225 ILL. COMP. STAT. 605 (2019).

¹⁶⁴ 225 ILL. COMP. STAT. 605/2.1 (2019).

¹⁶⁵ Best and Worst States for Animal Protection Laws, 2017 Report Released, *supra* note 43.

¹⁶⁶ Companion Animal Population, PETA, <https://www.peta.org/issues/animal-companion-issues/overpopulation/> (last visited Nov. 6, 2019).

¹⁶⁷ Pet Statistics, Shelter Intake and Surrender, AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, <https://www.aspc.org/animal-homelessness/shelter-intake-and-surrender/pet-statistics> (last visited Nov. 6, 2019).

¹⁶⁸ Companion Animal Population, *supra* note 166.

who enter animal control pounds and shelters are killed.¹⁶⁹ Animals that are not euthanized frequently find themselves in no-kill shelters suffering from insanity caused by loneliness and confinement.¹⁷⁰ Others are among the seventy million stray animals nationwide.¹⁷¹ While these numbers are declining, they are still troublesome.¹⁷² A major cause of the overpopulation crisis is the failure of pet owners to spay and neuter pets.¹⁷³ Each animal born contributes to the crisis.¹⁷⁴ Even when every animal bred has found a home, that animal takes the place of a shelter pet.¹⁷⁵ Solving the problem of overpopulation is dependent on “[preventing] animals from being born by spaying and neutering.”¹⁷⁶ Only ten percent of animals brought to shelters have been spayed or neutered.¹⁷⁷

A. Procurement of Dogs and Cats

The American Society for the Prevention of Cruelty to Animals (ASPCA) estimates twenty-three percent of dogs and thirty-one percent of cats are obtained by their owners from a shelter or humane society.¹⁷⁸ Dogs obtained from breeders are estimated around thirty-four percent, while bred cats make up only three percent of cats acquired.¹⁷⁹ Stray dog intake accounts for only six percent of dogs while stray cat intake accounts for twenty-seven percent of cats.¹⁸⁰ The remainder of dog and cat ownership was initiated by friends, relatives, and private parties.¹⁸¹ This leads to the conclusion that breeding dogs for profit or for personal pleasure is extremely unnecessary and unsustainable.¹⁸² While people breed designer pets or pets for recreation, there are millions left in shelters without a home.¹⁸³

¹⁶⁹ Shelter Medicine Program, *supra* note 138.

¹⁷⁰ Companion Animal Population, *supra* note 166.

¹⁷¹ Kristina Pepelko, 12 Alarming Facts About Pet Homelessness, ONE GREEN PLANET (2013), <https://www.onegreenplanet.org/animalsandnature/12-alarming-facts-about-pet-homelessness/>.

¹⁷² Companion Animal Population, *supra* note 166.

¹⁷³ No Easy Answer to Growing Number of Stray Dogs in the U.S., NATIONAL PUBLIC RADIO (Dec. 29, 2017), <https://www.npr.org/2017/12/29/574598877/no-easy-answer-to-growing-number-of-stray-dogs-in-the-u-s-advocate-says>.

¹⁷⁴ Indy Staff, Reduce Pet Overpopulation, SANTA BARBARA INDEPENDENT (Feb. 6, 2015), <https://www.independent.com/news/2015/feb/06/reduce-pet-overpopulation/>.

¹⁷⁵ *Id.*

¹⁷⁶ Companion Animal Population, *supra* note 166.

¹⁷⁷ Pepelko, *supra* note 171.

¹⁷⁸ Pet Statistics, Shelter Intake and Surrender, *supra* note 167.

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

¹⁸² Pepelko, *supra* note 171.

¹⁸³ *Id.*

B. The Choice Not to Spay or Neuter

There are many reasons people choose not to spay or neuter their pet. Often people believe they can breed their dog or cat once in order to recreate the favorable characteristics of their beloved pet.¹⁸⁴ However, just like humans, mating animals results in a mix of chromosomes producing unique offspring, thus not achieving the desired results.¹⁸⁵ Some believe spaying and neutering will cause their pet to become overweight or change their personality, however, studies show sterilization does not significantly change the temperament or weight of an animal.¹⁸⁶ Others believe they can begin breeding dogs to make a profit.¹⁸⁷ However, rarely do people comprehend the cost of pet pregnancy and raising puppies and kittens.¹⁸⁸ Costs associated with a pregnant pet include supplemental vitamins, special food, and regular veterinarian appointments.¹⁸⁹ Once the litter is born the costs incurred can be associated with veterinary intervention, supplies, premium foods, regular checkups, preventative medication, and raising the young until, and if, all the puppies or kittens have found a home.¹⁹⁰

