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Unique Connecticut Law Allows Court-Appointed Advocates to Represent Animals

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With the passage of the innovative “Desmond’s Law” last year, Connecticut became the first state to allow legal advocates to testify on behalf of animal victims in cruelty and neglect cases. Although some states allow victims’ or children’s advocates to testify in cases involving humans, this law is groundbreaking in that it is the first to allow advocates to act in a similar capacity for animals.

Under the new law, judges have discretion over whether to appoint an advocate in an animal abuse case, but prosecutors or defense attorneys may request them. The advocates, who are pro bono attorneys or supervised law students, assist the court by gathering information, conducting research, writing briefs, and making recommendations to the judge, thus easing the burden on often overworked prosecutors.

Desmond’s Law was named after a shelter dog who was starved, beaten, and strangled to death by his owner, who, despite having admitted his guilt upon arrest, was able to avoid jail time (which was recommended by the prosecutor) by entering an accelerated rehabilitation program, upon completion of which all charges were dismissed—leaving him with a clean record despite the heinousness of his crime.

Although it went into effect in October 2016, Desmond’s Law received a surge of media attention this month when the first advocate testified in court under the new legislation. On June 2, 2017, University of Connecticut (UConn) law student and Student Animal Legal Defense Fund member Taylor Hansen, under the supervision of UConn law professor Jessica Rubin, testified in a dogfighting case involving three pit bulls, one of whom had to be euthanized due to the severity of the animal’s injuries.

According to the [York Dispatch](#), in her testimony Hansen described the abuse suffered by the dogs and cited studies linking animal abuse to violence against humans. She also argued that the defendant should not be allowed to avoid conviction and maintain a clean record by entering the same accelerated rehabilitation program as Desmond’s killer. While the judge agreed the crimes were serious, he found the defendant was eligible for the accelerated rehabilitation program as a first-time offender. However:

“On Hansen’s suggestions, the judge did impose conditions that will prevent [the defendant] from owning, breeding or having dogs in his home for at least the next two

years. He also will have to perform 200 hours of community service, but nothing involving animals.”

Thus far, eight attorneys have been approved as volunteer advocates under the new law, including Professor Rubin, who is working with **UConn Animal Legal Defense Fund Student Chapter** members Taylor Hansen and Yuliya Shamailova. Professor Rubin, who serves as faculty advisor for the UConn student chapter and teaches animal law, is an expert in the field and was instrumental in creating Desmond’s Law. Some have compared the court-appointed advocates allowed under Desmond’s Law to *guardians ad litem*, who can be appointed by courts to represent the interests of unborn humans, infants, minors, and mentally incompetent persons for the duration of a legal proceeding.

Although uncommon, in some cases *guardians ad litem* have been approved to represent animals. For example, some states, **such as California**, permit the appointment of a *guardian ad litem* to represent the interests of a companion animal for whom a trust has been established. Additionally, in 2007, the United States District Court for the Eastern District of Virginia appointed law professor Rebecca J. Huss as **the guardian/special master** of the more than 50 pit bulls who were victims in the Michael Vick dogfighting case. In this **relatively unique** situation, Professor Huss was appointed during civil litigation to ensure each dog enjoyed a good quality of life, and that the dogs and those around them would be healthy and safe.

Though an important and innovative legal development, the representation provided for under Desmond’s Law seems to stop short of granting *guardian ad litem* status. According to the **statutory language**, advocates are appointed to represent the “interests of justice” rather than those of the animal. In this sense, Desmond’s Law advocates share the same responsibility as prosecutors (who also have a duty to act in the interest of justice in all criminal cases) and does not specifically position the advocates as prioritizing the needs of animal victims.

However, the interests of justice are likely to coincide with the interests of the animal in an abuse case, or will help prevent future victimization of other animals (e.g. rehoming the animal rather than returning her to an abusive owner, or sentencing provisions that prohibit a convicted abuser from having animals for a set period of time).

Desmond’s tragic death, and the fact that his killer walked away with a clean record, shined a spotlight on the fact that animal abusers often receive light sentences that are out of proportion with the seriousness of their crime, or are able to avoid conviction altogether. According to Representative Diana Urban, who sponsored Desmond’s Law, animal abusers have an 18% conviction rate in Connecticut. Reasons why animal abusers too often get a “slap on the wrist” vary, but include the fact that crimes involving humans often receive higher priority amid challenges like overburdened courts and limited resources, and that law enforcement and prosecutors sometimes lack expertise in the unique issues that frequently arise in animal abuse cases.

As Professor Rubin pointed out when **testifying in favor of the bill** last year, Desmond’s Law was intended to help alleviate these challenges by providing the court “with extra resources at no cost...a neutral party that will assist the court in collecting information to represent the animal’s interest and/or the interest of justice.”

Although the suffering of animal victims in cruelty and neglect cases is an inherent wrong that should not be glossed over, the steady **accumulation of research** linking animal abuse to violence against humans, such as intimate partner violence and child abuse, has prompted a societal shift toward crimes against animals being taken more seriously by law enforcement, judges, and policymakers.

Desmond's Law is part of this shift, as is the fact that with the addition of South Dakota in 2014, all 50 states now have felony animal cruelty laws on their books. Additionally, on Jan. 1, 2016, the FBI began **collecting data on crimes against animals** and added animal cruelty offenses as a category in the agency's National Incident-Based Reporting System (NIBRS). Prior to this, crimes against animals were lumped under "all other offenses," which made it impossible to track patterns or gain an accurate picture of the nature of cruelty to animals.

A large part of the FBI's rationale to start including animal cruelty offenses alongside felony crimes like arson, burglary, assault, and homicide in its criminal database was a growing awareness of the connection between animal cruelty and other crimes affecting humans, as well as a belief that animal cruelty is not only a crime against animals but also, in the words of the National Sheriffs' Association's John Thompson, "**a crime against society.**"

In support of this societal shift toward crimes against animals being taken more seriously, and to mitigate the lingering challenges mentioned above that can cause animal abuse to be deprioritized in the legal system, the Animal Legal Defense Fund's Criminal Justice Program provides free assistance and resources to prosecutors and law enforcement around the country to help secure the best possible outcome in animal abuse cases. In that capacity, the Animal Legal Defense Fund is able to help secure justice in animal abuse cases by assisting prosecutors with evidentiary evaluation, legal arguments, trial strategy, and the like—even making court appearances, with the special permission of the court. The courtroom advocates provided by Desmond's Law fulfill another much-needed service for animal victims and the interests of justice, and we are hopeful other states will follow Connecticut's lead.

Further Reading:

- Wamsley, Laurel. "**In A First, Connecticut's Animals Get Advocates In The Courtroom.**" *NPR*. June 2, 2017.
- Eaton-Robb, Pat. "**State experiments with court advocates for abused animals.**" *York Dispatch*. June 2, 2017.
- Sisson, Jordan Otero. "**Abused Animals Will Get Voice In Court This Month Thanks To New Law.**" *Hartford Courant*. April 10, 2017.
- **Text of Public Act No. 16-30** (Desmond's Law).
- Huss, Rebecca J. 2008. "**Lessons Learned: Acting as Guardian/Special Master in the Michael Vick Bad Newz Kennels Case.**" *Animal Law*. Vol. 15:1. Pp. 1-17.
- "**Tracking Animal Cruelty: FBI Collecting Data on Crimes Against Animals.**" FBI. February 1, 2016.