

REVIEWS

2019 FEDERAL LEGISLATIVE REVIEW

By
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The 116th Congress was historic for many reasons, and one of those reasons was major legislative progress for animals. In 2019, the Preventing Animal Cruelty and Torture Act passed, criminalizing the underlying cruelty acts in animal crushing videos. Furthermore, Congress ended the sale of healthy wild horses and burros for slaughter and committed to giving financial rewards for tips on international wildlife trafficking. Additionally, many more bills were introduced in the House of Representatives and the Senate, such as the Courthouse Dog Act and the Refuge From Cruel Trapping Act. While it is still unclear whether all the bills introduced to protect animals will become law, it is clear that there is increasing public concern for animal welfare.

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I. INTRODUCTION

On January 3, 2019, the 116th Congress convened, with Democrats taking control of the House of Representatives and Republicans maintaining a majority in the Senate.¹ The historic Congress swore in a “record number of women,” including the first Native American women, the first Muslim women, and the youngest woman ever elected to Congress.² Legislators quickly set to work to end the federal government shutdown, which began on December 22, 2018.³ The longest shutdown in United States history finally ended on January 25, with President Donald Trump signing a bill to temporarily reopen the federal government.⁴

Despite the conflict plaguing the Federal government, lawmakers made large gains for animal welfare in 2019. Passing the Preventing Animal Cruelty and Torture Act,⁵ the Rescuing Animals with Rewards Act,⁶ and a requirement for the humane transfer and treatment of wild horses and burros,⁷ Congress increased protection for animals in the United States and throughout the globe. In addition to these three laws, legislators proposed numerous other pieces of legislation to provide more protection for animals. These laws and proposed legislation will be discussed in this Review.

¹ *The Historic 116th Congress Has Convened and Democrats Control the House*, CNN: POL. (Jan. 3, 2019, 12:36 PM), https://www.cnn.com/politics/live-news/new-congress-january-2019/h_b77bd1a14e0e9917429a13a8ad507554 [<https://perma.cc/LNY4-R4QU>] (accessed May 26, 2020).

² Clare Foran & Phil Mattingly, *No Other Congress Has Ever Looked Like This*, CNN: POL. (Jan. 4, 2019, 5:19 AM), <https://www.cnn.com/2019/01/03/politics/new-congress-history-women-diversity/index.html> [<https://perma.cc/936Z-NLU6>] (accessed May 26, 2020).

³ Abigail Abrams, *This Is Now the Longest Government Shutdown in U.S. History*, TIME (Jan. 12, 2019), <https://time.com/5499397/shutdown-longest-history/> [<https://perma.cc/782H-MHSB>] (accessed May 26, 2020); Burgess Everett & Sarah Ferris, *Congress No Closer to Deal Despite House Votes to End Shutdown*, POLITICO (Jan. 3, 2019, 10:17 PM), <https://www.politico.com/story/2019/01/03/government-shutdown-day-13-1078290> [<https://perma.cc/9YQ3-XL7R>] (accessed May 26, 2020).

⁴ Michael Collins et al., *Trump Signs Measure to Temporarily Reopen Government, Setting Up New Battle Over Border Wall*, USA TODAY (Jan. 27, 2019, 5:43 PM), <https://www.usatoday.com/story/news/politics/2019/01/25/shutdown-senate-leaders-talk-flight-delays-reported-airports/2676022002/> [<https://perma.cc/7EB8-EQ5T>] (accessed May 26, 2020). The government shutdown was a result of a standoff between President Trump and legislators over funding for a wall at the southern border. *Id.*

⁵ Preventing Animal Cruelty & Torture Act, Pub. L. No. 116-72, 133 Stat. 1151 (2019).

⁶ Rescuing Animals with Rewards Act of 2019, Pub. L. No. 116-94, 133 Stat. 2534 (2019).

⁷ *Congress Bans Forest Service from Selling Wild Horses from Slaughter*, AM. WILD HORSE CAMPAIGN (Dec. 19, 2019), <https://americanwildhorsecampaign.org/media/congress-bans-forest-service-selling-wild-horses-slaughter> [<https://perma.cc/6A8A-J8X9>] (accessed May 26, 2020).

II. PREVENTING ANIMAL CRUELTY & TORTURE ACT

In a massive win for animals, Congress passed the Preventing Animal Cruelty and Torture (PACT) Act in November 2019.⁸ Amending the Animal Crush Video Prohibition Act,⁹ the PACT Act prohibits a person from “purposely engag[ing] in animal crushing in or affecting interstate or foreign commerce.”¹⁰ The PACT Act makes animal cruelty a federal crime by prohibiting engaging in animal crushing¹¹—where an animal is “purposely crushed, burned, drowned, suffocated, impaled, or otherwise subjected to serious bodily injury.”¹² Animal advocates say the PACT Act will work to protect animals from “some of the most egregious forms of animal cruelty.”¹³

Last introduced in both the House of Representatives and the Senate in March 2017, the PACT Act unanimously passed the Senate in December 2017.¹⁴ However, despite strong support in the House of Representatives,¹⁵ the House version died in the House Judiciary Subcommittee on Crime, Terrorism, Homeland Security, and Investigations.¹⁶ The Humane Society speculated the bill never reached the House floor due to opposition from the former chairman of the House Judiciary Committee, Representative Robert W. Goodlatte of Virginia.¹⁷ However, with a new committee chairman in 2019,¹⁸ the reintroduced bill garnered enough support and passed in the House in October 2019.¹⁹

⁸ 18 U.S.C. § 48.

