



GREG HIRSON

REPRESENTING DOMESTIC VIOLENCE SURVIVORS WITH PETS

in Ohio



Animal Welfare
Institute

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A Manual for Domestic Violence Attorneys & Advocates
Helping Survivors Obtain Protection Orders

REPRESENTING DOMESTIC VIOLENCE SURVIVORS WITH PETS *in Ohio*

*AWI would like to thank
Anne Derrig, a law student
at the University of Texas,
for her invaluable assistance
in researching and writing
this manual.*

KEVIN LAU



*In one survey,
71% of pet-
owning survivors
of domestic
violence reported
that their abuser
threatened,
injured or killed
their pets.¹*

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¹ Frank R. Ascione, et al., *The Abuse of Animals and Domestic Violence: A National Survey of Shelters for Women Who Are Battered*, 5[3] Soc'y and Animals (1997), available at http://www.ncdsv.org/images/animal_abuse_and_dv.pdf.

WHY SHOULD PETS BE INCLUDED IN PROTECTION ORDERS?

The 2017-2018 National Pet Owners Survey reported that 68 percent of all American households have at least one pet, and most treat their companion animals as beloved members of the family. Unfortunately, pets can also become victims of domestic violence. Domestic abusers harm pets and service animals just as they physically harm their partners and children. Animal abuse can become part of the cycle of power and control, as abusers use pets to prevent their victims from leaving or seeking help. Because there are few resources for victims with pets, these threats are often successful, keeping victims and their pets trapped in a cycle of abuse.

Despite numerous research studies and anecdotal accounts of the co-occurrence of domestic violence and animal abuse, victims with pets still lack adequate services. Domestic violence intake interviews do not typically involve questions about the presence of pets, and according to the Sheltering Animals & Families Together (SAF-T) website, there are just over 100 pet-friendly domestic violence shelters out of over 2,500 shelters nationwide. However, there are about 1,300

- > More than 1 out of every 3 women in the US have been physically abused, raped, and/or stalked by an intimate partner during their lifetimes. Black et al., *2010 Summary Report, The National Intimate Partner and Sexual Violence Survey*.
- > More households in the US have a pet than have a child. American Humane Association, *Facts about Animal Abuse & Domestic Violence*.

other programs that provide some level of assistance to victims with companion animals. Also, domestic violence organizations often list resources for special-needs populations on their websites or in fact sheets—such as resources for individuals with disabilities, LGBT individuals or homeless victims—but the mention of pet-owning victims is less common. Accordingly, it should not be surprising that, even though well over half of the states have pet protection order laws, pets are still rarely included in petitions and final orders.

This manual is intended to serve as an educational tool² for attorneys and advocates working with pet-owning domestic violence survivors³ in Ohio. We hope that this step-by-step approach simplifies the inclusion of pets in protection orders, allowing survivors to take control of their lives and escape abuse along with their pets.

“One does not have to personally value companion animals to acknowledge that others may and that exploring those relationships can add much to our understanding and treatment of children and families. Recognition that animals play a significant role in the lives of many people needs further attention in social work.” Risley-Curtiss et al., *Animal-Human Relationships in Public Child Welfare*, Child Welfare [2010].

²The information provided in this manual should not be considered legal advice.

³While recognizing that men are also victims of domestic abuse, we use the pronouns “she” and “her” because the vast majority of victims are women. See generally, *Domestic Violence Facts*, The Nat’l Coal. Against Domestic Violence, available at [http://www.ncadv.org/files/DomesticViolenceFactSheet\[National\].pdf](http://www.ncadv.org/files/DomesticViolenceFactSheet[National].pdf). Please note, however, that this manual is also meant to assist advocates serving pet-owning male victims of domestic violence.

