

(Intro music)

Hillel Aron: Welcome to Sidebar, a podcast from Courthouse News. I'm your host Hillel Aron, and I'm joined today by Kirk McDaniel, bringing us a story about the wild and woolly world of pet law – the dos, the don'ts and the does. Hey Kirk, you seem like a guy that would have a pet.

KM: You are correct, two dogs and a fish. What about you?

HA: No, no pets, unless you count my 5-year-old son, who, you know, is a lot like having a pet with opinions. I did have a pet rabbit once, which was a complete nightmare. Chewed everything in sight, urinated on the couch habitually. It's funny though – most animals really don't want to be pets. In fact, you could argue that dogs are really the only animals that are fully domesticated.

KM: And even then, mine barely like to act domesticated.

HA: But that doesn't stop people from trying. What does stop them? Why the law, of course. Now Kirk, you live in Texas, I assume there's nothing you can't do, right? You can have a pet monkey who owns a submachine gun.

KM: I've never heard of anything like that before, but having lived in Texas my whole life, I have learned not to be surprised.

HA: Well, let's get into it. Kirk – take it away.

KM: According to the U.S. Census Bureau, around 60 million American households have pets. That is a ton of good boys and girls out there. It may or may not come as a surprise that more Americans have dogs than any other pet. Data from the American Veterinary Medical Association reveals that there are over 76 million dogs, 58 million cats, seven million birds and 1 million horses serving as companion animals as we speak. I don't need to rattle off numbers to tell you how important pets are to Americans. Just scroll through social media and you'll see pets with their own accounts, endless videos of dogs and cats acting cute and silly and influencers selling pet food or treats that allow your pet to be their full self. Pets define us as people, they aid us in our daily lives and have become integral parts of our families. Dogs and cats have lived alongside humans for thousands of years. Our history is as much their history. But have you ever stopped and wondered about the laws that define pet ownership? Are there specific pets that you can't own where you live? How regulated is the pet trade? To answer all of these questions, I started looking into federal laws that impact pet ownership. One thing I didn't realize at first was there is a long rich history of animal welfare activism in the United States. Over half a century ago, President Lyndon B. Johnson signed the Animal Welfare Act into law. This seminal piece of legislation was passed in response to public outcry over the ways animals were treated in laboratory testing. The act has since been amended to further protect more types of animals and how they are treated in public exhibitions, commercial trading and during transportation. Getting the Animal Welfare Act passed was an accomplishment activists had worked for a long time.

Kate Dylewsky: I think that laws like the Animal Welfare Act helped cement this understanding that these are sentient beings, that they are capable of suffering and that they need to be considered on their own merits and as having their own caretaking, as opposed to just a resource that can be used. Hi, my name is Kate Dylewsky. I'm the assistant director of government affairs at the Animal Welfare

Institute, and AWI is a nonprofit organization headquartered in D.C. that has been working to alleviate the suffering of animals for over 70 years now.

KM: The activism of AWI and other animal welfare organizations led to the passage of other important laws like the Endangered Species Act, which places federal protection over animal species that are threatened or in danger of becoming extinct. But when we are talking about the pet trade, the Animal Welfare Act is the most powerful federal tool to protect animals. The Animal Welfare Act does not cover everything, for instance, animals being used for food or for their hides, coldblooded animals, fish and invertebrates are not covered under the Animal Welfare Act.

KD: The Animal Welfare Act is far from perfect. It sets pretty minimal standards for, for example, space requirements and veterinary requirements. But it is so much better than having no protections under the law and we continue to fight to make sure that the U.S. Department of Agriculture actually understands and sees that the animals are supposed to be the clients here and are supposed to be the number one priority under this law.

KM: Dylewsky is not alone in her criticism of the USDA's enforcement of the Animal Welfare Act.

John Goodwin: My name is John Goodwin and I'm the senior director of the Stop Puppy Mills campaign here at the Humane Society of the United States, or HSUS, and I've been here at HSUS for 23 years.

KM: Puppy mills especially are an area in which John sees the need for further regulation to protect the welfare of dogs. What exactly is a puppy mill?

JG: A puppy mill is a commercial dog breeding kennel where the basic needs of the dogs are not being met. Think of a puppy factory farm. These are operations that will have 50, 100, maybe 200 dogs lined up in rows of cages. They view them as breeding machines and they just live a barren life in these cages being bred every heat cycle to produce the maximum number of puppies that can then be sold through pet stores, or over the internet, or even at flea markets.

KM: The USDA is responsible for monitoring some but not all puppy mills.