⁹ Animal Crush Video Prohibition Act of 2010, Pub. L. No. 111-294, 124 Stat. 3177 (2010).

¹⁰ 18 U.S.C. § 48(a)(1).

¹¹ Richard Gonzales, *Trump Signs Law Making Cruelty to Animals a Federal Crime*, NPR (Nov. 25, 2019, 11:08 PM), <https://www.npr.org/2019/11/25/782842651/trump-signs-law-making-cruelty-to-animals-a-federal-crime> [<https://perma.cc/5WDW-E5G8>] (accessed May 26, 2020).

¹² 18 U.S.C. § 48(f)(1).

¹³ *Laws That Protect Animals*, ANIMAL LEGAL DEF. FUND, <https://aldf.org/article/laws-that-protect-animals/> [<https://perma.cc/NEP8-AQZH>] (accessed May 26, 2020).

¹⁴ *Actions – S.654 – PACT Act*, CONG., <https://www.congress.gov/bill/115th-congress/senate-bill/654/actions?KWICView=false> [<https://perma.cc/B82T-VV23>] (accessed May 26, 2020).

¹⁵ *See Cosponsors – H.R.1494 – PACT Act*, CONG., <https://www.congress.gov/bill/115th-congress/house-bill/1494/cosponsors?searchResultViewType=expanded&KWICView=false> [<https://perma.cc/H6AY-7Y58>] (accessed May 26, 2020) (collecting 283 representatives as cosponsors of the bill).

¹⁶ *See Actions – H.R.1494 – PACT Act*, CONG., <https://www.congress.gov/bill/115th-congress/house-bill/1494/all-actions?overview=closed&KWICView=false> [<https://perma.cc/8VAN-ZE5Q>] (accessed May 26, 2020) (showing a lack of response after referral to the committee).

¹⁷ Niraj Chokshi, *There’s No Federal Ban on Animal Cruelty. Lawmakers Want to Change That.*, N.Y. TIMES (Jan. 30, 2019), <https://nyti.ms/2HEEsrY> [<https://perma.cc/V24Z-FHT3>] (accessed May 26, 2020).

¹⁸ *Id.*

¹⁹ *Actions – H.R.724 – Preventing Animal Cruelty and Torture Act*, CONG., [https://www.congress.gov/bill/116th-congress/house-bill/724/actions?q=\[%22search%22:\[%22](https://www.congress.gov/bill/116th-congress/house-bill/724/actions?q=[%22search%22:[%22)

The PACT Act had broad support from members of law enforcement,²⁰ who are all too familiar with the correlation between animal cruelty and acts of violence against humans.²¹ For decades, psychologists have researched this correlation, warning of the “predictive” link between childhood cruelty to animals and instances of later violence.²² One law enforcement official, in the May–June 2019 issue of *Sheriff & Deputy* magazine, described animal abuse as “one leg of the ‘serial killer triad.’”²³ Given this close relation, law enforcement officials are hopeful the PACT Act will prevent animal abuse while also preventing other violent acts.²⁴

Up to the passage of the PACT Act, federal laws only prohibited specific forms of animal cruelty, such as dogfighting and cockfighting.²⁵ While the production and dispersion of animal crush videos were also illegal,²⁶ there was no federal prohibition on the underlying acts

preventing+animal+cruelty+and+torture+act%22]}&r=1&s=4&KWICView=false [https://perma.cc/FJ27-TPX2] (accessed May 26, 2020).

²⁰ Hannah Knowles & Katie Mettler, *Trump Signs a Sweeping Federal Ban on Animal Cruelty*, WASH. POST (Nov. 25, 2019, 5:33 PM), <https://www.washingtonpost.com/science/2019/11/25/most-animal-cruelty-isnt-federal-crime-that-changes-monday-when-bipartisan-bill-becomes-law/> [https://perma.cc/JRF3-Z9EK] (accessed May 26, 2020).

²¹ Charles Siebert, *The Animal-Cruelty Syndrome*, N.Y. TIMES MAG. (June 11, 2010), <https://www.nytimes.com/2010/06/13/magazine/13dogfighting-t.html> [https://perma.cc/EWT3-9RYP] (accessed May 26, 2020); *Defending the Defenseless: Experts Talk About Animal Abuse and How to Combat It in Communities Nationwide*, SHERIFF & DEPUTY, May–June 2019, at 56, 60; OFFICE OF CMTY. ORIENTED POLICING SERVS., DEP’T OF JUST., ANIMAL CRUELTY AS A GATEWAY CRIME 6–7 (2018).

²² Mark R. Dadds et al., *Developmental Links Between Cruelty to Animals and Human Violence*, 35 AUSTL. & N.Z. J. CRIMINOLOGY 363, 369, 379 (2002).

²³ SHERIFF & DEPUTY, *supra* note 21, at 60.

²⁴ See Letter from Jonathan F. Thompson, Exec. Dir., Nat’l Sheriffs’ Ass’n, to Congressman Lamar Smith, U.S. House of Representatives (June 9, 2015), <https://www.sheriffs.org/sites/default/files/uploads/documents/GovAffairs/PACT%20Act-%20House%20Letter%20of%20Support.pdf> [https://perma.cc/USR4-N64C] (accessed May 27, 2020) (showing support for the 2015 version of PACT Act, saying the bill would “rectify” the gaps in animal cruelty laws).