OVERVIEW OF THE LEGAL LANDSCAPE

There is a growing recognition of the importance of considering the welfare of applicants' companion animals when issuing protection orders. As of mid-2018, 33 states, the District of Columbia, and Puerto Rico had adopted some form of legislation explicitly allowing for the inclusion of pets in civil protection orders (so-called "pet protection order" laws) and/or including animal abuse in their definition of domestic violence.⁴ In addition, the Pet and Women Safety Act, sponsored by Representatives Katherine Clark (D-MA) and Ileana Ros-Lehtinen (R-FL) in the US House of Representatives, and by Senators Gary Peters (D-MI) and Dean Heller (R-NV) in the US Senate, would enhance the protections afforded by state pet protection order laws by including pets under federal laws pertaining to stalking, protection order violations, and restitution, among other provisions.

Different States, Different Processes

To include a pet in a protection order an attorney or advocate should first become aware of the grounds—statutory or common law—for requesting court relief, ask the client about the presence of pets, ensure the client gathers appropriate evidence, and then determine what type of relief may be available.

In general, there are two ways in which pets may be included in protection orders, though they are not mutually exclusive. First, a state's law may include abuse or threatened abuse of an animal as an "underlying offense," meaning the offense by itself forms the basis



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for requesting a protection order. Second, the law may include a "stay away and/or pet custody" provision specifically authorizing the court to restrain the abuser from harming an animal as part of the applicant's requested relief, which may follow from any initial grounds for the protection order. The Ohio legislative scheme includes only the latter type of statute.

Even if a state does not have a Pet Protection Order statute, a petitioner should still include incidents of pet abuse or threatened abuse in her complaint or petition and request that the court include pets in the property or "other relief" section of the protection order to cover the pets.⁵

⁴ For a comprehensive list of the state Pet Protection Order laws, visit the Animal Legal & Historical Center website at <https://www.animallaw.info/article/domestic-violence-and-pets-list-states-include-pets-protection-orders>.

⁵ Several states that do not have pet protection order laws allow damage to personal property to constitute grounds for issuance of a civil protection order. In such states, petitioner may list abusive conduct towards pet/s as an underlying offense under a claim of damage to property since the law generally treats animals as personal property; see *Kimes v. Grosser*, 195 Cal. App. 4th 1556, 126 Cal. Rptr. 3d 581 (1st Dist. 2011), *Sherman v. Kissinger*, 146 Wash. App. 855, 195 P.3d 539 (Div. 1 2008), and 3B C.J.S. Animals § 4 (2015).

STEPS FOR INCLUDING PETS IN PROTECTION ORDERS

Advocates and attorneys play a crucial role in ensuring applicants understand and exercise their rights to include their pets in protection orders. There are four steps:

1. As early as possible, ask the applicant about any pets, service animals, therapy animals, or any other animals that may live in the home.
2. Familiarize yourself with the state's protection order laws. In Ohio, the laws pertaining to protection orders against all family offenses are found in R.C. § 3113.
3. If there has been animal abuse or a threat of animal abuse, include the act as an underlying offense in the petition and gather evidence to present at the hearing.
4. Assist the applicant in understanding what relief is available and ensure the applicant's requested relief is included in any temporary or extended order.

|| ASK ABOUT PETS

The first and most important step is for attorneys to ask about the presence of pets or other animals in the home during the initial conversation. The inquiry should be broad enough to determine if the applicant owns a pet, someone else's pet lives in the home, or if the applicant has a service or therapy animal.

Sample Questions

1. *Do you have a pet?*
2. *Does an animal live in your home?*
3. *Do you have a service or therapy animal?*
4. *Has your abuser ever harmed your pet or threatened to harm your pet?¹⁰*
5. *Where is your pet right now?*
6. *Is your pet safe?*
7. *Do you want to ask that the court grant you custody of your pet?*
8. *Do you want to ask that the court order your abuser to stay away from your pet?*
9. *Do you have anything that might help us prove that the abuser has threatened or hurt the animal, e.g., veterinary bills or records, photographs or eyewitnesses?*

It is not uncommon for applicants with pets not to volunteer that they have a pet. They may assume there are no resources or protections for their pets and therefore believe it is pointless to raise the issue. In addition, under the stress of the circumstances they may forget to mention pet concerns. It is important to recognize the overall significance of asking about pets; being able to present information about how the abuser has treated animals can be a valuable tool to illustrate the extent of the abuser's controlling and violent behavior.