JG: Under the Animal Welfare Act, there are requirements that some puppy mills get a USDA license and follow minimal regulations. So, if you have at least five breeding female dogs, and you sell puppies, either to pet stores for resale or over the internet, shipping the puppies to people you never meet face to face, then you're supposed to get that USDA license.

KM: For some perspective, there are nearly 3,000 animal breeders licensed with the United States Department of Agriculture. So, what does it mean to have a license, and how does the USDA enforce the standard set by the Animal Welfare Act?

JG: It means that you'll probably be inspected about once a year, and you have to adhere to some minimal survival standards. Now the standards need to be upgraded significantly. Right now, under the USDA regulations, a puppy mill owner can keep a dog in a cage that is only six inches longer than her body. So that's grossly inadequate for a dog. They can breed them as many times as they want. They do this until the dog's bodies wear out, and then they're often killed. Many of these dogs have spent their entire life standing on wire flooring that's allowed under the USDA regulations with their paws never touching a blade of grass. Now, I do want to talk draw a distinction between puppy mills and responsible

dog breeders. There are a lot of people who have dogs live in their homes, and maybe they have a litter of puppies once a year. They're proud to show a customer the mother dog, they're proud to show a customer the conditions the mother dog lives in. That's very, very different than what we see with puppy mills. So, when we talk about should puppy mills be abolished, well yeah, puppy mills should be abolished, but that doesn't mean that we get rid of dog breeding.

KM: It is important to note these are just the federal standards that apply to puppy mill operations. Several states including California, New York, Washington and Illinois have banned the sale of puppies and kittens in retail stores as a way to cut off the demand for puppies in such operations. The Animal Welfare Act is the first line of defense for many of the pets we welcome into our homes. While it's not perfect, it's all we have to protect these vulnerable creatures.

HA: Now, what about some of the more exotic pets out there? What about, I don't know, ferrets, hedgehogs, even monkeys? Most of what I know about pet law comes from the movie "Big Lebowski."

Walter Sobchak: And also, let's not forget – let's not forget, Dude – that keeping wildlife, an amphibious rodent, for uh, you know, domestic, within the city – that ain't legal either.

The Dude: What are you, a fucking park ranger now?

HA: So, Kirk, was Walter right?

KM: Depending on where you live, he could very well be right. As was mentioned before, the Animal Welfare Act is an important statute that protects animals being bred for selling, being experimented on and being shown as a part of an exhibition. However, talking about dogs and cats is very different than talking about lizards and tigers. Exotic animals can be anything from a tiny frog to a nearly 12-foot-long Burmese python. Exotic pets can be birds, reptiles, amphibians and mammals. These animals are not domesticated and often still exhibit wild behavior. An important thing to understand is that the sale and trade of exotics is a state-by-state issue.

Here is John Goodwin again from the Humane Society of the United States.

JG: That's true, and not only do we have the complexity of 50 states, but we have the complexity of hundreds of different species, maybe thousands of different species even who are being used in the exotic pet trade. So, Alabama, North Carolina, South Carolina and Wisconsin, those four states don't have any local law or state laws regulating what kind of exotic animals people can keep as pets. None at all. So, it's the wild, wild west in some places like that.

KM: Kate Dylewsky from the Animal Welfare Institute.

KD: The Animal Welfare Institute's position on exotic pet ownership is very simple. Wild animals do not belong in anybody's home. It is cruel to the animals who have wild behaviors and instincts and needs that cannot be expressed in a setting that is so radically different from what they would experience in their natural habitat. It's also incredibly dangerous.

JG: You know, people can get large venomous snakes, they can get other dangerous wild animals, primates, at least we finally got the Big Cat bill passed so that, you know, those "Tiger King" type

characters won't be able to put a tiger in a cage next door to your house because I don't think anyone wants that.

KM: What John is talking about there is the Big Cat Public Safety Act.

News clip: A new bill is giving exotic animals new protections. President Biden signed the Big Cat Public Safety Act into law today, essentially banning the private ownership of lions, tigers and other big cats.

KD: What this now law does is two things: It prohibits anybody from owning a big cat as a pet. And that is private individuals, not zoos or sanctuaries. But you know, someone like you or me, who thinks it would be a good idea to have a tiger in our house. And the other thing that it prohibits is allowing public contact with big cats, because a big part of the pipeline into pet ownership was some disreputable zoos, breeding big cats incessantly to supply cubs for cub petting exhibits where you could hold them and bottle feed them, get your picture taken with them. And then those clubs would outgrow their use. And then some of them would be funneled into the pet trade.