²⁵ Animal Welfare Act, 7 U.S.C. § 2156 (West 2012); Press Release, Humane Soc’y U.S., Federal Legislation Introduced to Combat Animal Fighting in the U.S. Territories, (Nov. 1, 2017), <https://www.humanesociety.org/news/federal-legislation-introduced-combat-animal-fighting-us-territories> [https://perma.cc/3QF2-EG7C] (accessed May 27, 2020).

²⁶ Knowles & Mettler, *supra* note 20. Prosecution under the Animal Crush Video Prohibition Act is also extremely rare. *Former Navy Sailor Convicted of Distributing Animal Crush Video*, U.S. ATT’Y’S OFFICE: S. DIST. TEX. (Mar. 28, 2018), <https://www.justice.gov/usao-sdtx/pr/former-navy-sailor-convicted-distributing-animal-crush-video> [https://perma.cc/W6ZA-5GX2] (accessed May 27, 2020). As of March 2018, only three people have been prosecuted under the Animal Crush Video Prohibition Act. *Id.*; *Houston Man Sent to Federal Prison for Producing and Distributing Animal Crush Videos*, U.S. ATT’Y’S OFFICE: S. DIST. TEX. (Aug. 18, 2016), <https://www.justice.gov/usao-sdtx/pr/houston-man-sent-federal-prison-producing-and-distributing-animal-crush-videos> [https://perma.cc/94LC-GS5J] (accessed May 27, 2020). In the rare instances in which those who violated the law were prosecuted, convictions under the federal statute carried short sentences—the maximum to date being 57 months. See *Former Navy Sailor*

of cruelty associated with such videos.²⁷ Because of the lack of federal jurisdiction over acts of animal cruelty, federal agencies only arrested four people in 2018 for such acts.²⁸ In contrast, state law enforcement agencies around the nation reported 5,201 total offenses of animal cruelty.²⁹

In the absence of federal anti-cruelty laws, the states have enacted and enforced their own anti-cruelty statutes.³⁰ While every state has an animal anti-cruelty law in force,³¹ some states provide only minimal protections.³² For instance, Kentucky, Iowa, and Mississippi only have felony penalties for cruelty to limited or select species.³³ States such as Illinois, Oregon, Colorado, Maine, and Rhode Island, on the other hand, have extensive animal anti-cruelty laws in force.³⁴ The

Convicted of Distributing Animal Crush Video, U.S. ATT'Y'S OFFICE: S. DIST. TEX. (Mar. 28, 2018), <https://www.justice.gov/usao-sdtx/pr/former-navy-sailor-convicted-distributing-animal-crush-video> [<https://perma.cc/72A9-ZPLT>] (accessed May 26, 2020); *Former Sailor Sentenced for Sharing Animal Abuse Video*, KRIS 6 NEWS: CORPUS CHRISTI (updated Aug. 2, 2018, 3:22 PM), <https://kristv.com/news/local-news/2018/08/02/former-sailor-sentenced-for-sharing-animal-abuse-video/> [<https://perma.cc/4X83-VWPV>] (accessed May 27, 2020).

²⁷ *Id.*

²⁸ CRIM. JUST. INFO. SERV. DIV., 2018 CRIME IN THE UNITED STATES: FEDERAL CRIME DATA, 2018 11 (2018), <https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/additional-data-collections/federal-crime-data/federal-crime-data.pdf> [<https://perma.cc/53Y4-3PBC>] (accessed May 27, 2020).

²⁹ UNIF. CRIME REPORTING PROGRAM: FED. BUREAU OF INVESTIGATION, INCIDENTS, OFFENSES, VICTIMS, AND KNOWN OFFENDERS BY OFFENSE CATEGORY, 2018 (2019), https://ucr.fbi.gov/nibrs/2018/tables/pdfs/incidents_offenses_victims_and_known_offenders_by_offense_category_2018.pdf/at_download/file [<https://perma.cc/XXK2-SA5B>] (accessed May 27, 2020). The data used to compile the report came from 7,283 participating law enforcement agencies from 38 states. *See* UNIF. CRIME REPORTING PROGRAM: FED. BUREAU OF INVESTIGATION, DATA DECLARATION: NUMBER OF LAW ENFORCEMENT AGENCIES AND POPULATION COVERED, ENROLLED, PARTICIPATION STATUS, AND METHOD OF DATA SUBMISSION, BY POPULATION GROUP, 2018 1 (2019), https://ucr.fbi.gov/nibrs/2018/tables/data-declarations/dd_number_of_leas_enrolled_part_status_and_method_of_data_sub_by_pop_group-2018_final.pdf [<https://perma.cc/M3XJ-SSF3>] (accessed May 27, 2020) (“In 2018, 7,283 LEAs reported crime data to the UCR Program . . .”); *see also* UNIF. CRIME REPORTING PROGRAM: FED. BUREAU OF INVESTIGATION, DATA DECLARATION: PARTICIPATION BY STATE, 2018 1 (2019), https://ucr.fbi.gov/nibrs/2018/tables/data-declarations/dd_participation_by-state_2018_final.pdf [<https://perma.cc/WW5P-2QW5>] (accessed May 27, 2020) (“Based on data submissions for 2018, the FBI’s UCR Program had 38 states certified to report data . . .”).