Knowing whether a pet is involved may help not only the pet but other abused parties as well. Many applicants may decide not to leave due to fear of leaving a pet behind, and addressing such concerns increases the likelihood that they will escape an abusive situation themselves.

Discuss Resources for Pets

Nationally, very few domestic violence shelters allow pets. In Ohio, there are several facilities that provide temporary housing for pets in domestic violence situations. The Animal Resource Center of Montgomery County in Dayton and My Sister's Place in Athens offer shelter for certain animals. If a women's shelter is not an option and there is a concern about leaving a pet behind, the advocate or attorney may need to help devise an emergency plan for the animal while addressing the applicant's immediate safety needs. If the pet is in danger, ask the applicant if there is anyone who can take care of the pet temporarily. If the applicant has sufficient money, find out if there are nearby lodging facilities that allow pets. The Resources section at the end of this manual lists potential sources of additional information.

Finally, in some circumstances where the animal and client are separated, such as one involving a visit to the emergency room, the advocate or attorney may need to ensure that the animal is safe. Following a domestic violence call, the animal may be taken into custody by animal control and need to be claimed and transferred to safety later.

"It is important for agencies to acknowledge that pets are part of the family and that families experiencing domestic violence will need safety plans for their pets." Allie Phillips, Understanding the Link between Violence to Animals and People, Nat'l Dist. Attorneys Assoc. 12 (June 2014).

|| OHIO DOMESTIC ABUSE PROTECTION ORDER LAWS

In Ohio, animal abuse is not specifically mentioned in statute as a basis for requesting that a court issue a protection order. Under R.C. § 3113.31(A)(1), a petition for protection must allege that the respondent committed one of the following offenses against his or her spouse, former spouse, parent, child, or other member of the same family or household:

- (1) Attempting to cause or recklessly causing bodily injury
- (2) Placing another person in fear of imminent serious physical harm
- (3) Committing child abuse
- (4) Committing a sexually oriented offense

In addition to alleging one of the above acts, the petition must also do the following:

- (a) State the allegation of domestic violence, including a description of the nature and extent of the violence
- (b) State the relationship of the respondent to the petitioner (and to the victim, if the victim is not the petitioner)
- (c) Request relief from the court

R.C. § 3113.31(C).



In Ohio, any parent or adult household member may seek a civil protection order on behalf of any other family or household member. R.C. § 3113.31; *see also* The Ohio Supreme Court Resource Guide: Protection Orders in Ohio.

Ohio law allows various parties to file for a civil protection order on behalf of a child. These parties include the following:

- (a) The juvenile filing on his or her own behalf (the statute does not dictate a minimum age required to file a petition)
- (b) A parent or other adult family or household member
- (c) A third party who is not a parent, family, or household member, at the discretion of the court

R.C. § 2151.34.

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Stay Away and/or Pet Custody Provisions

These types of provisions authorize a court to order the respondent to stay away from the pet and/or allow the applicant to request custody of the pet as part of a domestic violence protection order, which may have been requested on grounds other than injury to the animal. Ohio offers this type of relief to petitioners and the order may be used to protect any animals kept for companionship.

As part of the requested relief, an order of protection may require the respondent to not “remove, damage, hide, harm, or dispose of any companion animal owned or possessed by the Petitioner.” R.C. § 3113.31[E](1)(i). In Ohio, a companion animal means a dog, a cat, or “any animal that is kept inside a residential dwelling.” The definition does not include livestock or wild animals. R.C. § 959.131(A)(1).

Obtaining Relief

Regardless of the grounds for requesting the domestic violence protection order, the petitioner may request that the relief include an order for the respondent to refrain from harming an animal kept by the petitioner or any other member of the petitioner’s household. R.C. § 3113.31[E](1)(i).

