

**The Unique Legal Challenges Involved in
Bringing Juvenile Animal Abusers to Justice**

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Animal Legal Defense Fund**

**September 15, 2008
New York City**

**NY Juvenile Cases in the Animal Legal Defense Fund's
National Animal Cruelty Database
Compiled August 2008**

[Note: ALDF's Database cases are compiled from news reports and individual communications forwarded to ALDF from the public and law enforcement and are therefore but a small sample of the actual number of cases suspected to be occurring. The accuracy of each case is confirmed by an ALDF staff member before entry into the database, and dispositions are similarly sought and verified by staff through phone calls and letters to court personnel.]

12-year-old boy

2008 Onondaga County

Boy doused neighbor's 14-year-old cat in gasoline. Cat survived the attack but had to be euthanized after extensive treatment failed. Investigators charged him with aggravated animal cruelty. Disposition pending.

2 teenagers

2007 Kings County

Cops were looking for 2 teens who allegedly set a 6-month-old kitten on fire after dousing him with lighter fluid. The kitten survived 2 days before dying of burns. No arrests reported.

Kyle Custer, 16, and Dustin Gauger, 20

2006 Onondaga County

Custer and Gauger allegedly stole a neighborhood cat, doused it with gasoline, and then set her on fire. Both men are also facing charges of felony rape and endangering the welfare of a child for the rape of 2 14-year-old girls.

Custer pleaded guilty to animal cruelty and was sentenced to 2 years in prison. Custer also pleaded guilty to having sex with a 14-year-old girl. He was sentenced to one to three years in jail.

Gauger also pleaded guilty to animal cruelty.

Undisclosed

2006 Franklin County

4/2/06 - A young man allegedly broke into a shelter and stole 3 pit bull puppies. He had come to the shelter the day before and wanted to adopt one, but was told they were not yet available for adoption. He said he had a puppy recently die of parvo, and the shelter personnel said that any puppy he adopted would likely contract the virus and die. **4/7/06** - The puppies' location was discovered and they were recovered. Two died later. The suspect was charged with criminal trespass and petite larceny. **4/20/06** - Suspect was given Adjournalment in Contemplation of Dismissal with the only condition being that he must stay at least 500 feet from the shelter. He was NOT ordered to pay the vet bill of \$579 for the care of the 3 puppies.

Charles Thomas, 17

2005 Onondaga County

Charles Thomas allegedly threw a pit bull from an apartment window (at least the 2nd story). The dog died soon after impact.

Charged with aggravated cruelty to animals and false impersonation for misidentifying himself.

Unknown disposition.

Ricardo Plasencia, 16

2004 Bronx

Plasencia allegedly beat 2 pit bulls to death with a tree branch in a Bronx park next to his house.

Charged with 2 counts of aggravated cruelty to animals.

Unknown disposition.

Derek Hazzard, 16 and Allen Florian, 17

2004 Montgomery County

1/04 - Derek Hazzard, 16 and Allen Florian, 17, allegedly beat a cat with broom sticks, a two-by-four and a sledhammer, then dumped her alive, wrapped in a plastic bag in a field. She later died from her injuries.

Cases are sealed.

Travis Swartfiguer, 16 and Stephen Whitcroft

2000 Saratoga County

10/2/00 Two boys allegedly encouraged a pit bull to attack and kill a kitten at the Hillside Trailer Park where they live.

Charged with misdemeanor cruelty. Unknown disposition.

Frank Esposito, 17

2000 Kings County

6/10/00 While smoking marijuana and tobacco at the Bergen Beach Stables, the defendant allegedly set the barn on fire, killing 21 horses. 3 were rescued. Jury found him guilty of marijuana possession; not guilty of cruelty to animals, arson and reckless endangerment because he had alibi witnesses.

Jesus Figueroa, 16

2000 Chautauqua County

3/00 - 16-year-old Jesus Figueroa allegedly tortured, stabbed, and disemboweled a puppy and left him to die. He reportedly showed the puppy to two 14-year-olds. Charged with felony aggravated cruelty to animals and misdemeanor endangering the welfare of a child. Case is sealed.

Undisclosed

2000

2 juveniles had been arrested for the torturing and death of a cat. Insufficient details to get more info on this case.

Rex Safford

2000 Delaware County

A woman reported that her dog had been shot and killed by her neighbor, a juvenile who had previously spent time in a rehab center. She had previously reported to police that the boy was throwing rocks at her dog. The police and humane society said her case would go nowhere. The prosecutor refused to press charges.

Mark A. Furgal, 17

1999 Onondaga County

The defendant allegedly set a barn on fire to get even with his boss. 19 horses and a dozen cats were burned alive.

