

By Anna E. Finn & Amy Lynn Strege

A Day At The Zoo: How animal law matters impact your legal practice

Overview

- “Companion animal”--an animal that is commonly considered to be, or is considered by the owner to be, a pet (510 ILCS 70/2.01a)
- “Wildlife”--any bird or mammal living in a state of nature without the care of man (520 ILCS 5/1.2t)
- Livestock and endangered species have their own legal issues and frameworks and will not be covered in this presentation.

Hunting for companion animal laws: Where to start?

- Animal Control Act, 510 ILCS 5/1 et seq.
- Humane Care for Animals Act, 510 ILCS 70/1 et seq.
- Laws prohibiting dog fighting can be found in the Criminal Code at 720 ILCS 5/26-5.

Animal Control Act

- Defines authority that local animal control agencies have to regulate companion animals, including:
 - the regulation of animals running at large (510 ILCS 5/9)
 - requirements having to do with rabies vaccinations (510 ILCS 5/8)
 - rules and regulations regarding animal bites (510 ILCS 5/13)
 - rules and regulations governing dangerous dogs and vicious dogs (510 ILCS 5/15.1; 510 ILCS 5/15)

Humane Care for Animals Act

- 510 ILCS 70/1 et seq.
- Outlines major offenses and crimes against animals both companion and livestock.
 - Cruelty to animals (510 ILCS 70/3.01)
 - Aggravated cruelty (510 ILCS 70/3.02)
 - Animal torture (510 ILCS 70/3.03)
 - Use of animals for entertainment and disposition of animals so used (510 ILCS 70/4.01; 70/3.05; 70/3.06)
 - Violation of Owner's Duties (510 ILCS 70/3)

Humane Care for Animals Act

- Also outlines the role of approved Humane Investigators and Humane Societies in impoundments pursuant to the Humane Care for Animals Act
 - Humane investigators may investigate possible violations of 510 ILCS 70/1 et seq.
 - May order the Owner to take certain actions within a forty-eight hour or less window
 - However, administratively, if there is not compliance they may not impound without cooperation from the Illinois Department of Agriculture or local law enforcement (as those are the entities with the authority to impound)

Humane Care for Animals Act: Animal Cruelty

- Under Illinois law, Animal Cruelty is a misdemeanor offense. See 510 ILCS 70/3.01
- 510 ILCS 70/3.0 provides, in pertinent part that: “No person or owner may beat, cruelly treat, torment, starve, overwork, or otherwise abuse any animal.”
- The statute also provides that: “No owner may abandon any animal where it may become a public charge or suffer injury, hunger or exposure.”

Humane Care for Animals Act: Animal Cruelty Punishment

- Animal cruelty is a Class A misdemeanor
- Under the Statute, upon conviction, the Court may order the offender to undergo a psychiatric evaluation and attend counseling
- Possible punishment on a Class A misdemeanor is supervision, conditional discharge, probation and/or a jail sentence
- Maximum jail sentence is 364 days county jail
- Repeat offense is a Class 4 felony, 1-3 years DOC

Humane Care for Animals Act: Violation of Owner's Duties

- 510 ILCS 70/3 imposes a mandatory duty on the owner of an animal to provide sufficient quantity of good quality food and water; adequate shelter, veterinary care when needed to prevent suffering and humane care and treatment
- Violation of this section is a Class B misdemeanor
- Maximum penalty is 6 months county jail time
- Second violation is a Class 4 felony offense

Illinois Dog Fighting Statute

- 720 ILCS 5/26-5
- Found in Criminal Code in Disorderly Conduct section
- Almost identical to section in Humane Care for Animals Act which prohibits the use of animals for entertainment purposes

Department of Agriculture

- The Department of Agriculture works to:
 - receive complaints
 - open investigations
 - license and inspect various types of facilities that house animals
 - Has other various responsibilities related to administering the state's animal welfare laws.

How are Municipalities Involved?

- The Illinois Municipal Code as well as the Animal Control Act also allows Municipalities, on their own, to regulate animals for the health, safety, and welfare of the general public.
 - Illinois Municipal Code, 65 ILCS 5/11-20-9
 - Animal Control Act, 510 ILCS 5/24.