³⁰ Knowles & Mettler, *supra* note 20.

³¹ ANIMAL LEGAL DEF. FUND, ANIMAL PROTECTION: U.S. STATE LAWS RANKINGS REPORT 6–7 (2020), <https://aldf.org/wp-content/uploads/2020/02/2019-Animal-Protection-US-State-Laws-Rankings-Report.pdf> [<https://perma.cc/NM84-CSAG>] (accessed May 27, 2020).

³² *See id.* at 23 (ranking U.S. states by best and worst protections for animals based on multiple factors including felony penalties available for cruelty, neglect, fighting, abandonment, and sexual assault).

³³ *Id.* at 31–34.

³⁴ *Id.* at 22.

PACT Act will fill the gap, creating a coherent, uniform standard and making prosecution easier.³⁵

In addition to criminalizing animal cruelty acts, the PACT Act protects more types of animals than the Animal Welfare Act (AWA). While the AWA only regulates the treatment of warm-blooded animals,³⁶ the PACT Act protects “non-human mammals, birds, reptiles, [and] amphibians”³⁷ Commentators say the expanded scope of animals protected and acts prohibited by federal law may indicate Congress’s ‘willing[ness] to expressly accept that human and nonhuman animal suffering is not dissimilar.’³⁸

III. RESCUING ANIMALS WITH REWARDS ACT

After a failed attempt in 2018,³⁹ Congress passed the Rescuing Animals with Rewards (RAWR) Act in a December 2019 appropriations bill.⁴⁰ The RAWR Act redefines the State Department’s definition of ‘transnational organized crime’ to include wildlife trafficking.⁴¹ This change authorizes the State Department to provide financial “rewards for thwarting wildlife trafficking linked to terrorism and organized crime.”⁴²

Introduced by Oregon Senator Jeff Merkley and Maine Senator Susan Collins,⁴³ RAWR’s purpose is to “incentivize whistleblowers to step forward”⁴⁴ and protect wildlife species around the globe.⁴⁵ Because of RAWR, whistleblowers who come forward with valuable information regarding illegal wildlife trafficking may be financially rewarded.⁴⁶

³⁵ *Id.* at 12.

³⁶ Animal Welfare Act, 7 U.S.C. § 2132(g) (2015).

³⁷ Preventing Animal Cruelty & Torture Act, Pub. L. No. 116-72, 133 Stat. 1151.

³⁸ Courtney G. Lee, *The PACT Act: A Step in the Right Direction on the Path to Animal Welfare*, JURIST (Dec. 1, 2019, 8:55:43 PM), <https://www.jurist.org/commentary/2019/12/courtney-lee-pact-act/> [https://perma.cc/5TPQ-VZ6H] (accessed May 27, 2020).

³⁹ Rescuing Animals with Rewards Act of 2018, H.R. 6197, 115th Cong. (2017–2018).

⁴⁰ Rescuing Animals with Rewards Act of 2019, H.R. 97, 116th Cong. (2019).

⁴¹ *Id.* § 603.

⁴² Wayne Pacelle, *Rescuing Animals with Rewards Act a Victory for Animal Welfare*, STATESMAN J. (Nov. 4, 2019, 8:36 AM), <https://www.statesmanjournal.com/story/opinion/2019/11/01/rescuing-animals-rewards-act-victory-animal-welfare-guest-opinion/2498341001/> [https://perma.cc/5PAJ-C3NR] (accessed May 27, 2020).

⁴³ *Id.*

⁴⁴ Letter from John Kostyack, Exec. Dir., Nat’l Whistleblower Ctr., to James Risch et al., Chairman, Senate Comm. on Foreign Relations et al. (June 19, 2019), <https://www.whistleblowers.org/wp-content/uploads/2019/06/RAWR-Act-Letter-of-Support-National-Whistleblower-Center.pdf> [https://perma.cc/NVU3-AXFJ] (accessed May 27, 2020).

⁴⁵ Marty Irby, *Collins Secures Another Victory for Animal Welfare*, BANGOR DAILY NEWS (Nov. 7, 2019, 10:00 AM), <https://bangordailynews.com/2019/11/07/opinion/contributors/collins-secures-another-victory-for-animal-welfare/> [https://perma.cc/26VT-2DFW] (accessed May 27, 2020).

⁴⁶ See 22 U.S.C. § 2708(b)(8) (2019) (“[T]he Secretary may pay a reward to any individual who furnishes information leading to . . . the arrest or conviction in any country

The illegal wildlife trade is the second-biggest threat to the survival of species around the globe.⁴⁷ Criminal enterprises and terrorist organizations are increasingly relying on the illegal wildlife trade to fund their activities due to its lucrative and difficult-to-track market.⁴⁸ In 2019, the International Criminal Police Organization (INTERPOL) estimated the illegal wildlife trade was valued at \$20 billion a year.⁴⁹ The RAWR Act will hopefully help the United States become a bigger player in the fight to prevent the poaching of elephant, rhinoceros, and other wildlife⁵⁰—a fight which international law enforcement has recently begun investing more effort and money into winning.⁵¹

United States taxpayers, however, will have no new expense due to the RAWR Act.⁵² In its Cost Estimate Report, the Congressional Budget Office noted that the federal government already pays rewards to deter transnational organized crime, including wildlife trafficking.⁵³ Therefore, the Congressional Budget Office determined the RAWR Act will not affect the federal budget.⁵⁴ Instead, the RAWR Act simply codifies the existing practice.⁵⁵

Given the fact that the United States already rewards whistleblowing of this type, the RAWR Act might not increase the number of people who come forward with information.⁵⁶ Although it is questionable whether RAWR will significantly change the landscape of whistleblowing and international wildlife, it demonstrates America's dedication to animal protection.