KM: It's hard to separate the ownership of big cats, especially tigers, and not talk about the "Tiger King" himself, Joe Exotic. If you can think back to 2020, early in the pandemic, the Netflix documentary series chronicled the sensational and erratic lifestyle of Exotic, whose legal name is Joseph Maldonado-Passage, and his job as the owner and lead entertainer at a wildlife park in Oklahoma.

Joe Exotic: I'm as gay as a \$3 bill and I'm standing in a cage with five full-grown tigers in line.

KM: I asked Kate whether the "Tiger King" story helped rally advocates toward passing the Big Cat Public Safety Act.

KD: "Tiger King" was clearly a very dramatic sensationalized piece of media. It contained a lot of inaccuracies and it failed to focus on the animal suffering that occurs in this industry at the expense of focusing on the human drama that was occurring, but there was an interesting silver lining to it, which is that it did open people's eyes to this industry. Suddenly, people were aware that folks like Joe Exotic were operating these facilities that were offering cub petting, that were breeding big cats at an alarming rate, that were not at all concerned with the welfare of the animals. So suddenly, it did become a lot easier to talk to people about the Big Cat Public Safety Act, because there was this frame of reference, like, oh, you're talking about a place like Joe Exotic's. And I do think that inadvertently, it did help become a catalyst for raising the type of awareness that we needed in order to get this bill done.

KM: Coming off of the success groups like the Humane Society of the U.S. and the Animal Welfare Institute had in getting the Big Cat Public Safety Act passed, they are now looking to pass a similar law banning the private ownership of primates.

JG: Yeah, the Captive Primate Safety Act is a very important bill. Primates simply should not be kept as pets. They have complex needs that private citizen is going to be very unlikely to be able to meet.

KD: People buy them thinking that they're going to be cute and cuddly and fun. And then these animals grow up, they reach sexual maturity, and they become territorial and aggressive. And people realize that they don't know how to deal with that and so will lock them in cages for the rest of their lives, will keep them restrained, will sometimes surgically mutilate them by taking out their teeth or their nails. This is just an absolutely inexcusable way to treat an animal.

KM: On top of these issues concerning pet primates, they can also be very dangerous creatures and pose a risk to public safety. As an example of the dangers of primates being kept as pets, both John and Kate shared with me a story of Charla Nash. On February 16, 2009, Charla Nash was at her friend's home in Stamford, Connecticut when she was attacked by Travis, her friend's 200-pound pet chimpanzee. Nash, who was familiar with the monkey, was attempting to get Travis under control after he got out of the house. Travis ripped Charla's fingers, lips, nose and eyelids off. When police arrived, an officer shot Travis four times. Travis fled and was later found dead next to his cage. Charla talked with Oprah Winfrey later that same year and talked about the attack and how she felt about people owning primates like Travis as pets.

Oprah: Tell me why you wanted to do the interview now.

Charla Nash: Well, I'm getting stronger and healthier and I'd like to get across to people that these exotic animals are very dangerous and they shouldn't be around. There's a place for them and it's not in residential areas, that's for sure.

KM: In the years since the attack, Charla has received a face transplant and has gone on to reclaim her life. However, the conversation surrounding the ownership of primates has waged on and some states have even made the decision to ban ownership altogether.

KD: Every state has its own statute on this or not. And so some states ban private ownership entirely. Some ban the ownership of certain types of primates, some require you to get a license or to register the animal. And some have no laws or regulations whatsoever on this.

KM: Here in Texas, I was able to find online listings for small capuchin monkeys selling from \$150 up to \$400 each. And believe it or not, I even found some listings to buy baby chimps for around four to five thousand dollars. So far, the Captive Primate Safety Act has a long road ahead. Kate and John both believe that the law would significantly improve not only the animal welfare of primates in the United States but improve public safety. Preventing any person from suffering the way Charla did so many years ago.

