

2016

## 2015 Federal Legislative Review

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### Recommended Citation

Alescia Dichmann, *2015 Federal Legislative Review*, 22 *Animal L. Rev.* 423 (2016).

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# LEGISLATIVE REVIEWS

## 2015 FEDERAL LEGISLATIVE REVIEW

By  
Alescia Dichmann\*

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### I. INTRODUCTION

The American political newspaper, *The Hill*, named the 114th Congress as “the most diverse Congress ever set to take power.”<sup>1</sup> This Congress has 108 female lawmakers, more than ever before, alongside 430 men as well as 46 African American and 33 Hispanic lawmakers.<sup>2</sup> While this Congress has made strides in the diversity of its members, we have yet to see whether this Congress’s legislative activity will benefit animals. The fate of the proposed animal legislation discussed in

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\* © Alescia Dichmann 2016, Alescia is a 2017 J.D. candidate in the Criminal Law Program at Lewis & Clark Law School. She clerked previously at the Federal Public Defender in Portland, Oregon and is currently serving as submissions editor for Animal Law Review. She would like to dedicate this article to caffeine and sugar, her unwavering companions in law school, as well as her three cats: Snow White, Apricot, and Angel.

<sup>1</sup> Peter Sullivan, *Most Diverse Congress in History Poised to Take Power*, THE HILL, <http://thehill.com/homenews/news/228534-114th-congress-by-the-numbers> [https://perma.cc/5D9Z-EG64] (Jan. 5, 2016) (accessed Jan. 8, 2016); see also JENNIFER E. MANNING, CONG. RES. SERV., R43869, MEMBERSHIP OF THE 114TH CONGRESS: A PROFILE 1–3 (2015), <https://www.fas.org/sgp/crs/misc/R43869.pdf> [https://perma.cc/P83X-5MAS] (summarizing the profile of the membership of the 114th Congress) (accessed Jan. 8, 2016).

<sup>2</sup> Sullivan, *Most Diverse Congress*, *supra* note 1.

this Review will ultimately be decided by the time this 114th Congress concludes in 2017.

## II. RESEARCH, LAB, AND FARM ANIMALS

The purpose of the Animal Welfare in Agricultural Research Endeavors (AWARE) Act is to “amend the Animal Welfare Act [AWA] to require humane treatment of animals by Federal Government facilities.”<sup>3</sup> The AWA, the main federal law that covers the use of animals in biomedical research, currently excludes “farm animals . . . used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber.”<sup>4</sup>

The AWARE Act was created in light of a *New York Times* article released in January 2015 detailing horrific examples of animal cruelty at the United States Meat Animal Research Center (MARC) in Clay Center, Nebraska.<sup>5</sup> MARC is a government-funded laboratory within the United States Department of Agriculture’s Agricultural Research Service “that uses breeding and surgical techniques to make the animals bigger, leaner, more prolific and more profitable” for the farming industry.<sup>6</sup> For instance, MARC’s experiments have included trying to increase the number of twin births in cows and trying to expand the litter sizes of pigs.<sup>7</sup>

Additionally, taxpayers have spent nearly \$200 million supporting this facility alone over the last ten years.<sup>8</sup> However, MARC is not the only federal facility in the United States conducting this type of research—it is one of forty that are part of the Agricultural Research Service. Thus, Congress has spent hundreds of millions of dollars of taxpayer money on these animal experiments over the last ten years.<sup>9</sup>

According to the *New York Times*, MARC’s own internal records show that animals at the facility are subjected to pain, illness, and premature death resulting from experimentation.<sup>10</sup> For example, in its attempt to develop leaner pigs, the Center has inadvertently produced sows that are so lean many of them cannot reproduce; leading MARC’s

<sup>3</sup> H.R. 746, 114th Cong. (2015).

<sup>4</sup> 7 U.S.C. § 2132(g)(3) (2015).

<sup>5</sup> *Animal Welfare in Agricultural Research Endeavors (AWARE) Act*, ANIMAL WELFARE INST., <https://awionline.org/content/animal-welfare-agricultural-research-endeavors-aware-act> [<https://perma.cc/TC3Z-AQZ8>] (accessed Jan. 8, 2016) [hereinafter AWI, *AWARE Act*].

<sup>6</sup> Michael Moss, *Lawmakers Aim to Protect Farm Animals in U.S. Research*, N.Y. TIMES, <http://www.nytimes.com/2015/02/05/dining/lawmakers-aim-to-protect-farm-animals-in-us-research.html> [<https://perma.cc/MQJ7-NXEU>] (Feb. 5, 2015) (accessed Jan. 8, 2016) [hereinafter Moss, *Lawmakers*].

<sup>7</sup> Michael Moss, *U.S. Research Lab Lets Livestock Suffer in Quest for Profit*, N.Y. TIMES, <http://www.nytimes.com/2015/01/20/dining/animal-welfare-at-risk-in-experiments-for-meat-industry.html> [<https://perma.cc/Y9PY-6KLM>] (Jan. 19, 2015) (accessed Jan. 8, 2016) [hereinafter Moss, *Lab Lets Livestock Suffer*].

<sup>8</sup> AWI, *AWARE Act*, *supra* note 5.