The National Whistleblower Center,⁵⁷ as well as animal welfare groups such as the International Fund for Animal Welfare, the World

of any individual for participating in, primarily outside the United States, transnational organized crime . . .”).

⁴⁷ Press Release, Jeff Merkley, U.S. Senator for Or., On World Biodiversity Day, Merkley and Collins Introduce Bipartisan Legislation to Save Animals by Combatting Wildlife Trafficking and Poaching (May 22, 2019), <https://www.merkley.senate.gov/news/press-releases/on-world-biodiversity-day-merkley-and-collins-introduce-bipartisan-legislation-to-save-animals-by-combatting-wildlife-trafficking-and-poaching-2019> [<https://perma.cc/QBR4-DZ6J>] (accessed May 27, 2020); *Illegal Wildlife Trade: Second-Biggest Direct Threat to Species After Habitat Destruction*, WWF, https://wwf.panda.org/our_work/wildlife/problems/illegal_trade/ [<https://perma.cc/N564-72ZU>] (accessed May 27, 2020).

⁴⁸ Press Release, Jeff Merkley, *supra* note 47.

⁴⁹ Alex Psilakis, *Attempted Case of Wildlife Smuggling Reminds the International Community of Its Prevalence*, 35 INT'L ENFORCEMENT L. REP. 154, 154 (2019).

⁵⁰ Pacelle, *supra* note 42.

⁵¹ See Psilakis, *supra* note 49, at 155 (describing INTERPOL's extensive resource allocation for shutting down illegal wildlife trade).

⁵² CONG. BUDGET OFFICE, COST ESTIMATE: S. 1590, RESCUING ANIMALS WITH REWARDS ACT OF 2019 (2019).

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ See *id.* (reiterating that the State Department already provides rewards for people who come forward with information regarding illegal wildlife trafficking).

⁵⁷ Letter from John Kostyack to James Risch et al., *supra* note 44.

Wildlife Fund, and the Wildlife Conservation Society, support the Act.⁵⁸

IV. HUMANE TRANSFER AND TREATMENT OF ANIMALS

In the same appropriations bill as the RAWR Act, Congress ended the sale of healthy wild horses and burros for slaughter.⁵⁹ Congress's action came as a response to a 2018 notice by the United States Forest Service that it intended to sell horses from the Devil's Garden Wild Horse Territory "without limitation."⁶⁰ The prohibition prevents government agencies from "destroy[ing] the horse or burro in a manner that results in the destruction of the horse or burro into a commercial product."⁶¹ It also prohibits selling a horse or burro "in a manner that results in the destruction of the horse or burro for processing into a commercial product."⁶² Until 2018, neither the Forest Service nor the Bureau of Land Management—the other agency tasked with managing wild horses and burros—sold wild horses and burros without limitation.⁶³

The Forest Service's 2018 plan struck outrage among animal welfare groups and legislators alike. It led to coverage by local news outlets,⁶⁴ two lawsuits in federal court,⁶⁵ and letters of concern⁶⁶ and condemnation⁶⁷ from federal legislators. In its complaint for declaratory and injunctive relief, the Animal Legal Defense Fund noted that the Forest Service's "longstanding policy and practice" were "to either

⁵⁸ Press Release, Jeff Merkley, *supra* note 47.

⁵⁹ Further Consolidated Appropriations Act, H.R. 1865, 116th Cong. § 419 (2019).

⁶⁰ *Congress Bans Forest Service from Selling Wild Horses from Slaughter*, *supra* note 7.

⁶¹ H.R. 1865 § 419.

⁶² *Id.*

⁶³ Complaint for Declaratory & Injunctive Relief at 1, *Animal Legal Def. Fund v. Christiansen*, No. 3:18-cv-06410 (N.D. Cal. Oct. 19, 2018).

⁶⁴ See Scott Sonner, *U.S. Forest Service Has Built a Wild Horse Pen That Could Allow It to Sell the Animals for Slaughter*, *COLO. SUN* (Jan. 15, 2019, 1:25 PM), <https://coloradosun.com/2019/01/15/wild-horse-slaughter-forest-service-pens/> [<https://perma.cc/S4QD-APB5>] (accessed May 27, 2020) (reporting on the dispute, including legal arguments from both advocates and the government).

⁶⁵ See *generally* Complaint for Declaratory & Injunctive Relief, *Animal Legal Def. Fund v. Christiansen*, No. 3:18-cv-06410 (N.D. Cal. Oct. 19, 2018) (challenging the Forest Service's decision to sell wild horses without limitation); Complaint for Declaratory & Injunctive Relief, *Front Range Equine Rescue v. Christiansen*, No. 3:18-cv-06531 (N.D. Cal. Oct. 25, 2018) (challenging the Forest Service's reversal of long-standing policy regarding wild horse removal from federal public lands).

⁶⁶ Letter from Dianne Feinstein, U.S. Senator for Cal., to Vicki Christiansen, Acting Chief, U.S. Forest Serv. (Oct. 9, 2018), https://www.feinstein.senate.gov/public/_cache/files/6/1/610c2906-72d4-4717-acc3-8f6571fefa82/CF0CE270E1567A3ED04129CF08575C33.2018.10.09-horse-slaughter-letter.pdf [<https://perma.cc/9H5Z-UW49>] (accessed May 27, 2020).