(Music break)

KM: Alright, we have talked about more extreme exotic pets, but what about the more innocuous ones? In many states, people are free to own whatever animal they please. However, in some, you might be surprised to find that it is illegal to own specific animals. Take the state of California for example. It is illegal to import thousands of animal species that pose a public safety health risk, are endangered, or carry the threat of displacing the native wildlife population. Gerbils are one such critter. These small rodents come from deserts in Africa and Asia. While not native to the U.S., they might find our deserts, like those found in Southern California, hospitable and worthy of a place to call home, leading to the spread of an invasive species. This threat is not just perceived. In some parts of America, it is an all-out battle to contain animals that were once pets from driving the native population to extinction. Take for example, the Burmese python that now calls the Florida Everglades home. In the 1980s, pythons from southeast Asia exploded as a popular exotic pet. Some owners who grew tired or unable to care for their large exotic snakes would release them into the everglades. Experts also believed that the population of Burmese pythons really took off after a python breeding facility was destroyed in Hurricane Andrew, which rocked the state of Florida in 1992. The population has gotten so out of hand that the state has

declared open season on them, allowing them to be hunted year-round without a license or permit. To get a better understanding of why states would turn to such drastic measures I reached out to someone who is on the front line of invasive species control.

Tim Pylate: My name is Tim Pylate, and I'm the executive director at Armand Bayou Nature Center. Armand Bayou Nature Center is one of the largest urban wilderness preserves in the United States with more than 2,500 acres. It's not often that you hear the words urban and wilderness in the same sentence, but that is indeed what we are. To our east and west, we have residential neighborhoods, where there are lots of houses with people with pets. And then to our north, we are bordered by the Pasadena Petrochemical Complex and then to our south, we back right up to Johnson Space Center. So, NASA.

KM: Growing up in Houston, I went to the Armand Bayou Nature Center and remember learning about conservation and the invasive species that have taken root in the area. The species Tim and his team work to contain and remove from the nature center come in all forms: fish, reptiles, mammals and even plants. Tim told me about the brown anoles, little lizards originally from Cuba, that have in recent years become a formidable species pushing out the green anoles native to southeast Texas. He even shared his experience spotting feral hogs on the property. An interesting note about these non-native hogs, these pigs were originally introduced to the West Indies by Christopher Columbus. These pigs can and have been used as a shining example of species running amok, causing tens of millions in property damage every year and ferociously consuming resources that native animals depend on. That is why in Texas, they are allowed to be hunted year-round. You may have even seen viral videos of people using high-powered rifles to hunt them from helicopters. Whatever it takes, I guess. But while these species are seen as the go-to quintessential examples of invasive species, you may be surprised to learn that there are others, much closer to home.

TP: Well, you know, we all love our dogs and cats, you know, I'm a cat owner myself. My pet ... he's my favorite little Russian blue. He was a stray that wandered up one day, and now he lives in my house. And he's a great cat. But a lot of people don't recognize that our favorite little kitty cats are actually an invasive species.

KM: You heard that right. Cats as an invasive species.

TP: What happens is, you know, sometimes, you know, we let our cats out and about and wandering outside of our homes, and then they breed, and then those cats are living out in the wild as feral animals. A lot of people don't really consider cats as an invasive species. They're cute, and they're cuddly, and we love them. And we want to feed them and take care of them. But they're voracious hunters.

KM: Again, when a non-native species is introduced, it has to compete with the other native species relying on the same resources. And in the case of cats, the birds suffer the most.

TP: And a feral cat who isn't having his diet supplemented by his owners, you know, Purina Cat Chow, that cat can actually hunt, you know, and kill as many as 20 birds a day. There are certain areas of the world and island nations where there are certain small mammal and bird species that are completely extinct now, because of the introduction of cats. And again, I love my kitty cat. But I don't let my cat wander around outside because it's really bad for the bird population. In fact, the songbird population in the United States has decreased by at least 40% over the last several decades, and some of that is due

to habitat loss. And some of that is due to other factors, you know, like windmills and you know, airports and things like that. But by and large, the single largest anthropogenic cause for the decline of the songbird population in the United States is pet cats and feral cats that go out and hunt.

KM: To respond to this cat problem, Tim has taken to capturing any of the cats calling Armand Bayou Nature Center home and taking them to a no-kill shelter. I asked Tim if he had any idea how they got there in the first place.

TP: So, you know, people will let their cats go here at Armand. They think, oh, well, he'll be fine, he'll just go eat the birds and the lizards, and the snakes and cats are very self-sufficient. And you know, he should be fine. But I would say please, please, please don't dump your cat, you know, don't dump your dog, don't dump your bunny rabbit on the side of the road or in a park. They live a miserable existence. And they are very likely to be preyed upon by predators, and they'll get diseases and things like that. You're not doing your kitty cat a favor, in fact it's almost worse than taking him to a shelter. So, if you must relinquish your animal, I would say take it to a shelter, you know, to let it go.

KM: Whether cute and cuddly or small and scaly, invasive species have a way of making themselves at home. Hunting pythons in Florida or hogs in Texas may seem extreme, but it's a result of man's careless relationship with animals. Due to the devastation caused by invasive species, it stands to reason why some states take extreme preventative measures.