In an emergency, contact the police. If a criminal charge is filed against the defendant on the victim’s behalf, the municipal (criminal) court can issue a domestic violence temporary protection order or a criminal protection order to protect the victim. To obtain a civil protection order—which civilians may obtain without police involvement—visit a domestic relations court. The court will provide the necessary forms, including Form 10.01-H: Domestic Violence Civil

Protection Order (CPO) *Ex parte* (for an emergency hearing) or 10.01-D, Petition for Domestic Violence Civil Protection Order. There are no filing fees.

When completing the petition, be sure to include specifics on the type of conduct that has occurred, including any threats. It is essential to include as many specific details as possible, including any supporting documents, evidence, and the names of witnesses. See Gathering Evidence for the Hearing below.

An order may require the respondent (and, in some cases, the *petitioner*) to do the following:

- (a) Refrain from harming, attempting to harm, threatening, following, stalking, harassing, forcing sexual relations, or committing sexually oriented offenses
- (b) Leave the petitioner's residence and not return to or interfere with that residence
- (c) Refrain from removing, damaging, hiding, or disposing of any property or funds possessed or owned by the petitioner
- (d) Allow parental rights and responsibilities to be allocated at the court's discretion
- (e) Provide financial support for petitioner and other members of petitioner's household
- (f) Complete batterer counseling, substance abuse counseling, or another form of counseling
- (g) Avoid entering, approaching, or contacting residences, schools, businesses, and places of employment of petitioner and household members
- (h) Allow petitioner to have exclusive use of a shared motor vehicle

R.C. § 3113.31; see also Form 10.01-D: Domestic Violence Civil Protection Order (CPO)

- (i) Refrain from harming an animal kept by the petitioner or any other member of the petitioner's household. R.C. § 3113.31(E)(1)(i).

Temporary Orders

A court may for good cause issue an *ex parte* order (and temporary child support, if necessary). R.C. § 3113.31(D). An *ex parte* order is issued on the day the petition is filed and lasts only until the court date. Typically, courts will extend the order from court date to court date until the case ends or a final order is granted.

Final Orders

A final order may be issued at a case's final disposition. R.C. § 3113.31(D). A final order may stand for as long as five years. R.C. § 3113.31(E)(3).

|| GATHERING EVIDENCE FOR THE HEARING

Fact-Gathering Questions to Ask the Petitioner

Before completing the petition, an attorney or advocate should ask these questions of the applicant to gather information about the extent of animal abuse:

- Did the respondent threaten to harm your pet (or another animal in the home)?
- Did the respondent actually physically harm your pet?
- How did the animal abuse or threat affect you?

The answers to these questions will help the evidence-gathering process for the hearing and offer the court a more comprehensive scope of the circumstances.

If the respondent has threatened to harm either the applicant's animal or the respondent's own animal, ask the applicant what the respondent specifically said. The statement should be admissible under evidence rules as an admission by a party opponent. Ask where and when the statement occurred, and if it is possible that someone else heard the threat

[e.g., a neighbor, another occupant of the home, or someone else present]. Have the applicant describe the circumstances, including the topic of conversation and body language.

If the respondent physically hurt the pet, gather as many details as possible. In particular, find out if the animal needed veterinary care. If so, collect any evidence of the visit and consider if a subpoena upon the animal hospital is appropriate. Either way, find out if any photos were taken and, if the abuse was recent, help the applicant record photo evidence.

In addition to the fine details, be sure to capture the bigger picture of abuse. Have the applicant describe the series of events that led up to the incident of abuse as well as any past instances of conflict. What does the applicant believe motivated the abuse? How did the applicant react to the abuse? How did the respondent act afterward? Did the abuse serve as an effective controlling behavior? For example, did the abuse prevent the applicant from leaving the home or going somewhere?

Remember, it is extremely important that the court understands how the animal abuse fits into abusive behavior generally. Because not everyone recognizes the value of pets, being able to demonstrate with evidence that the respondent used the pet as a means to control the client is crucial to convincing the court of the role animal abuse plays in domestic violence.