<sup>9</sup> *Id.*

<sup>10</sup> Moss, *Lawmakers*, *supra* note 6.

scientists to do experimental operations on the pigs' ovaries and brains in an attempt to increase fertility while maintaining abnormally low levels of fat.<sup>11</sup> The *New York Times* also reports that the facility lacks "the oversight that many universities and companies have adopted for their research on animals."<sup>12</sup> For instance, the Center has so few veterinarians on staff that one is almost never present for experiments.<sup>13</sup> The *New York Times* further states that at least 6,500 animals died of starvation, and many suffered during exposure to extreme weather or attacks by predators since MARC has been in operation.<sup>14</sup> Other reported mistreatment of animals at MARC includes: allowing infant animals to perish slowly without treatment or comfort because breeding experiments left them deformed and unusable; allowing staff members without the requisite training to operate on animals; injecting female sheep with male growth hormones, thereby deforming their genitalia; and immobilizing a female cow with machines as multiple bulls mounted her for hours on end, leading to severe injuries and eventual death.<sup>15</sup>

The AWARE Act is a proposed solution to animal abuse at MARC and other similar federal facilities, and would close "the loophole in the AWA that excludes farm animals used in agricultural research at federal facilities from basic animal welfare protections."<sup>16</sup> The current AWA, while making a great difference in some areas of animal protection, excludes animals within the federal system, focusing rather on cats and dogs used in state-run laboratory research.<sup>17</sup>

Representative Earl Blumenauer, an Oregon Democrat, alongside Mike Fitzpatrick, a Republican from Pennsylvania, helped introduce the AWARE Act.<sup>18</sup> Representative Blumenauer is committed to animal

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<sup>11</sup> Moss, *Lab Lets Livestock Suffer*, *supra* note 7.

<sup>12</sup> Moss, *Lawmakers*, *supra* note 6.

<sup>13</sup> Moss, *Lab Lets Livestock Suffer*, *supra* note 7.

<sup>14</sup> *Id.*

<sup>15</sup> Michelle Kretzer, *Update: Meat Animal Research Center Ordered to Halt New Experiments*, PETA, <http://www.peta.org/blog/new-york-times-exposes-shocking-cruelty-taxpayer-funded-testing-facility/> [<https://perma.cc/DPJ5-PEGR>] (Jan. 20, 2015) (accessed Jan. 18, 2016); Michael Moss, *Stricter Oversight Ordered for Animal Research at Nebraska Center*, N.Y. TIMES, <http://www.nytimes.com/2015/03/10/dining/stricter-oversight-ordered-for-animal-research-at-nebraska-center.html> [<https://perma.cc/X5QV-73M2>] (Mar. 9, 2015) (accessed Jan. 31, 2016) (indicating that MARC's "internal records revealed that experiments and everyday handling of animals at the center have often resulted in illness, pain and premature death").

<sup>16</sup> AWI, *AWARE Act*, *supra* note 5.

<sup>17</sup> Moss, *Lawmakers*, *supra* note 6; *see also Rats, Mice & Birds*, ANIMAL WELFARE INST., <https://www.awionline.org/content/rats-mice-birds> [<https://perma.cc/6CPE-3LEZ>] (accessed Jan. 18, 2016) (explaining that the United States is the only country in the world with animal welfare laws that do not include rats, birds, and mice in those laws—this is particularly egregious because these animals comprise approximately 95% of the total animals tested on in the United States).

<sup>18</sup> Wayne Pacelle, *Breaking News: Bill in Congress Proposes End to Farm Animal Torture at Federal Labs*, HUFFINGTON POST, [http://www.huffingtonpost.com/wayne-pacelle/breaking-news-bill-in-congress-proposes-end-to-farm-animal-torture-at-federal-labs\\_b\\_6630214.html](http://www.huffingtonpost.com/wayne-pacelle/breaking-news-bill-in-congress-proposes-end-to-farm-animal-torture-at-federal-labs_b_6630214.html) [<https://perma.cc/7EQK-NMCM>] (Feb. 6, 2015) (accessed Jan. 8,

welfare issues and has co-sponsored many animal welfare bills in an attempt to better the lives of wild and domestic animals.<sup>19</sup> Regarding the AWARE Act, Representative Blumenauer stated: “It is time to put a stop to this horrible misuse of taxpayer funds . . . . When USDA research facilities experiment on farm animals, they should be held to the same standard as federal research facilities conducting lifesaving disease research with the same kinds of animals. This bill is common sense for taxpayers, for researchers, and for the humane treatment of animals.”<sup>20</sup> Further, this legislation is supported by various animal protection organizations, including the Humane Society of the United States, the American Society for the Prevention of Cruelty to Animals, and the Animal Welfare Institute.<sup>21</sup>

A companion bill to the AWARE Act was also introduced in the Senate by Cory Booker.<sup>22</sup> This companion bill seeks to accomplish the same goal as the AWARE Act: “[t]o amend the Animal Welfare Act to require humane treatment of animals by Federal Government facilities.”<sup>23</sup> Unfortunately, according to govtrack.us, a website that enables users to track the bills and members of Congress, both bills only have a 2% chance of getting past committee and a 1% chance of being enacted.<sup>24</sup>

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2016); *Rep. Blumenauer and Rep. Fitzpatrick Introduce AWARE Act of 2015*, EARL BLUMENAUER, [https://blumenauer.house.gov/index.php?option=com\\_content&view=article&id=2426:rep-blumenauer-and-rep-fitzpatrick-introduce-aware-act-of-2015&catid=63&Itemid=220](https://blumenauer.house.gov/index.php?option=com_content&view=article&id=2426:rep-blumenauer-and-rep-fitzpatrick-introduce-aware-act-of-2015&catid=63&Itemid=220) [https://perma.cc/FMF9-394E] (accessed Jan. 8, 2016).

<sup>19</sup> *Animal Welfare*, EARL BLUMENAUER, [http://blumenauer.house.gov/index.php?option=com\\_content&view=article&id=343](http://blumenauer.house.gov/index.php?option=com_content&view=article&id=343) [https://perma.cc/6AVN-JEHD] (accessed Feb. 22, 2016).

<sup>20</sup> *Rep. Blumenauer and Rep. Fitzpatrick Introduce AWARE Act of 2015*, *supra* note 18.