⁶⁷ Letter from Members of Congress to Sonny Perdue, Sec'y, U.S. Dep't of Agric., and Vicki Christiansen, Chief, U.S. Forest Serv. (May 6, 2019), https://awionline.org/sites/default/files/press_release/files/USDA-CA-Devils-Garden-Wild-Horse-Letter.pdf [<https://perma.cc/GTC8-GDQF>] (accessed May 27, 2020).

place horses for adoption or sell them ‘with limitations’ to ensure that they are *not* sold for slaughter.”⁶⁸ Animal Legal Defense Fund claimed this shift was a drastic redirection of policy, which the Forest Service should have requested notice and comment on, per the Administrative Procedure Act.⁶⁹

In May 2019, U.S. District Judge James Donato ordered the parties to attempt to reach a settlement regarding the Forest Service’s plan.⁷⁰ In the hearing, the Forest Service’s attorney stated that “the Forest Service will never intentionally sell its horses for slaughter for human consumption.”⁷¹ During the settlement proceedings, Judge Donato prohibited the Forest Service from selling wild horses without limitations.⁷²

Legislators also worked to resolve the issue through the 2020 appropriations bill.⁷³ Representative Raul Grijalva of Arizona asked the Committee on Appropriations to include language in the Fiscal Year 2020 appropriations bill to “ensure that protections for wild horses and burros are consistent across the agencies charged under federal law with their management.”⁷⁴ Animal advocates praised this move, saying “[t]he protections sought by Representative Grijalva are urgently needed.”⁷⁵

Because of the efforts by legislators like Representative Grijalva, Congress included a section on the humane transfer and treatment of animals in the 2020 appropriations bill.⁷⁶ Hopefully this new prohibition will effectively protect wild horses and burros from being sold for slaughter.

V. SHARK FIN SALES ELIMINATION ACT

The Shark Fin Sales Elimination Act of 2019⁷⁷ would supplement the Shark Finning Prohibition Act⁷⁸ and Shark Conservation Act of

⁶⁸ Complaint for Declaratory & Injunctive Relief at 1, *Animal Legal Def. Fund v. Christiansen*, No. 3:18-cv-06410 (N.D. Cal. Oct. 19, 2018).

⁶⁹ *Id.*

⁷⁰ *Temporary Win for Wild Horses to Stop Sale Without Limitations*, FRONT RANGE EQUINE RESCUE (May 14, 2019), <https://www.frontrangeequinerescue.org/temporary-win-for-wild-horses-to-stop-sale-without-limitations/> [<https://perma.cc/8YQ5-5WQB>] (accessed May 27, 2020).

⁷¹ *Id.*

⁷² *Id.*

⁷³ Letter from Raúl M. Grijalva, Member of Cong., to Betty McCollum, Chairwoman, Subcomm. on Interior, Env’t, & Related Agencies, and David Joyce, Ranking Member, Subcomm. on Interior, Env’t, & Related Agencies (Apr. 1, 2019).

⁷⁴ *Id.*

⁷⁵ *House Natural Resources Chair Raul Grijalva Adds Powerful Voice to Fight to Save Wild Horses from Slaughter*, AM. WILD HORSE CAMPAIGN (Apr. 1, 2019), <https://americanwildhorsecampaign.org/media/house-natural-resources-chair-raul-grijalva-adds-powerful-voice-fight-save-wild-horses> [<https://perma.cc/5C63-MS97>] (accessed May 27, 2020).

⁷⁶ H.R. 1865 § 419.

⁷⁷ H.R. 737, 116th Cong. (2019); S. 877, 116th Cong. (2019).

⁷⁸ Shark Finning Prohibition Act, 16 U.S.C. § 1822 (2000).

2010⁷⁹ by “prohibit[ing] a person from possessing, transporting, offering for sale, selling, or purchasing shark fins or products containing shark fins, unless taken lawfully under a State, territorial, or Federal license or permit.”⁸⁰ While the Shark Finning Prohibition Act already prohibits the practice of finning sharks,⁸¹ it does not ban possession of shark fins. This discrepancy creates enforcement and conservation issues.⁸² By banning the shark fin trade, the United States would remove itself from the world market and increase its advocacy position for shark conservation around the globe.⁸³

In 2016, Representative Gregorio Sablan of the Northern Mariana Islands and Senator Cory Booker of New Jersey initially introduced similar legislation,⁸⁴ which had minimal support and died in committee.⁸⁵ Reintroduced in 2017 as the Shark Fin Sales Elimination Act of 2017,⁸⁶ the bill gained substantial support in the House of Representatives but again failed to pass.⁸⁷ However, after passing the House of Representatives⁸⁸ and collecting forty-four cosponsors in the Senate,⁸⁹ the bill’s passage this session looks promising. The bill is currently on the Senate Legislative Calendar under General Orders.⁹⁰

The demand for shark fins, primarily for shark fin soup, is the biggest threat to sharks today.⁹¹ In 2016, the United States imported

⁷⁹ Shark Conservation Act of 2010, 16 U.S.C. § 1801 (2011).

⁸⁰ S. REP. NO. 116-173, at 2 (2019).