Evidentiary Issues

There are several common pieces of evidence that you may want to introduce:

- Statements made by the respondent
- Veterinary records
- Photographs of injuries

- Evidence of prior animal abuse
- Prior convictions for animal abuse
- Testimony of a police officer
- Testimony of a veterinarian

Ohio family law requires that the petitioner demonstrate by a preponderance of evidence that he or she is in need of the protection granted by a protection order. See *Felton v. Felton*, 79 Ohio St.3d 34 (1997).

|| DETERMINING RELIEF

The request for relief as it pertains to an animal will vary depending on whether the petitioner requests an emergency ex parte hearing for immediate relief.

Form 10.01-H, used to request an ex parte hearing, does include an option for a specific mandate that respondent “not remove, damage, hide, or dispose of any property or pets owned or possessed by the protected persons.” Petitioner may check that box to include her pet in the protection order.

In contrast, Form 10.01-D, used to request a standard civil protection order, contains no mention of pets on the checklist of relief sought. However, the petitioner may request that the court command respondent to refrain from harming her animals under Item 4(j), the form’s catch-all provision for requesting relief.

Questions to Ask About Desired Relief

- Do you want the respondent to be ordered to refrain from harming either your pet or another animal in the home?
- Do you want the respondent to stay away from where the animal lives and regularly visits?
- Do you want to ask for custody of the animal?

FORMS & RESOURCES

For information on how to apply for a protection order, visit http://www.supremecourt.ohio.gov/JCS/domesticViolence/protection_forms/DVForms/default.asp

For the form needed to file a protection order visit http://www.supremecourt.ohio.gov/JCS/domesticViolence/protection_forms/DVForms/10.01D.pdf

|| NATIONAL ORGANIZATIONS

For a state-by-state, zip-code searchable listing of safe haven programs, visit the Animal Welfare Institute's Safe Havens Mapping Project at <https://awionline.org/content/safe-havens-mapping-project-pets-domestic-violence-victims>. Such programs may include domestic violence shelters that provide housing for companion animals, facilities that house only animals, and programs that provide assistance with finding safe housing.

Additional guidance for advocates assisting pet-owning applicants is available at the following resources:

- National Resource Center on Domestic Violence, "Why Pets Mean SO Much: The Human-Animal Bond in the Context of Intimate Partner Violence" http://www.vawnet.org/nrcdv-publications/summary.php?doc_id=4436&find_type=web_desc_NRCDV
- WomensLaw.org <http://www.womenslaw.org/index.php>
- Sheltering Animals & Families Together (SAF-T) provides resources for domestic violence victims and their pets. <http://alliephillips.com/saf-tprogram/>

|| OHIO

FAQs on Including Pets in Protection Orders

- <https://www.ohiobar.org/ForPublic/Resources/LawYouCanUse/Pages/Including-Pets-in-Civil-Protection-Orders-for-Victims-of-Domestic-Violence.aspx>

Pet-Friendly Domestic Violence Shelters

- My Sister's Place (Athens, OH) has an on-site shelter. <http://www.msathens.org/>
- First Step Family Violence Intervention Services, Inc. (Coshocton, OH) offers shelter for animals belonging to domestic violence victims. <http://www.firststepcoshocton.org/>
- New Directions Shelter (Mount Vernon, OH) is equipped with an on-site kennel. <http://newdirectionsshelter.org/get-help/>
- The Animal Resource Center of Montgomery County (Dayton) http://www.mcoho.org/departments/animal_resource_center/index.php

Pet Placement Organizations

- Capital Area Humane Society's Safe Haven for Pets (Columbus, OH) offers temporary housing and care for animals. <http://www.caahs-pets.org/i-need-help/SafeHaven>
- Peace for Pets (Canton, OH) is a short-term foster care program for pets of individuals leaving domestic violence situations. <http://peaceforpets.org/safe-haven-for-pets/>

For information regarding pet friendly lodging facilities, visit <http://www.bringfido.com/lodging/>