<sup>21</sup> *See Newly Introduced Federal Legislation Calls for End to Torture of Farm Animals at Federal Research Facilities*, HUMANE SOCIETY OF THE U.S., [http://www.humanesociety.org/news/press\\_releases/2015/02/fed-bill-farm-animals-experiments-020515.html](http://www.humanesociety.org/news/press_releases/2015/02/fed-bill-farm-animals-experiments-020515.html) (Feb. 5, 2015) (accessed Jan. 18, 2016) (“Wayne Pacelle, president and CEO of the Humane Society of the United States . . . announced [his] support of the bill.”); *Congress Makes USDA AWARE that Americans Will Not Stand for Cruel Agricultural Research*, AM. SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, <https://www.aspc.org/news/congress-makes-usda-aware-americans-will-not-stand-cruel-agricultural-research> [https://perma.cc/CH4A-A647] (Feb. 5, 2015) (accessed Jan. 18, 2016) (“We are also grateful to Senator Cory Booker of New Jersey for introducing the Senate version of the [AWARE Act] and to Wayne Pacelle of The Humane Society of the U.S. for helping us lead the charge.”); AWI, *AWARE Act*, *supra* note 5 (“The cruel treatment of animals at MARC is unconscionable. It has been allowed to continue in large part because of the glaring gap in the AWA that allows federal research facilities like MARC to torture farm animals with impunity.”).

<sup>22</sup> S. 388, 114th Cong. (2015).

<sup>23</sup> *Id.*

<sup>24</sup> *H.R. 746 (114th): Animal Welfare in Agricultural Research Endeavors Act*, GOVTRACK.US, <https://www.govtrack.us/congress/bills/114/hr746> [https://perma.cc/9K9A-TG6A] (accessed Jan. 18, 2016); *S. 388 (114th): Animal Welfare in Agricultural Research Endeavors Act*, GOVTRACK.US, <https://www.govtrack.us/congress/bills/114/s388> [https://perma.cc/8YTN-AHPT] (accessed Jan. 18, 2016).

### III. COSMETIC ANIMAL TESTING

Representative Martha McSally introduced the Humane Cosmetics Act in the House of Representatives on June 23, 2015.<sup>25</sup> This bill prohibits testing cosmetics on animals in the United States.<sup>26</sup> Primarily, the bill seeks to ensure that no cosmetic may be sold or transported if the final product or any component of that product was developed or manufactured using animal testing.<sup>27</sup> As of this writing, the Humane Cosmetics Act has a 9% chance of being enacted.<sup>28</sup>

Animal testing of cosmetic products and ingredients, and the sale of newly animal-tested cosmetics, would be phased out under this legislation. Testing cosmetics on animals would be illegal one year after enactment, and the sale of such cosmetics in the United States would be prohibited after three years.<sup>29</sup> Additionally, by passing this Act, the United States would join more than thirty other countries that already have cruelty-free cosmetics policies.<sup>30</sup>

Testing cosmetics on animals is reprehensible to many people who learn of it, and thousands of animals every year in the United States are subjected to this inhumane treatment.<sup>31</sup> According to the Humane Society of the United States (HSUS), “mice, rabbits, rats and guinea pigs[, among other animals,] have substances forced down their throat[s], dripped into their eyes or smeared onto their skin, usually without pain relief,” for the sake of testing purely aesthetic beauty products and ingredients.<sup>32</sup> This occurs even though many viable alternatives exist.<sup>33</sup> Representative McSally stated in reference to this act:

Subjecting animals to painful and inhumane testing is not who we are as a country. There’s no reason to continue this cruel practice when we have cost-effective alternatives that can bring about safe products for consumers. As an animal lover and volunteer, I’m pleased to be introducing this

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<sup>25</sup> H.R. 2858, 114th Cong. (2015).

<sup>26</sup> *Id.*

<sup>27</sup> H.R. 2858 § 3(b).

<sup>28</sup> *H.R. 2858: Humane Cosmetics Act*, GOVTRACK.US, <https://www.govtrack.us/congress/bills/114/hr2858> [<https://perma.cc/82XS-9W54>] (accessed Jan. 18, 2016).

<sup>29</sup> *Id.*

<sup>30</sup> Press Release, Humane Soc’y of the U.S., Federal Bill to End Cosmetics Testing on Animals Introduced (June 23, 2015), [http://www.humanesociety.org/news/press\\_releases/2015/06/hca-reintroduction-062315.html](http://www.humanesociety.org/news/press_releases/2015/06/hca-reintroduction-062315.html) (accessed Jan. 8, 2016).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> Allison Abbott, *More Than a Cosmetic Change*, 438 NATURE 144, 144 (2005); see also Elie Doglin, *Animal Testing Alternatives Come Alive in U.S.*, 16 NATURE MEDICINE 1348, 1348 (2010) (noting a “broad push to develop alternative means for assessing the potential hazards of drugs”); R.E. Hestler & Roy M. Harrison, ALTERNATIVES TO ANIMAL TESTING (2006) (finding that it has become more expedient and feasible to develop new methods of testing that avoid the use of animals).

legislation with my colleagues to take a stand against the inhumane treatment of animals.<sup>34</sup>

The Humane Cosmetics Act has received strong industry support in addition to the significant bipartisan support it has already gained.<sup>35</sup> For instance, John Paul DeJoria, the Chief Executive and Co-Founder of Paul Mitchell, a luxury women's hair care brand, has said:

Paul Mitchell is the first professional hair care brand to take a strong stance against animal testing . . . we just refused to do it. Since our beginning in 1980, we have been extremely proud to be cruelty free. We are honored to join Cruelty Free International in continuing to support the Humane Cosmetic Act to end cosmetic testing on animals in the United States.<sup>36</sup>

