

This is a printer friendly version of an article from **DurangoHerald.com**

To print this article open the file menu and choose Print.

[Back](#)

---

Article published Jan 8, 2012

## Know your (pets') rights under the law

---

The law considers animals our property, not unlike televisions and cars. However, the system also recognizes that animals are something more – some courts have gone so far as to call animals a “special” or “unique” type of property. Animal lovers should learn what the law can do for them and should exercise those abilities.

Animals are protected by the law. It may be slight protection, but, for example, we are prohibited from unnecessarily hurting or killing animals, we are required to take adequate care of animals and we can set up trusts to care for our animals. Animals have a little better protection than other kinds of property – while your car is “protected” from theft or destruction by others, you cannot set up a trust to take care of your car after your death or be given a citation for failing to change your oil.

As an animal owner, you should not neglect the multitude of legal tools you can use to protect your animals or your investments in them. At the time of purchase, consumer protection and uniform commercial code provisions apply, requiring truthful advertising and imposing certain warranties that the seller may not offer voluntarily. Animal-cruelty statutes, public-health rules and the Pet Animal Care Facilities Act all may come into play if you stumble upon a puppy mill or the like.

Once you own your animal, you have tools in the criminal law and the civil law to protect you and your animal from harm. Both sides of the law try to prevent harm and if it occurs, both impose consequences for the wrong-doers.

Under state statutes and either the county code or city ordinances, it is a crime for someone else to steal or (in most cases) to hurt or kill your animal. There are lots of nuances to these laws, and neither law-enforcement officers nor the district attorneys always prioritize animal crimes as highly as animal lovers might like. However, we should not forget that animal cruelty, theft and many kinds of killing are crimes, and we should push to enforce those laws when possible and appropriate.

In the civil-law arena, the tools are broader and more flexible. In a civil action, a person can be held liable for failing to act reasonably, whereas criminal laws usually require intentional wrongdoing. In addition, civil claims only need to be proved by a preponderance of the evidence (e.g., that it is more likely than not to be true), which is an easier test to meet than the criminal-law requirement of proof beyond a reasonable doubt. Harm to your animals can come from almost anywhere – strangers, neighbors, other animals, over-zealous law enforcement, anyone to whom you entrust them – and may trigger civil claims such as negligence, trespass, civil theft or emotional distress.

This is not an ode to rampant litigation. However, if legal protections for animals are to be taken

seriously and to be improved, animal owners must make use of them.

Like muscles, the law will not grow or evolve if not asked to do so, and can atrophy from disuse. And worse, a community can send a message that it does not take the protection of its animals seriously if it looks the other way when existing laws are violated. Filing a lawsuit is not necessarily a stereotyped, greedy quest for money, although of course that happens. In a fragile legal area such as animal protection, a lawsuit may be the best way to stand up against a wrong that is otherwise ignored and to flex and grow latent (legal) muscle power.

Outside of court, the law can also be helpful to animals. You can benefit your animals by using Colorado's "pet trust" statute and by including your animals in your estate and emergency planning. You can make use of tax benefits for charitable giving to support deserving animal-welfare programs. Best of all, you can educate yourself about the variety of laws affecting you and your animals, and both adhere to them and report their violation.

Loud or destructive protests are not required to accomplish good for animals. The law recognizes several aspects of animals' importance in our lives; putting the law to work will strengthen the law itself, solidify animals' place in the system and deter those who would disregard it.

Kate Burke is an attorney with Insight Law LLC, in Durango. She can be reached at [kate@insightlawllc.com](mailto:kate@insightlawllc.com).

---

---