12 misdemeanor counts for the horses that were killed. One count of aggravated animal cruelty for each of the 2 cat bodies found. 3 counts of felony arson. The defendant was acquitted by a jury. The jury was convinced by the defense attorney that the defendant could not have acted alone.

Jamie Ayers, 17

1998 Tomkins County

Jamie Ayers, 17, allegedly shot and killed a neighbor's cat while he was in the woods shooting birds.

Cat's human companion reported that the DA won't discuss case with her; she fears defendant may be negotiating a plea deal on the charges.

Unknown disposition.

Sarfaraz Siddigi

1998 Suffolk County

Defendant was found with a gnawed and bloodied pit bull in his car and videos of dog fights. Charged with cruelty to animals.

Unknown disposition.

Undisclosed, 15

1998 Onondaga County

Three defendants allegedly set a cat on fire; the animal died.

15 yr old sentenced to 1 year in LaSalle Center in Albany; placement/treatment/detention center.

Chester Williamson, 16

1997 Schenectady County

Chester Williamson, 16, allegedly doused Buster, a cat, with kerosene and then lit him on fire. He was found guilty of misdemeanor animal cruelty and sentenced to 3 years probation and psychiatric assistance.

This case prompted Assemblyman James Tedisco to introduce legislation that would make animal cruelty a felony in NY. At the time of Buster's death, animal cruelty was a misdemeanor. The bill was appropriately named the "Buster Bill" and after years of hard work, it was signed into law by the Governor of NY in 1999.

May 27, 2008 – Per timesunion.com: “A three-time convicted felon who as a teen provided the impetus for a tougher animal cruelty law pleaded guilty today to sexually abusing a mentally disabled 12-year-old girl after luring her to a city park last fall.”

Teacher and students in a technical school veterinary class

1997 Suffolk County

Five students ranging in age from 17 to 19 allegedly tortured and starved several animals to death, while the teacher looked the other way.

All were charged with misdemeanor animal cruelty. Unknown disposition.

Thomas J. Rmanofski Jr. and Douglas L. Clark

1997 Oswego County

Defendants allegedly tortured a kitten for 3 hours.

Charged with misdemeanor cruelty. Unknown disposition.

These 2 pending federal bills are from The Library of Congress' THOMAS bill search website,
<http://thomas.loc.gov/home/c110query.html>
viewed 8/25/08.

Senate Bill 2439

Title: A bill to require the National Incident Based Reporting System, the Uniform Crime Reporting Program, and the Law Enforcement National Data Exchange Program to list cruelty to animals as a separate offense category.

Sponsor: [Sen Menendez, Robert](#) [NJ] (introduced 12/10/2007)
[Cosponsors](#) (13)

Latest Major Action: 12/10/2007 Referred to Senate committee. Status: Read twice and referred to the Committee on the Judiciary. _

110th CONGRESS

1st Session

S. 2439

To require the National Incident Based Reporting System, the Uniform Crime Reporting Program, and the Law Enforcement National Data Exchange Program to list cruelty to animals as a separate offense category.

IN THE SENATE OF THE UNITED STATES

December 10, 2007

Mr. MENENDEZ (for himself, Mrs. DOLE, Mr. KENNEDY, and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To require the National Incident Based Reporting System, the Uniform Crime Reporting Program, and the Law Enforcement National Data Exchange Program to list cruelty to animals as a separate offense category.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCLUSION OF CRUELTY TO ANIMALS ON CRIME DATA BASES.

The Attorney General shall, in consultation with the Director of the Federal Bureau of Investigation, modify the National Incident Based Reporting System, the Uniform Crime Reporting Program, and the Law Enforcement National Data Exchange Program to list cruelty to animals as a separate offense category.

SEC. 2. IMPLEMENTATION.

Section 1 shall be implemented not later than 12 months after the date of enactment of this Act.

House of Representatives Bill 6597

Title: To require the collection of data on animal cruelty crimes.

Sponsor: [Rep Conyers, John, Jr.](#) [MI-14] (introduced 7/24/2008)
[Cosponsors](#) (13)

Latest Major Action: 7/24/2008 Referred to House committee.
Status: Referred to the House Committee on the Judiciary.

Animal Cruelty Statistics Act of 2008 (Introduced in House)

110th CONGRESS

2d Session

H. R. 6597

To require the collection of data on animal cruelty crimes.

IN THE HOUSE OF REPRESENTATIVES

July 24, 2008

Mr. CONYERS (for himself, Mr. GALLEGLY, Mr. NADLER, Mr. VAN HOLLEN, and Mr. MORAN of Virginia) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To require the collection of data on animal cruelty crimes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Animal Cruelty Statistics Act of 2008'.