#### IV. ANIMALS AND NATURAL DISASTERS

The Animal Emergency Planning Act of 2015 would require facilities regulated by the Animal Welfare Act (AWA), such as zoos or animal research facilities, to implement disaster response plans that train employees how to safeguard the facilities' animals in the wake of both natural and man-made disasters.<sup>37</sup> This act was created following Hurricanes Katrina and Sandy and other recent natural and man-made disasters.<sup>38</sup> Govtrack.us currently estimates only a 2% chance that Congress will enact the bill.<sup>39</sup>

Hurricane Katrina struck the Gulf Coast in August 2005, devastating the area.<sup>40</sup> In the aftermath of Hurricane Katrina, while most humans were rescued from the wreckage, thousands of animals were left behind, many stranded on rooftops or in homes.<sup>41</sup> In all, *The Atlantic*, an American magazine, estimates that over 600,000 animals were killed or stranded because of Hurricane Katrina.<sup>42</sup> The harrowing sights on television screens of these animals left behind stirred the

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<sup>34</sup> Monica Engebretson, *Humane Cosmetics Act Introduced with Bipartisan and Industry Support*, HUFFINGTON POST, [http://www.huffingtonpost.com/monica-engebretson/humane-cosmetics-act-intr\\_b\\_7648492.html](http://www.huffingtonpost.com/monica-engebretson/humane-cosmetics-act-intr_b_7648492.html) [https://perma.cc/F6HA-6X2W] (June 23, 2015) (accessed Jan. 8, 2016).

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> H.R. 3193, 114th Cong. (2015).

<sup>38</sup> H.R. 3193 § 2(1).

<sup>39</sup> *H.R. 3193 (114th): Animal Emergency Planning Act of 2015*, GOVTRACK.US, <https://www.govtrack.us/congress/bills/114/hr3193> [https://perma.cc/J5D5-5WKE] (accessed Mar. 21, 2016).

<sup>40</sup> *Hurricane Katrina Statistics Fast Facts*, CNN, <http://www.cnn.com/2013/08/23/us/hurricane-katrina-statistics-fast-facts/> [https://perma.cc/4TU3-ZF9D] (updated Aug. 24, 2015, 11:30 AM) (accessed Mar. 21, 2015).

<sup>41</sup> Stanley Coren, *The Dogs of Hurricane Katrina*, MODERN DOG, <http://moderndogmagazine.com/articles/dogs-hurricane-katrina/151> [https://perma.cc/6P7K-JBKF] (accessed Jan. 8, 2016).

<sup>42</sup> Wendi Jonassen, *7 Years After Katrina, New Orleans Is Overrun by Wild Dogs*, THE ATLANTIC, <http://www.theatlantic.com/national/archive/2012/08/7-years-after-katri>

emotions of many Americans watching, and ultimately created the momentum for this bill.<sup>43</sup>

‘Superstorm’ Sandy also left many animals homeless and abandoned in its wake.<sup>44</sup> The Humane Society alone helped rescue over 350 animals from devastated areas in New York and New Jersey, and it cared for more than 700 animals in emergency shelters.<sup>45</sup>

“The risks that animals face are often the product of their intimate involvement with humanity,” and natural disasters are no exception.<sup>46</sup> Due to the near complete domestication of many animals, particularly cats and dogs, they have come to rely on humans for their survival, and consequently must depend on human assistance to survive many emergencies.<sup>47</sup>

The American Society for the Prevention of Cruelty to Animals (ASPCA) plays a fundamental role in safeguarding animals affected by disasters. The ASPCA “assist[s] with recovery efforts through search-and-rescue operations and the set-up of emergency veterinary clinics, emergency boarding facilities, and pet supply distribution centers.”<sup>48</sup> Therefore, it follows that businesses and facilities that regularly house and utilize animals should be required to create and implement emergency response plans in the event that a disaster threatens the animals in their care. The ASPCA provides an example of what the Animal Emergency Planning Act seeks to accomplish.<sup>49</sup>

## V. ENDANGERED SPECIES ANIMAL HUNTING

The death of Cecil, an African lion, at the hands of an American hunter touched off a social media firestorm, which prompted the proposal of three separate pieces of endangered species legislation, one in the Senate and two in the House of Representatives.<sup>50</sup> The hunter was

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na-new-orleans-is-overrun-by-wild-dogs/261530/ [https://perma.cc/JWE2-HRRF] (Aug. 24, 2012) (accessed Jan. 8, 2016).

<sup>43</sup> *Id.*

<sup>44</sup> *Hurricane Sandy Relief*, HUMANE SOC’Y OF THE U.S., [http://www.humanesociety.org/issues/animal\\_rescue/hurricane-sandy/#id=album-171&num=content-3172](http://www.humanesociety.org/issues/animal_rescue/hurricane-sandy/#id=album-171&num=content-3172) (accessed Jan. 18, 2016).

<sup>45</sup> *Id.*

<sup>46</sup> Greg Bankoff, *Learning About Disasters from Animals*, in *LEARNING AND CALAMITIES: PRACTICES, INTERPRETATIONS, PATTERNS* 42, 43 (Heike Egner et al. eds., 2015).

<sup>47</sup> *Id.* at 43–44.

<sup>48</sup> *Support Federal Legislation to Protect Animals in Disasters*, ASPCA, <https://www.aspc.org/news/support-federal-legislation-protect-animals-disasters> [https://perma.cc/CT2A-8CZB] (July 28, 2015) (accessed Jan. 8, 2016).