When such puppies or kittens have not been rehomed, they frequently find themselves “dumped in a local shelter, feeding a vicious cycle.”¹⁹¹ Owners believe having their pet continuously confined alleviates the need to have them spayed or neutered. However, it is often possible for a pet to leave their confinement or another pet to enter the area.¹⁹² Some pet owners wish to have just one litter, but studies show this mentality to be the cause of the pet overpopulation problem that exists.¹⁹³ Just one unsterilized cat, and its offspring, can produce over 400,000 cats in seven years, while one unsterilized dog and its puppies can produce 67,000 dogs in six years.¹⁹⁴

C. Implications of Statute and Definitions

The obvious solution to the overpopulation problem, as addressed by the comprehensive ILCA, APCA, and the AWA, is spaying and neutering.

¹⁸⁴ Earnest Ward, *Breeding for Pet Owners - The Pros and Cons of Breeding Dogs*, VETERINARY CENTERS OF AMERICA (2016), <https://vcahospitals.com/know-your-pet/breeding-for-pet-owners-the-pros-and-cons-of-breeding-dogs>.

¹⁸⁵ Amy Brannan, *Benefits of Spaying and Neutering Your Dog*, CANINE JOURNAL (Oct. 3, 2018), <https://www.caninejournal.com/benefits-of-spaying-and-neutering>.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ *Id.*

However, a major source of the overpopulation problem is excluded from any requirement to spay and neuter. The AWA only requires animal shelters and animal control facilities to sterilize dogs and cats prior to their adoption.¹⁹⁵ The only exceptions allowed are when the owner agrees to have the pet sterilized within thirty days of the adoption or within fourteen days after the animal is healthy enough to receive the operation.¹⁹⁶ Breeders and dog dealers have specified recordkeeping requirements but escape the responsibility of sterilization.¹⁹⁷ Further, the definition of dog dealers in the statute explicitly excludes “a person who sells only dogs that he has produced and raised.”¹⁹⁸ This means that those who breed their own pet have no requirement to microchip, vaccinate, or sterilize. Every other source of dog and cat adoption or sale must either meet licensing requirements or shelter and control requirements.¹⁹⁹ In aggregate, the recreational breeders are acting as breeders or dog dealers but escaping all necessary requirements and remaining uncontrolled. This leaves them welcome to relinquish their unsterilized animals any way they wish.

IV. PROPOSED AMENDMENT

Rather than freeing recreational breeders of the responsibility of sterilization as well as the impediment of licensing, added law on such pet owners would encourage spaying or neutering and act as a deterrence towards casual breeding. The solution proposed consists of an amendment to the Illinois Animal Welfare Act. The proposed amendment would add “recreational breeders” to the list of definitions, impose sterilization requirements, and give an option to be treated as a licensee if there is a desire to leave pets intact. The additions would read as follows.

Section 2. Definitions. As used in this Act unless the context otherwise requires:

“Recreational breeder” means those who sell, or transfer with or without profit, only dogs and cats that he has produced from his pet.

¹⁹⁵ 225 ILL. COMP. STAT. 605/3.3 (2019).

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ 510 ILL. COMP. STAT. 605/2 (2019).

¹⁹⁹ 510 ILL. COMP. STAT. 605/3 (2019).

Section 2.3. Requirements of Recreational Breeders.

No recreational breeder shall separate a puppy or kitten from its mother until such puppy or kitten has attained the age of 8 weeks.

Recreational Breeders shall not sell or transfer without profit any dog or cat unless it has been surgically sterilized.

Exception:

A Recreational Breeder may leave a dog or cat which their pet has produced intact if they meet all requirements of licensees under this Act prior to sale or transfer with or without profit.

A. Licensing to Keep Animals Intact

It is important for people to retain the liberty to do with their pets as they wish. Therefore, under the proposed amendment, owners who do not desire to sterilize each animal which their pet has produced would be required to act as a licensee under the Act. As it exists, subsection 2.2 of the Act requires licensees to keep the animal with its mother until it reaches eight weeks of age and maintain records of the origin and sale of all dogs.²⁰⁰ Licensees must maintain sanitary conditions, insure proper ventilation, provide adequate nutrition, provide humane care, and take reasonable care to release animals free from disease, injuries, or abnormalities.²⁰¹ A licensee is required to make information available about each dog or cat, including the age, sex, and weight of the animal; the breed of the animal; a record of vaccinations and veterinary care; a record of sterilization or lack of sterilization; the name and address of any other person who owned the animal; and documentation that indicates that the dog or cat has been microchipped and the microchip has been enrolled in a nationally searchable database.²⁰²

A licensee must endure the process of obtaining the license with the Illinois Department of Agriculture.²⁰³ Aside from paying a licensing fee, the application process demands very specific information regarding the facility, infestation and parasite prevention measures, and the number of animals being kept.²⁰⁴ The application asks for disclosure of uses of veterinary

²⁰⁰ 225 ILL. COMP. STAT. 605/2.2 (2019).