SEC. 2. DATA ON ANIMAL CRUELTY CRIMES.

Not later than one year after the date of the enactment of this Act the Attorney General shall make appropriate changes to existing crime data bases maintained within the Department of Justice so that data on all crimes of animal cruelty will be collected and made publicly available in a manner that facilitates analysis.

Bill Summary - A04851

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[See Bill Text](#)

A04851 Summary:

BILL NO A04851

SAME AS No same as

SPONSOR Tedisco

COSPNSR Kolb, Thiele, Walker

MLTSPNSR Barclay, Conte, Spano

Amd S353, Ag & Mkts L

Requires unsealing of court records of youthful offenders convicted of animal abuse offense; provides that such persons undergo a psychiatric evaluation and treatment where necessary.

A04851 Actions:

BILL NO A04851

02/07/2007 referred to agriculture

01/09/2008 referred to agriculture

A04851 Votes:

A04851 Memo:

BILL NUMBER: A4851

TITLE OF BILL : An act to amend the agriculture and markets law, in relation to imposing additional penalties for animal abuse

PURPOSE OR GENERAL IDEA OF BILL :

To prevent the crime of animal cruelty through evaluation and treatment of offenders.

SUMMARY OF SPECIFIC PROVISIONS :

Provides that a person convicted of animal abuse or neglect would be required to undergo a psychiatric evaluation and treatment as warranted.

Provides that, notwithstanding any inconsistent provision of law, records of the crimes committed under this statute by youthful offenders shall not be sealed.

Establishes that this legislation would not prohibit or interfere with the legal practice of hunting, trapping or fishing, as defined by the Ag & Markets Law, or the routine management of a farming operation, or the eradication of vermin, or the dispatch of rabid or diseased animals or animals posing an imminent threat to human safety.

JUSTIFICATION :

In addition to raising the penalties, it is also necessary to require a psychiatric evaluation for every person convicted of animal abuse, with provisions for treatment when recommended and periodic re-evaluation for a period of time following conviction. This is needed to ensure that the pattern of abuse -- and potential abusers -- is identified.

This bill also empowers the criminal justice system to track youthful offenders who commit such crimes after the age when such record would normally be sealed. It is important that Family Court does not become a shield against the protection of our society.

PRIOR LEGISLATIVE HISTORY :

2006: A.2695 held for consideration in agriculture

2005: A.2695 referred to agriculture

2004: held for consideration in agriculture

2003: referred to Agriculture

2002: A.6310 referred to Agriculture

2000: referred to Agriculture

1999: referred to Agriculture

1998: amended and recommitted to agriculture

FISCAL IMPLICATIONS :

No new fiscal impact.

EFFECTIVE DATE : This act shall take effect on the first of November next succeeding the date on which it shall become law.

STATE OF NEW YORK

4851

2007-2008 Regular Sessions

IN ASSEMBLY

February 7, 2007

Introduced by M. of A. TEDISCO, KOLB, THIELE, WALKER -- Multi-Sponsored
by -- M. of A. BARCLAY, CONTE -- read once and referred to the
Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to imposing
additional penalties for animal abuse

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND
ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 353 of the agriculture and markets law, as amended
2 by chapter 458 of the laws of 1985 and the opening paragraph as amended
3 by chapter 523 of the laws of 2005, is amended to read as follows:

4 S 353. Overdriving, torturing and injuring animals; failure to provide
5 proper sustenance. 1. A person who overdrives{,} OR overloads{, tortures
6 or cruelly beats or unjustifiably injures, maims, mutilates or kills}
7 any animal, whether wild or tame, and whether belonging to himself or to
8 another, or deprives any animal of necessary sustenance, food or drink,
9 or neglects or refuses to furnish it such sustenance or drink, or caus-
10 es, procures or permits any animal to be overdriven, overloaded,
11 {tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated
12 or killed,} or to be deprived of necessary food or drink, or who wilful-
13 ly sets on foot, instigates, engages in, or in any way furthers any SUCH
14 act of cruelty to any animal, or any SUCH act tending to produce such
15 cruelty, is guilty of a class A misdemeanor and for purposes of para-
16 graph (b) of subdivision one of section 160.10 of the criminal procedure
17 law, shall be treated as a misdemeanor defined in the penal law.