<sup>49</sup> *Id.*

<sup>50</sup> *H.R. 3536 (114th): CECIL Act*, GOVTRACK.US, <https://www.govtrack.us/congress/bills/114/hr3526> [https://perma.cc/VK5V-24BT] (accessed Jan. 18, 2016); *H.R. 3448 (114th): Cecil the Lion Endangered and Threatened Species Act of 2015*, GOVTRACK.US, <https://www.govtrack.us/congress/bills/114/hr3448> [https://perma.cc/ABS5-4UAP] (accessed Jan. 18, 2016); *S. 1918 (114th): Conserving Ecosystems by Ceasing the Importation of Large (CECIL) Animal Trophies Act*, GOVTRACK.US, <https://www.govtrack.us/congress/bills/114/s1918> [https://perma.cc/HA8Q-JA4P] (accessed Jan. 18, 2016); see also Dan Kedmey, *U.S. Lawmakers Draft ‘CECIL Act’ to Curb Trophy Hunters*, TIME,



a dentist by trade from Minnesota who paid \$55,000 to slay the lion during a hunting excursion in Zimbabwe.<sup>51</sup> According to news reports, the dentist severed Cecil's head and skin from the rest of his body, likely for a trophy display, only to leave the rest of the lion's carcass in the brush.<sup>52</sup> Cecil's death incited so much protest on the Internet that the Minnesotan dentist was forced to close his practice for two weeks.<sup>53</sup> He remained absent from work for six weeks.<sup>54</sup>

The purpose of all three pieces of legislation is to curtail trophy hunting of potentially endangered and threatened species like Cecil.<sup>55</sup> While African lions were not an endangered species at the time Cecil was killed, in 2014, the U.S. Fish and Wildlife Service proposed placing lions on a list of threatened animals.<sup>56</sup> Then, six months after Cecil's death, the Obama administration successfully placed African lions under the protection of the Endangered Species Act.<sup>57</sup> However, according to some estimates, there are still only approximately 20,000 lions left in Africa, and unless this bill or others like it pass, that number could be reduced by half in as few as twenty years.<sup>58</sup>

By making it illegal for sport hunters to import parts of any species listed as threatened or endangered, these pieces of legislation would likely discourage trophy hunting by U.S. citizens abroad and keep animals such as Cecil from being slaughtered for sport.<sup>59</sup> Additionally, outlawing lion hunting in particular could have a huge impact on the trophy hunting industry in general because "lions are often the

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<http://time.com/3981032/cecil-lion-bill-trophy-hunters/> [<https://perma.cc/E9MN-ATS4>] (July 21, 2015) (accessed Jan. 8, 2016) ("U.S. lawmakers joined the chorus of outrage over the killing of Cecil the lion on Friday, announcing a bill that would stop people from importing 'trophies' gleaned from hunting potentially endangered animals.").

<sup>51</sup> *Id.*

<sup>52</sup> Christina Wilkie, *Senators Introduce CECIL Act After Outcry over Killed African Lion*, HUFFINGTON POST, [http://www.huffingtonpost.com/entry/senate-cecil-the-lion-act\\_55bbaebe4b0b23e3ce29e46](http://www.huffingtonpost.com/entry/senate-cecil-the-lion-act_55bbaebe4b0b23e3ce29e46) [<https://perma.cc/YH7Z-PE2M>] (July 31, 2015) (accessed Jan. 8, 2016); see also Editorial Board, *The Death of Cecil the Lion*, N.Y. TIMES, <http://www.nytimes.com/2015/07/31/opinion/the-death-of-cecil-the-lion.html> [<https://perma.cc/UFR5-DX72>] (July 31, 2015) (accessed Jan. 18, 2016) ("The death of Cecil, the black-maned lion killed by an American big-game hunter in Zimbabwe, has unleashed a global storm of Internet indignation. The hunter, Dr. Walter Palmer, a dentist from Minnesota, has been forced into hiding.").

<sup>53</sup> Erica Goode, *After Cecil Furor, U.S. Aims to Protect Lions Through Endangered Species Act*, N.Y. TIMES, <http://www.nytimes.com/2015/12/21/science/us-to-protect-african-lions-under-endangered-species-act.html> [<https://perma.cc/HEB6-VPN6>] (Dec. 20, 2015) (accessed Jan. 8, 2015).

<sup>54</sup> *Id.*

<sup>55</sup> See H.R. 3526, 114th Cong. (2015) (proposing to extend the trade restrictions available under the Endangered Species Act to include those species that are proposed for listing as either threatened or endangered pending a final agency decision).

<sup>56</sup> *Endangered and Threatened Wildlife and Plants; Listing the African Lion Subspecies as Threatened with a Rule Under Section 4(d) of the ESA*, 79 Fed. Reg. 64471 (proposed Oct. 29, 2014) (to be codified at 50 C.F.R. pt. 17).

<sup>57</sup> Goode, *supra* note 53.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

most valuable species sold in safari hunting concessions, they fetch the highest price of any single species at auctions, and lion hunts sell out ahead of all other species on a hunting operator's quota."<sup>60</sup>

Alternatively, pro-hunting groups that oppose the bills argue that the money raised in Africa from sport hunting benefits the local population by providing much-needed income.<sup>61</sup> However, it is yet to be determined if this argument is strong enough to curtail the legislation from enactment. Regardless, all three bills are presently expected to die: H.R. 3448 has an estimated meager 6% chance of enactment, H.R. 3526 only has a 1% chance, and S. 1918 has a 2% chance.<sup>62</sup>

## VI. HUNTING

### A. *Refuge From Cruel Trapping Act*

"Caught in the steel-jaw leghold trap, the bald eagle's broken wing dangled limply by his side. Scattered feathers testified to his valiant struggle to escape the trap that had almost severed his leg just above the talon."<sup>63</sup> This Congress saw introduction of a bill meant to prohibit the use or possession of body-gripping traps—including snares, Conibear traps, and steel-jaw leghold traps such as the one described above that captured a bald eagle—within the National Wildlife Refuge System.<sup>64</sup> A related bill was also introduced in the Senate by a junior Democrat Senator from New Jersey, Cory Booker.<sup>65</sup> According to Senator Booker:

The use of body-gripping animal traps in federal wildlife refuges is contrary to the very mission and purpose of these protected areas. These cruel traps don't distinguish between targeted animals and protected animals, endangered species or pets, and are a safety hazard to people. It's past time to remove this antiquated and inhumane practice from federal wildlife refuges.<sup>66</sup>

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<sup>60</sup> A.J. Loveridge et al., *The Impact of Sport-Hunting on the Population Dynamics of an African Lion Population in a Protected Area*, 134 *BIOLOGICAL CONSERVATION* 548, 548 (2007) (citation omitted).