⁸¹ 16 U.S.C. § 1822. Finning is the process of removing the fins—often while the shark is still alive—and returning the shark to the ocean, leaving it to die. *Responsible Fishing, Ending the Shark Fin Trade: Overview*, OCEANA, https://usa.oceana.org/our-campaigns/ending_the_shark_fin_trade/campaign [<https://perma.cc/HU6T-VH34>] (accessed May 27, 2020).

⁸² H.R. REP. NO. 116-273, at 2 (2019).

⁸³ S. REP. NO. 116-173, at 2 (2019).

⁸⁴ Shark Fin Trade Elimination Act of 2016, H.R. 5584, 114th Cong. (2016); Shark Fin Trade Elimination Act of 2016, S. 3095, 114th Cong. (2016).

⁸⁵ *H.R. 5584 (114th): Shark Fin Trade Elimination Act of 2016*, GOVTRACK, <https://www.govtrack.us/congress/bills/114/hr5584> [<https://perma.cc/N6XE-JZRD>] (accessed May 27, 2020); *S. 3095 (114th): Shark Fin Trade Elimination Act of 2016*, GOVTRACK, <https://www.govtrack.us/congress/bills/114/s3095> [<https://perma.cc/WQ6R-CHF2>] (accessed May 27, 2020).

⁸⁶ Shark Fin Sales Elimination Act of 2017, H.R. 1456, 115th Cong. (2017).

⁸⁷ *H.R. 1456 (115th): Shark Fin Sales Elimination Act of 2017*, GOVTRACK, <https://www.govtrack.us/congress/bills/115/hr1456> [<https://perma.cc/F5C7-5LJX>] (accessed May 27, 2020).

⁸⁸ *H.R. 737: Shark Fin Sales Elimination Act of 2019*, GOVTRACK, <https://www.govtrack.us/congress/bills/116/hr737> [<https://perma.cc/97HM-PKH7>] (accessed May 27, 2020).

⁸⁹ *S. 877: Shark Fin Sales Elimination Act of 2019*, GOVTRACK, <https://www.govtrack.us/congress/bills/116/s877/details> [<https://perma.cc/JMQ7-67VB>] (accessed May 27, 2020).

⁹⁰ *S. 877: Shark Fin Sales Elimination Act of 2019*, CONG., <https://www.congress.gov/bill/116th-congress/senate-bill/877/actions?KWICView=false> [<https://perma.cc/3PBU-CHQ9>] (accessed May 27, 2020).

⁹¹ *Responsible Fishing, Ending the Shark Fin Trade: Overview*, *supra* note 81.

56 metric tons of shark fins and exported 12 metric tons.⁹² Proponents of the Shark Fin Sale Elimination Act say it would improve shark conservation efforts by disincentivizing fishers from killing sharks solely for their fins.⁹³ It would also make enforcement of the finning ban more effective.⁹⁴

The Senate Committee on Commerce, Science, and Transportation unanimously recommended that the bill pass without amendment.⁹⁵ However, two members of the House Committee on Natural Resources dissented from the House Committee's similar recommendation.⁹⁶ Dissenters stated that "many experts in the field of shark management and biology have affirmed that this legislation would do nothing to improve United States or international shark populations."⁹⁷ Notably, they supported their dissent with information provided by the National Oceanic and Atmospheric Administration.⁹⁸ In written testimony, the director of the Office of Sustainable Fisheries refused to support the Shark Fin Sale Elimination Act because "the bill's negative impact on United States fishermen would outweigh its minimal benefit to shark conservation."⁹⁹

Instead, according to opponents of the bill, it would encourage waste.¹⁰⁰ Under current law, fishers who legally land sharks, with their fins and tails "naturally attached,"¹⁰¹ may sell the fins and tails, subject to license and permit regulations.¹⁰² The Shark Fin Sale Elimination Act, however, states that shark fins would need to be "destroyed or discarded upon separation; . . . used for noncommercial subsistence purposes; . . . [or] used solely for display or research purposes by a museum, college, or university."¹⁰³ Given the high commercial value of

⁹² NAT'L MARINE FISHERIES SERV., NAT'L OCEANIC & ATMOSPHERIC ADMIN., 2017 SHARK FINNING REPORT TO CONGRESS 23–24 (2017).

⁹³ See Letter from Dr. Francesco Ferretti et al., Hopkins Marine Station of Stanford U., to Members of Congress (Mar. 2, 2017), https://usa.oceana.org/sites/default/files/usfintradeban_scientistletter_final.pdf?_ga=2.162215224.521103805.1507914009-1185527432.1474466638 [<https://perma.cc/KJ8S-X9N3>] (accessed May 27, 2020) (arguing that the continued market for shark fins in the United States "indirectly promotes [finning] elsewhere.").

⁹⁴ *Id.*

⁹⁵ S. REP. NO. 116-173, at 1.

⁹⁶ H.R. REP. NO. 116-273, at 1.

⁹⁷ *Id.* at 10–11. The dissenters went so far as to say it was a "transparent[] attempt by Oceana to put American fishermen out of business." *Id.* at 11.

⁹⁸ *Id.* at 10.

⁹⁹ *Hearing on Legislation on Shark Fin and Billfish Sales Before the Committee on Natural Resources Subcommittee on Water, Power and Oceans U.S. House of Representatives*, 116th Cong. 4 (2018) (statement of Alan Risenhoover, Dir. of the Off. of Sustainable Fisheries, Nat'l Marine Fisheries Serv.).