HA: I'm starting to get the impression that there's a whole menagerie of laws limiting pet ownership in the United States. What do you do if you need some actual help in this area? I assume there's more than just this podcast.

KM: Definitely, you call a pet lawyer.

HA: Is that like a dog that's a lawyer? Or a lawyer that you keep as a pet?

KM: Maybe a lawyer with a little bit more fur on their suit. In my explorations to learn more about pet law, I came across someone whose job is to litigate pet-related legal cases.

Zandra Anderson: I'm Zandra Anderson, I've been a trial attorney for a long time. The last 18 years of my practice, I've devoted to animal law, which I was able to blend profession with passion. I was really burned out being a trial lawyer because it's stressful, and there was a lot of burnout with it. So I, just on a whim, send out an email and ask other animal friends, if they might be interested in a Texas dog loss seminar. And kitties too. So that's kind of how it launched.

KM: Federal laws regarding pets largely focus on the welfare of animals. But as we now know, states can have a whole host of laws regulating the act of pet ownership. In Texas, there are many laws that touch on dog ownership.

ZA: The majority of cases I have handled deal with dogs because there are more laws relative to dogs because a dog can be deemed dangerous. So, when I tell people, you know, I have a website, Texasdoglawyer.com. They're like puzzled. What does that mean? Well, it can mean a variety of things. If your dog accidentally gets out, and you find yourself in an ownership dispute because someone doesn't want to give back the dog, that raises a whole host of laws. There are insurance issues with laws

regarding whether or not certain policies will cover dogs and different breeds of dogs. There's a host of things you just can't imagine.

KM: One thing that interested me the most was how exactly pets are viewed in the eyes of the law.

ZA: A domesticated animal such as a dog or a cat, in all 50 states, they are viewed as property. In property cases, you have the common law, which is case-made law. And then you have statutory law, which are laws made by the state, or it can be laws made by cities and counties regarding ownership of animals. In addition to that if you live in a homeowners' situation where you have an HOA, a homeowners' association, in addition to whatever laws are out there, you can have regulations that you essentially agreed to by living there. So, there is laws on top of laws on top of regulations and rules. So, the law is pretty darn complex when it comes to animal law.

KM: Because dogs are property, how does it work when your property is lost? And what happens when it is found?

ZA: In the law, if a person is a finder of lost property, then the finder has superior rights as to all others, except the true owner. That's the common law for property. So, in the case where the dog was found, it did not extinguish the ownership rights of the owner just because the dog got out.

KM: In 2016, Zandra fought for the return of a German Shepard named Monte after he got out and was picked up by a dog rescue organization in Houston, Texas. The organization refused to give Monte back to his owners, the Lira family, leading to a yearslong fight that culminated in a ruling from the Texas Supreme Court.

ZA: I think the other important thing that the Lira case pointed out is that in property cases in the state of Texas, it says and I'm going to quote with the Supreme Court said, "we also consider as an aid in construction, the principle that the law abhors a forfeiture of property." So the Supreme Court recognized that dogs are special property and that they have special value to us. Regardless, they're still property, but they have much more value than a table or a chair, which is easily replaced. And so the Supreme Court concluded that indeed there were property rights in the dog that had not been extinguished by any impoundment, in fact, went on to explore the word impoundment which says that an impoundment is something done by a governmental entity for example of a car or in this case, a dog, with an eye to returning that property to the owner.

KM: Pets are an important part of our families. It has been that way for thousands of years. If you have ever lost a dog or a cat, you know that it can be a very hard experience. From this conversation, I really looked at my own dogs differently. I saw where my rights became closely intertwined with theirs. It also reminded me that, as a dog owner, I am responsible for not only feeding my dog and keeping them healthy, but I am also responsible for knowing the laws in my area that regulate pet ownership. As was mentioned before, pet laws vary across all 50 states and in every city and county within them. This area of law is... quite hairy... if you will.

HA: I see what you did there. Well, we've come the end of our tail... tale? Huh? Anyway, thanks for listening. Remember to subscribe to Sidebar, and if you like what you hear, maybe drop us a review. You can find us on Twitter @SidebarCNS, and please do visit our website, courthousenews.com, for all your legal news consumption. On the next episode of Sidebar: I don't have a drinking problem unless I can't

get a drink. And I only have that problem... on Sundays. Blue laws: the states that have them, the 1,500-year-old books that made them, and the Supreme Court decisions that signed off on them.

(Outro music)