<sup>61</sup> Goode, *supra* note 53; see also N. Leader-Williams et al., *Trophy Hunting of Black Rhino *Diceros Bicornis*: Proposals to Ensure Its Future Sustainability*, 8 *J. OF INT'L WILDLIFE L. & POL'Y* 1, 1–11 (2005), <http://www.tandfonline.com/doi/pdf/10.1080/13880290590913705> [<https://perma.cc/LY3T-4G3R>] (noting that white rhinoceros populations began to recover before any international trade ban took effect and that limited hunting of white rhinoceros on private land in South Africa has motivated landowners to reintroduce the species onto their lands, helping to increase the population from fewer than 100 individuals to more than 11,000).

<sup>62</sup> *H.R. 3536*, *supra* note 50; *H.R. 3448*, *supra* note 50; *S. 1918*, *supra* note 50.

<sup>63</sup> Camilla Fox, *Deadly Refuges*, 15 *EARTH ISLAND J.* 27, 27 (2000).

<sup>64</sup> H.R. 2016, 114th Cong. (2015).

<sup>65</sup> S. 1081, 114th Cong. (2015).

<sup>66</sup> *Wildlife Conservation Groups Commend Introduction of Refuge from Cruel Trapping Act*, INT'L FUND FOR ANIMAL WELFARE, <http://www.ifaw.org/united-states/news/wildlife-conservation-groups-commend-introduction-refuge-cruel-trapping-act> [<https://perma.cc/2PE9-KQ9J>] (Apr. 27, 2015) (accessed Jan. 8, 2016).

Animals such as coyotes, foxes, otters, wolves, beavers, bobcats, and others are currently unprotected from these traps in the National Wildlife Refuge System.<sup>67</sup> When animals fall victim to these body-gripping traps, they suffer prolonged pain as they struggle to free themselves.<sup>68</sup> They perish from the loss of blood, broken limbs, eventual starvation, or other barbaric effects of the traps.<sup>69</sup> Even endangered species such as bald eagles and gray wolves are susceptible to the traps due to their indiscriminate nature, which “jeopardize[s] the very birds and threatened and endangered species refuges are supposed to protect.”<sup>70</sup> The two main purposes behind these traps are to gather animal fur to sell or use as clothing and other merchandise, and to kill “so-called ‘nuisance’ animals, particularly in urban environments.”<sup>71</sup> The House bill has a projected 7% chance of being enacted, while the Senate bill only has a 1% chance.<sup>72</sup>

### B. *Global Anti-Poaching Act*

The primary goal of the 2015 Global Anti-Poaching Act is to combat wildlife trafficking globally by strengthening and expanding wildlife enforcement networks.<sup>73</sup> The Act would also penalize countries that fail to make efforts to combat wildlife trafficking and increase the penalties for wildlife trafficking itself.<sup>74</sup>

Similar to the illegal guns and arms trade, dangerous international syndicates run wildlife trafficking networks and threaten to demolish the remaining populations of many animals already facing extinction.<sup>75</sup> For instance, poaching endangered elephants for ivory, and African tigers for their skins, is very common in the industry.<sup>76</sup> In

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<sup>67</sup> *Congresswoman Nita Lowey Introduces Refuge from Cruel Trapping Act of 2009*, PROJECT COYOTE, <http://www.projectcoyote.org/action/nwrrefuge.html> [https://perma.cc/NUT4-J4TN] (accessed Jan. 8, 2016).

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Why Do People Trap?*, ASS’N FOR THE PROTECTION OF FUR-BEARING ANIMALS, <http://furbearerdefenders.com/the-issues/trapping/why-do-people-trap> [https://perma.cc/MD4K-U6QX] (accessed Jan. 18, 2016).

<sup>72</sup> *H.R. 2016 (114th): Refuge From Cruel Trapping Act*, GOVTRACK.US, <https://www.govtrack.us/congress/bills/114/hr2016> [https://perma.cc/S2E2-CRMZ] (accessed Jan. 18, 2016); *S. 1081 (114th): Refuge from Cruel Trapping Act*, GOVTRACK.US, <https://www.govtrack.us/congress/bills/114/s1081> [https://perma.cc/3A8N-QKE8] (accessed Jan. 18, 2016).

<sup>73</sup> H.R. 2494, 114th Cong. (2015).

<sup>74</sup> *Id.*; see also Zachary Sheldon, *Global Anti-Poaching Act Passed by House*, THE WILDLIFE SOC’Y, <http://wildlife.org/global-anti-poaching-act-passed-by-house/> [https://perma.cc/5XHB-XC72] (Nov. 6, 2015) (accessed Jan. 8, 2016) (“The legislation seeks action against wildlife trafficking through three main avenues: strengthening and expanding wildlife enforcement networks; punishing countries failing to make efforts to combat wildlife trafficking; and increasing the penalties of wildlife trafficking.”).

<sup>75</sup> *Illegal Wildlife Trade*, WORLD WILDLIFE FUND, <http://www.worldwildlife.org/threats/illegal-wildlife-trade> [https://perma.cc/48Y6-NL6L] (accessed Jan. 8, 2016).