How are Municipalities Involved?(cont.)

- Both the Illinois Municipal Code and the Animal Control Act prohibit the enactment of local ordinances which are targeted at specific breeds.
- There is current legislation pending, including, but not limited to, HB1080, which proposes eliminating the prohibition against breed specific legislation. With that said, this prohibition is unlikely to change anytime in the near future.

Lake County

- Lake County Animal Care and Control also has promulgated specific ordinances, rules, and regulations that are effective throughout the County, which are available at;
- <http://www.lakecountyiil.gov/health/resources/Pages/AnimalControl.aspx>.

Hunting for Wildlife

Regulations: Where to start?

- The Wildlife Code, 520 ILCS 5/1.1 et seq.
- Different regulations apply to different classes of animals:
 - “Fur-bearing mammals:” mink, muskrat, raccoon, striped skunk, weasel, bobcat, opossum, beaver, river otter, badger, red fox, gray fox, and coyote. (520 ILCS 5/1.2g)
 - “Game mammals:” cottontail, swamp, and jack rabbit, white-tailed deer, fox squirrel, gray squirrel and ground hog. (520 ILCS 5/1.2g)

Hunting for Wildlife Regulations (Cont'd)

- “Other Mammals:” Flying squirrel, red squirrel, eastern woodrat, golden mouse, rice rat, Franklin's ground squirrel, bats. (520 ILCS 5/2.2)
- “Game Birds:” Ruffed grouse, sharp-tailed grouse, northern bobwhite, gray partridge, chukar, ring-necked pheasant, greater prairie chicken, wild turkey. Id.
- “Migratory Game Birds:” ducks, geese, swans; wild species of the families Rallidae, Scolopacidae, Columbidae, and Corvidae. Id.

Hunting for Wildlife Regulations (Cont'd)

- “Resident and Migratory Non-game Birds:” loons, grebes, pelicans, herons, bitterns, egrets, ibises, storks, vultures, eagles, falcons, falcons, kestrels, rails, moorhens, cranes, gulls, terns, doves, pigeons, cuckoos, whip-poor-wills, swifts, owls, hummingbirds, woodpeckers, ravens, larks, swallows, thrushes, chickadees, nuthatches, wrens, robins, bluebirds, mockingbirds, catbirds, thrashers, pipits, waxwings, warblers, tanagers, longspurs, sparrows, buntings, juncos, cardinals, buntings, blackbirds, meadowlarks, bobolinks, grackles, cowbirds, orioles, finches, etc. Id.

Wildlife Regulations

- The state vests authority in the Illinois Department of Natural Resources to set limits on hunting and trapping specific types of animals.
- These regulations can be accessed via the Department of Natural Resources, www.dnr.state.il.us, or Illinois Digest of Hunting and Trapping Regulations (available at your local City Hall).

Wildlife Regulations (cont.)

- Hunting/Trapping seasons.
 - Each species that can be hunted or trapped has a specific hunting and/or trapping season.
 - If an animal is killed out of season there may be penalties or assessed fees.
 - Only upon completion of hunting and trapping educational courses and license may hunt and trap specific species they are licensed for.

Hot Button Issues: Companion Animals

- Anti-tethering legislation
- Strengthening dangerous dog regulations
- Legislation aimed at preventing the retail sale of cats and dogs
- Legislation that would prevent individuals who have been convicted of criminal offenses against animals from having further contact with or possessing an animal for specific periods of time

Hot Button Issues: Companion Animals (cont.)

- Legislation that restricts or prevents the breeding of companion animals without a specialized permit or licensing
- Licensing that supports trap, neuter, and release programs for feral cat colonies
- Legislation to prohibit animal hoarding
- Getting animal cruelty cases to be charged and prosecuted by local municipalities and counties

Hot Button Issues: Wildlife

- Controlling the spread of invasive species
- Reintroducing predator species into their former habitat
- Sale and transportation of certain animal products or hides across state lines
- Controversy regarding which body of government should have authority to regulate