²⁰¹ 225 ILL. COMP. STAT. 605/18 (2019).

²⁰² 225 ILL. COMP. STAT. 605/3.1 (2019).

²⁰³ 225 ILL. COMP. STAT. 605/3 (2019).

²⁰⁴ ILL. DEP'T OF AGRIC., FORM AW-1, BUREAU OF ANIMAL HEALTH AND WELFARE: APPLICATION FOR ILLINOIS LICENSE.

services and procedures to satisfy complaints which may be made.²⁰⁵ Licensees must present personal information such as age, present residence, business connections and experience, bank and professional references, any license suspensions or revocations, and felony convictions.²⁰⁶ The record of information the Department of Agriculture may consider when refusing to issue or renew a license or to revoke or suspend a license includes any material misstatement in the application, a violation under the Act, conviction of certain crimes, violations of Illinois laws, failure to possess qualifications or to meet the requirements of the Act, or any negligence, incompetency, or cruelty to animals.²⁰⁷ The Department of Agriculture may also consider felony convictions as part of qualifications for licensing.²⁰⁸ Licensees are required to renew their licenses yearly.²⁰⁹ This allows the Department to reconsider information including inventory and intake and outcome statistics.²¹⁰ The licensee would be subject to disciplinary action for any violations of the AWA, misstatements pertaining to their licensing, convictions of certain crimes, or failure to meet any requirements of licensees.²¹¹

Reports may be made to the Department regarding concerns of the licensees' qualifications or care.²¹² Given such reporting, the Department is able to investigate the applicant or anyone holding a license to ensure proper care.²¹³ During an investigation the department may inspect the licensees' home or business premises.²¹⁴ Upon discovery of a potential violation, the Department may hold hearings to decide whether to revoke or refuse a license.²¹⁵ The Department is free to make determinations of guilt pertaining to violations of the AWA and conclude whether to revoke or refuse a license.²¹⁶ Licensees who violate the Act or a rule or regulation of the Department are guilty of a Class C misdemeanor and subject to fines.²¹⁷

B. Overall Effect

Subsection 2.3 would discourage recreational breeding. Those who contemplate breeding their pets would be discouraged by the imposition of

²⁰⁵ *Id.*

²⁰⁶ 225 ILL. COMP. STAT. 605/5 (2019).

²⁰⁷ 225 ILL. COMP. STAT. 60/10 (2019).

²⁰⁸ 225 ILL. COMP. STAT. 605/5 (2019).

²⁰⁹ 225 ILL. COMP. STAT. 605/9 (2019).

²¹⁰ 225 ILL. COMP. STAT. 605/7 (2019).

²¹¹ 225 ILL. COMP. STAT. 605/10 (2019).

²¹² 225 ILL. COMP. STAT. 605/11 (2019).

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ *Id.*

²¹⁶ 225 ILL. COMP. STAT. 605/20 (2019).

²¹⁷ 225 ILL. COMP. STAT. 605/20-20.5 (2019).

having to sterilize each pet prior to their sale or transfer. However, people who wish to create future litters are provided the freedom to breed their pets. Incurring the cost to spay or neuter each animal born to their pet requires owners to invest in fixing the overpopulation crisis, rather than adding to the problem. The decision to breed recreationally becomes contingent upon meeting factors imposed by law, rather than an uninformed and unregulated decision. Such an investment made in each animal is more likely to encourage owners to ensure each puppy or kitten is tendered a home, rather than left out as a stray. If one does not license, regardless of where the litters of each animal end up, they will be sterilized and will not further add to the overpopulation crisis. The licensing requirement provides similar incentive to spay and neuter pets. The requirements of licensing enable those who wish to breed their pet to do so; however, it ensures responsible breeding with the vaccination and documentation requirements. The licensing process and penalties will discourage irresponsible and accidental breeding.

V. CONCLUSION

The abundance of animal law signifies the value American culture places on companion animals. Federal, state, and local governments recognize the importance of protecting these animals. In recognizing the desire to promote animal welfare, the animal overpopulation problem has gathered great attention. That attention has initiated programs which aim to assist in sterilization of pets. However, there is always room to improve. With Illinois being the leader in animal law, it is important that the law keeps evolving to bring modern solutions to current problems. With the remaining reluctance to sterilize pets, it is important to shed light on the effect recreational breeding has on the overpopulation of animals. Simply giving recreational breeders responsibilities, which all others must yield to, provides a reasonable means to prevent this type of breeding from negatively contributing to the problem.