<sup>76</sup> *Id.*

2011 alone, trafficking hunters illegally killed approximately 2,500 elephants for their ivory tusks.<sup>77</sup>

The Global Anti-Poaching Act seeks to take action against this illegal activity by creating wildlife enforcement networks and providing support and technical assistance to countries engaging in wildlife enforcement.<sup>78</sup> For example, the bill would enable enforcement efforts by supporting activities such as wildlife ranger education through the creation of professional standards for ranger training and qualifications, proposing reforms to countries' legal systems "to provide rangers with authority to detain and arrest suspects," and developing national systems to provide insurance to rangers and their families.<sup>79</sup>

The second element of the bill penalizes countries failing to make efforts to combat wildlife trafficking.<sup>80</sup> To accomplish this, the bill instructs the U.S. Secretary of State, through consultation with the Secretaries of the Interior and Commerce, to develop a list of countries "determined to be a major source of wildlife trafficking products or their derivatives, a major transit point of wildlife trafficking products or their derivatives, or a major consumer of wildlife trafficking products."<sup>81</sup> The countries determined to fall under these categories would be alerted to their status and given twelve months "to make substantial efforts to adhere to its obligations under international agreements relating to endangered and threatened species."<sup>82</sup> The Secretary of State may withhold U.S. assistance to offending countries if they fail to make these efforts.<sup>83</sup>

Lastly, the bill seeks to increase the penalties for wildlife trafficking.<sup>84</sup> Currently, jail time is limited for most wildlife trafficking offenses, and perpetrators are often only prosecuted with a misdemeanor or charges equivalent to minor traffic offenses.<sup>85</sup> This bill seeks to change this lenient treatment of wildlife trafficking offenses by categorizing wildlife trafficking as equal to weapons and drug trafficking offenses.<sup>86</sup> Further, this bill makes wildlife trafficking violations predicate offenses under racketeering and money laundering statutes.<sup>87</sup> In doing so, the bill requires that "any amounts received by the United States as fines, forfeitures of property or assets, or restitution to the Government for any violation under this" bill are to be used "for

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<sup>77</sup> *Id.*

<sup>78</sup> H.R. 2494.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> H.R. 2494.

<sup>85</sup> Dylan Brown, *Lenient Penalties Hamstring Trafficking Crackdown*, E&E PUB., <http://www.eenews.net/stories/1060018497> [<https://perma.cc/42FX-Y8H6>] (May 13, 2015) (accessed Jan. 8, 2016).

<sup>86</sup> H.R. 2494.

<sup>87</sup> *Id.*

the benefit of the species impacted by the applicable violation.”<sup>88</sup> This bill also has the highest chance of being enacted out of all the legislation in this federal review. The Global Anti-Poaching Act currently has a 36% chance of enactment.<sup>89</sup> Despite the related Senate bill’s similar goal of penalizing global animal poaching, it only has a 1% chance of being enacted.<sup>90</sup>

## VII. COMPANION ANIMALS

Everyone has a right to feel safe in a relationship, including companion animals. According to the American Humane Association, “71% of pet-owning women entering women’s shelters reported that their batterer had injured, maimed, killed or threatened family pets for revenge or to psychologically control victims.”<sup>91</sup> Further, according to the American Society for the Prevention of Cruelty to Animals (ASPCA), one out of every four women in America experiences domestic violence sometime in her lifetime.<sup>92</sup> The ASPCA also reports that many abusers intentionally target companion animals to exert control over their intimate partners.<sup>93</sup> Additionally, studies have shown that up to 48% of domestic violence victims have delayed leaving a dangerous situation or have returned to their abuser because they feared for their companion animals’ safety. While choosing to leave a domestic violence situation is already difficult for many survivors, it can be even more so when a beloved animal is involved.<sup>94</sup>

Therefore, the Pet and Women’s Safety (PAWS) Act amends the current U.S. federal criminal code to prohibit threats or acts of violence against a person’s companion animal under the offenses of stalking

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<sup>88</sup> *Id.*

<sup>89</sup> *H.R. 2494 (114th): Global Anti-Poaching Act*, GOVTRACK.US, <https://www.govtrack.us/congress/bills/114/hr2494> [<https://perma.cc/8EPM-VULJ>] (accessed Jan. 18, 2016).

<sup>90</sup> *S. 27 (114th): Wildlife Trafficking Enforcement Act of 2015*, GOVTRACK.US, <https://www.govtrack.us/congress/bills/114/s27> [<https://perma.cc/T2HF-QDRD>] (accessed Jan. 18, 2016).

<sup>91</sup> *Facts About Animal Abuse & Domestic Violence*, AM. HUMANE ASS’N, <http://www.americanhumane.org/interaction/support-the-bond/fact-sheets/animal-abuse-domestic-violence.html> (accessed Jan. 8, 2016).

<sup>92</sup> Matt Bershadker, *Protecting All the Victims of Domestic Violence*, AM. SOC’Y FOR THE PREVENTION OF CRUELTY TO ANIMALS, <https://www.aspc.org/blog/protecting-all-victims-domestic-violence> [<https://perma.cc/4MWH-KGXF>] (Mar. 5, 2015) (accessed Jan. 8, 2016).