18 2. THE COURT, FOR A PERSON WHO TORTURES OR CRUELLY BEATS OR
UNJUSTIFI-
19 ABLY INJURES, MAIMS, MUTILATES OR KILLS ANY ANIMAL, WHETHER
WILD OR

20 TAME, AND WHETHER BELONGING TO HIMSELF OR ANOTHER, OR WHO CAUSES,

21 PROCURES OR PERMITS ANY ANIMAL TO BE TORTURED, CRUELLY BEATEN, OR

22 UNJUSTIFIABLY INJURED, MAIMED, MUTILATED OR KILLED SHALL, IN ADDITION TO

23 ANY OTHER PENALTY OTHERWISE IMPOSED BY LAW FOR A VIOLATION OF THIS

24 SECTION ORDER AN IMMEDIATE AND THOROUGH PSYCHIATRIC ANALYSIS AND EVALU-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets { } is old law to be omitted.

LBD03959-01-7

A. 4851

2

1 ATION BY A COMPETENT PROFESSIONAL, AND WHERE NECESSARY REQUIRE A PERSON

2 WHO VIOLATES ANY OF SUCH PROVISIONS TO ENTER INTO AND SUCCESSFULLY

3 COMPLETE ANY TREATMENT OR PROGRAM DEEMED HELPFUL IN MODIFYING BEHAVIOR

4 PATTERNS OR TREATING ANY MENTAL ILLNESS WHICH MAY CAUSE OR CONTRIBUTE TO

5 SUCH ILLEGAL ACTIVITIES.

6 3. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THE FAMILY COURT ACT,

7 OR ANY OTHER PROVISION OF LAW WHERE A PERSON DEEMED A YOUTHFUL OFFENDER

8 VIOLATES ANY PROVISION OF THIS SECTION, ANY RECORD OR MATTER CONSIDERED

9 IN CONNECTION WITH THE ADJUDICATION ENTERED WITH RESPECT TO THE SAME

10 SHALL NOT BE SEALED OR OTHERWISE PROTECTED FROM DISCLOSURE AND MAY BE

11 USED FOR ANY LAWFUL PURPOSE IN ANY SUBSEQUENT PROSECUTION, WHENEVER

12 COMMENCED.

13 4. Nothing {herein} contained IN THIS SECTION shall be construed to

14 prohibit or interfere with any properly conducted scientific tests,

15 experiments or investigations, involving the use of living animals,

16 performed or conducted in laboratories or institutions, which are

17 approved for these purposes by the state commissioner of health. The

18 {state} commissioner of health shall prescribe the rules under which

19 such approvals shall be granted, including therein standards regarding

20 the care and treatment of any such animals. Such rules shall be
21 published and copies thereof conspicuously posted in each such laborato-
22 ry or institution. The {state} commissioner of health or his duly
23 authorized representative shall have the power to inspect such laborato-
24 ries or institutions to insure compliance with such rules and standards.
25 Each such approval may be revoked at any time for failure to comply with
26 such rules and in any case the approval shall be limited to a period not
27 exceeding one year.

28 NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO
PROHIBIT OR

29 INTERFERE IN ANY WAY WITH ANYONE LAWFULLY ENGAGED IN HUNTING,
TRAPPING,

30 OR FISHING, AS DEFINED BY THE ENVIRONMENTAL CONSERVATION LAW;
OR WITH

31 THE ROUTINE MANAGEMENT OF A FARMING OPERATION; OR THE
ERADICATION OF

32 VERMIN; OR THE DISPATCH OF RABID OR DISEASED ANIMALS OR ANIMALS
POSING

33 AN IMMINENT THREAT TO HUMAN SAFETY.

34 S 2. This act shall take effect on the first of November next succeed-
35 ing the date on which it shall have become a law.

**A SURVEY OF STATE LAWS REGARDING
COUNSELING FOR JUVENILE ANIMAL ABUSERS
By the Animal Legal Defense Fund**

**I. STATE STATUTES THAT REQUIRE JUVENILES TO UNDERGO
COUNSELING FOR ANIMAL CRUELTY CRIMES**

ILLINOIS

- **510 ILL. COMP. STAT. 70/3: Owners' Duties**
- **510 ILL. COMP. STAT.. 70/3.01: Cruel Treatment**
- **510 ILL. COMP. STAT. 70/3.02: Aggravated Cruelty**
- **510 ILL. COMP. STAT. 70/3.03-1: Depiction of Animal Cruelty**

“If the convicted person is a juvenile or a companion animal hoarder, the court must order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.”

NEW JERSEY

- **N.J. STAT. ANN. § 4:22-17: Cruelty; Disorderly Persons Offense**

“d. If a juvenile is adjudicated delinquent for an act which, if committed by an adult, would constitute a disorderly persons offense pursuant to subsection a. of this section or a crime of the third degree or crime of the fourth degree pursuant to subsection b. of this section, the court also shall order the juvenile to receive mental health counseling by a licensed psychologist or therapist named by the court for a period of time to be prescribed by the licensed psychologist or therapist.”

NEVADA

- **NEV. REV. STAT 62E.680: Act Involving Cruelty To Or Torture Of Animal: Participation In Counseling Or Other Psychological Treatment; Payment Of Costs**

“1. If a child is adjudicated delinquent for an unlawful act that involves cruelty to or torture of an animal, **the juvenile court shall order the child to participate in counseling or other psychological treatment.**

2. The juvenile court shall order the child or the parent or guardian of the child, or both, to the extent of their financial ability, to pay the cost of the child to participate in the counseling or other psychological treatment.”

NEW MEXICO

- **N. M. STAT. ANN. 1978, § 30-18-1: Cruelty To Animals; Extreme Cruelty To Animals; Penalties; Exceptions**

“H. If a child is adjudicated of cruelty to animals, the court shall order an assessment and any necessary psychological counseling or treatment of the child.”

TEXAS

- **TEX. FAMILY CODE ANN. § 54.0407: Cruelty to Animals: Counseling Required.**

“If a child is found to have engaged in delinquent conduct constituting an offense under Section 42.09 or 42.092, Penal Code, **the juvenile court shall order the child to participate in psychological counseling for a period to be determined by the court.**”

II. STATE STATUTES THAT ALLOW DISCRETION IN ORDERING JUVENILES TO UNDERGO COUNSELING FOR ANIMAL CRUELTY CRIMES

INDIANA

- **IND. CODE § 35-46-3-12: Beating Vertebrate Animal**

“ (d) **When a court imposes a sentence or enters a dispositional decree under this section concerning a person described in subdivision (1), the court:**

(1) shall consider requiring:

(A) a person convicted of an offense under this section; or

(B) a juvenile adjudicated a delinquent for committing an act that would be a

crime under this section if committed by an adult; to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree; and

(2) may order an individual described in subdivision (1) to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree.”

MICHIGAN

- **MICH. COMPILED LAWS ANN. § 712A.18l: Juveniles, Guilty Of Cruelty To Animals Or Arson; Court Ordered Psychiatric Or Psychological Treatment**

“If a juvenile is found to be within the court's jurisdiction under section 2(a)(1) of this chapter for an offense that, if committed by an adult, would be a violation of section 50b of the Michigan penal code, 1931 PA 328, [MCL 750.50b](#), having to do with cruelty to animals, or would be a violation of sections 71 to 80 of the Michigan penal code, 1931 PA 328, [MCL 750.71](#) to [750.80](#), having to do with arson, **the court shall order that the juvenile be evaluated to determine the need for psychiatric or psychological treatment. If the court determines that psychiatric or psychological treatment is appropriate for that juvenile, the court may order that treatment.** This section does not preclude the court from entering any other order of disposition allowed under this chapter.”

TENNESSEE

- **TENN. CODE ANN. § 39-14-212: Aggravated Cruelty to Animals; Definitions; Penalties**

“(j) If a juvenile is found to be within the court's jurisdiction, for conduct that, if committed by an adult, would be a criminal violation involving cruelty to animals or would be a criminal violation involving arson, then the court may order that the juvenile be evaluated to determine the need for psychiatric or psychological treatment. If the court determines that psychiatric or psychological treatment is appropriate for that juvenile, then the court may order that treatment.”

VERMONT

- **VT. STAT. ANN. tit. 13, § 353: Degree of Offense; Sentencing Upon Conviction**

“(4) Participate in available animal cruelty prevention programs or educational programs, or both, or obtain psychiatric or psychological counseling, within a reasonable distance from the defendant's residence. **If a juvenile is adjudicated delinquent under section 352 or 352a of this title, the court may order the juvenile to undergo a psychiatric or psychological evaluation and to participate in treatment that the court determines to be appropriate after due consideration of the evaluation.** The court may impose the costs of such programs or counseling upon the defendant when appropriate.

III. FORMER STATUTE

MAINE

- **17 MAINE REV. STAT. ANN. § 1031** used to have the following language, which was repealed by Law 2003, c. 452, § I-18:

“The court as part of the sentence may order, as a condition of probation, that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if it is determined appropriate by the court, to receive psychiatric or psychological counseling at the defendant's expense. **If the defendant is a juvenile, the court shall order that the juvenile receive psychiatric or psychological counseling.** The parents or guardian of the juvenile, if they are able, shall pay for the counseling.”