<sup>93</sup> *Id.*

<sup>94</sup> F.R. Ascione et al., *Battered Pets and Domestic Violence*, 13 VIOLENCE AGAINST WOMEN 354, 354 (2007), <http://www.genderbias.net/docs/resources/guideline/Battered%20pets%20and%20domestic%20violence%20animal%20abuse%20reported%20by%20women%20experiencing%20intimate%20violence%20and%20by%20nonabused%20women.pdf> [<https://perma.cc/TA4B-A2S4>] (accessed Mar. 21, 2016); Sherry Ramsay et al., *Protecting Domestic Violence Victims by Protecting Their Pets*, JUV. & FAM. JUST. TODAY, Spring 2010, at 16, <http://www.ahimsahouse.org/sites/default/files/spring2010feature.pdf> [<https://perma.cc/7CG8-HZJW>] (accessed Mar. 21, 2016).

and interstate violation of a protection order.<sup>95</sup> More specifically, the bill criminalizes the deliberate targeting of a domestic partner's companion animal for the purpose of killing, injuring, harassing, or intimidating the companion animal.<sup>96</sup> The purpose of the Act is to "protect the pets of victims of domestic violence, sexual assault, stalking, and dating violence."<sup>97</sup>

In order to accomplish this goal, the bill proposes to award grants to emergency and transitional pet shelters and housing assistance organizations to help them provide services to domestic violence victims and their companion animals that were also abused or threatened with abuse.<sup>98</sup> This is much-needed support since, nationwide, only about seventy co-sheltering programs for victims of domestic violence and their companion animals currently exist.<sup>99</sup> Additionally, the bill gives domestic violence victims the opportunity to recover veterinary costs associated with their abuse.<sup>100</sup>

By providing this funding, the PAWS Act would help bridge the gap between the tremendous need for services by domestic violence survivors and their companion animals. This bill, which takes federal legislative action in addressing this issue, has been a long time coming since over twenty-five states have already enacted laws to protect companion animals involved in domestic violence.<sup>101</sup> However, the House bill has a 0% chance of being enacted and the companion Senate bill shares the same fate.<sup>102</sup>

## VIII. CRUSH ANIMAL VIDEOS

Representative Lamar Smith introduced the Preventing Animal Cruelty and Torture (PACT) Act on May 13, 2015.<sup>103</sup> The Act currently has a 10% chance of being enacted.<sup>104</sup> In 2010, Congress attempted to

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<sup>95</sup> H.R. 1258, 114th Cong. (2015). Senator Kelly Ayotte from New Hampshire referred an identical bill to committee in the Senate. S. 1559.

<sup>96</sup> Bershadker, *supra* note 92.

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> *URI People and Animals Living Safely (URIPALS)*, URB. RESOURCE INST., <http://urinc.org/domestic-violence/pals/> [<https://perma.cc/Y5NQ-TZXT>] (accessed Jan. 8, 2016).

<sup>100</sup> H.R. 1258.

<sup>101</sup> Rebecca F. Wisch, *Domestic Violence and Pets: List of States that Include Pets in Protection Orders*, ANIMAL LEGAL & HIST. CTR., <https://www.animallaw.info/article/domestic-violence-and-pets-list-states-include-pets-protection-orders> [<https://perma.cc/RR23-4FJM>] (2014) (accessed Mar. 21, 2016).

<sup>102</sup> *H.R. 1258 (114th): Pet and Women Safety Act of 2015*, GOVTRACK.US, <https://www.govtrack.us/congress/bills/114/hr1258> [<https://perma.cc/VC6J-GUM9>] (accessed Jan. 18, 2016); *S. 1559 (114th): Pet and Women Safety Act of 2015*, GOVTRACK.US, <https://www.govtrack.us/congress/bills/114/s1559> [<https://perma.cc/3QL7-RRUY>] (accessed Jan. 18, 2016).

<sup>103</sup> H.R. 2293, 114th Cong. (2015).

<sup>104</sup> *H.R. 2293 (114th): Preventing Animal Cruelty and Torture (PACT) Act*, GOVTRACK.US, <https://www.govtrack.us/congress/bills/114/hr2293> [<https://perma.cc/9J6P-S4G4>] (accessed Jan. 18, 2016).

ban the sale of videos depicting animal crushing, which “means actual conduct in which 1 or more living non-human mammals, birds, reptiles, or amphibians is intentionally crushed, burned, drowned, suffocated, impaled, or otherwise subjected to serious bodily injury.”<sup>105</sup> According to the Humane Society of the United States, “[a]nimal crush videos typically involve scantily-clad women or girls often using stiletto heels to inflict the torment to satisfy a sexual deviancy for viewers.”<sup>106</sup>

While a 2010 statute banned the creation and distribution of these obscene animal torture videos, Congress failed to make the underlying act of crushing a federal crime.<sup>107</sup> Therefore, this bill “amends the federal criminal code to prohibit intentionally engaging in animal crushing in or affecting interstate or foreign commerce or within the special maritime and territorial jurisdiction of the United States.”<sup>108</sup> By making the creation of these videos a federal crime, federal law enforcement will finally be able to protect animals from this form of abuse. Offenders would face felony charges, fines, and even up to seven years in prison.<sup>109</sup>

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<sup>105</sup> H.R. 2293.

<sup>106</sup> *The HSUS Applauds Signing of Animal Crush Video Prohibition Act*, HUMANE SOCIETY OF THE U.S., [http://www.humanesociety.org/news/press\\_releases/2010/12/crush\\_bill\\_signed\\_120910.html](http://www.humanesociety.org/news/press_releases/2010/12/crush_bill_signed_120910.html) (Dec. 9, 2010) (accessed Jan. 8, 2016).

<sup>107</sup> Wayne Pacelle, *Breaking News: Key Lawmakers Propose Federal Anti-Cruelty Measure*, HUFFINGTON POST, [http://www.huffingtonpost.com/wayne-pacelle/breaking-news-key-lawmake\\_b\\_7283420.html](http://www.huffingtonpost.com/wayne-pacelle/breaking-news-key-lawmake_b_7283420.html) [<https://perma.cc/S84V-PPDV>] (May 14, 2015) (accessed Jan. 8, 2016).

<sup>108</sup> Cong. Research Serv., *H.R. 2293—Preventing Animal Cruelty and Torture (PACT) Act*, CONGRESS.GOV, <https://www.congress.gov/bill/114th-congress/house-bill/2293> [<https://perma.cc/LQB8-VC38>] (accessed Jan. 18, 2016).

<sup>109</sup> H.R. 2293.