¹⁰⁰ H.R. REP. NO. 116-273, at 10.

¹⁰¹ 16 U.S.C. § 1857(1)(P)(i) (2016); H.R. REP. NO. 116-273, at 2.

¹⁰² 50 C.F.R. § 635.31(c)(1) (2019).

¹⁰³ H.R. 737, 116th Cong. § 3 (2019).

shark fins, fishers are concerned about the toll the ban would have on their income.¹⁰⁴

Organizations, such as the Sustainable Shark Alliance, instead support the Sustainable Shark Fisheries and Trade Act,¹⁰⁵ which would require that all shark products imported into the United States come from fisheries meeting the same high standards as United States fisheries.¹⁰⁶ The Sustainable Shark Alliance argues that the United States already has effective regulations and fisheries management strategies.¹⁰⁷ The alternative legislation is instead “meant to put pressure on foreign countries to ban shark finning.”¹⁰⁸ Sustainable Shark Alliance points out that the Shark Fin Sales Elimination Act would remove the United States from the shark fin export business.¹⁰⁹ This change would allow fishers not subject to United States jurisdiction to continue providing sharks fins to meet the global demand.¹¹⁰

VI. WELFARE OF OUR FRIENDS ACT

The Welfare of Our Friends (WOOF!) Act¹¹¹ would also amend the Animal Welfare Act (AWA). Initially introduced by Representative Brian Fitzpatrick of Pennsylvania in 2017,¹¹² the WOOF! Act would close loopholes in the AWA that allow commercial breeders to continue doing business, even after severely and repeatedly violating the AWA.¹¹³

¹⁰⁴ Mary Landers, *Savannah Leads in Shark Fin Exports*, SAVANNAH MORNING NEWS (Aug. 19, 2019, 5:29 PM), <https://www.savannahnow.com/news/20190809/savannah-leads-in-shark-fin-exports> [<https://perma.cc/2ELL-GEG4>] (accessed May 27, 2020).

¹⁰⁵ H.R. 788, 116th Cong. (2019).

¹⁰⁶ *Banning Shark Fin Sales Not Effective Conservation Tool, Sustainable Shark Alliance Tells Congress*, SAVING SEAFOOD (Mar. 26, 2019), <https://www.savingseafood.org/news/washington/banning-shark-fin-sales-not-effective-conservation-tool-sustainable-shark-alliance-tells-congress/> [<https://perma.cc/36KJ-C5MQ>] (accessed May 27, 2020).

¹⁰⁷ *Id.*

¹⁰⁸ Timothy Cama, *Lawmakers Propose Banning Shark Fin Trade*, HILL (Jan. 23, 2019), <https://thehill.com/policy/energy-environment/426677-lawmakers-propose-banning-shark-fin-trade> [<https://perma.cc/4ZFC-MVU4>] (accessed May 27, 2020).

¹⁰⁹ *Banning Shark Fin Sales Not Effective Conservation Tool, Sustainable Shark Alliance Tells Congress*, *supra* note 106.

¹¹⁰ *Id.*

¹¹¹ H.R. 1002, 116th Cong. (2019).

¹¹² Welfare of Our Friends Act, H.R. 4691, 115th Cong. (2017).

¹¹³ Sara Amundson & Kitty Block, *Welfare of Our Friends Act*, ADVOC. FOR ANIMALS (Feb. 11, 2019), <https://advocacy.britannica.com/blog/advocacy/tag/welfare-of-our-friends-act/> [<https://perma.cc/PQ2U-SLKG>] (accessed May 27, 2020). Additionally, the United States Department of Agriculture has made obtaining licenses easier, while at the same time significantly scaling back enforcement efforts. Karin Brulliard, *USDA's Enforcement of Animal Welfare Laws Plummeted in 2018, Agency Figures Show*, WASH. POST (Oct. 18, 2018), <https://www.washingtonpost.com/science/2018/10/18/usdas-enforcement-animal-welfare-laws-plummeted-agency-figures-show/> [<https://perma.cc/6TTC-2Q9N>] (accessed May 27, 2020); *Animal Care Enforcement Summary (AWA and HPA)*, U.S. DEP'T OF AGRIC.: ANIMAL & PLANT HEALTH INSPECTION SERV. (Oct. 11, 2018), <https://web.archive.org/web/20190125203749/https://www.aphis.usda.gov/aphis/ourfo>

Currently, the United States Department of Agriculture (USDA) can relicense puppy dealers who have severely and repeatedly violated the AWA.¹¹⁴ The USDA's regulations allow dealers with suspended licenses to petition their regional Animal Care director to reinstate their licenses.¹¹⁵ The WOOF! Act would prohibit the USDA from issuing or renewing a license to a dealer from the same facility within ten years after a suspension or revocation.¹¹⁶ However, if the dealer applies for a license at a different facility, the ten-year bar would not apply.¹¹⁷

Dealers with revoked or suspended licenses also exploit a loophole in the AWA and regulations that allows their family members to obtain a license for the same property.¹¹⁸ By applying for a new license in a family member's name, the dealer can continue operations, even if the initial license is suspended or revoked.¹¹⁹ The WOOF! Act would close this loophole by prohibiting the issuance of a license to immediate family members of dealers with a revoked or suspended license.¹²⁰ Although the WOOF! Act would close this loophole, for it to effectively protect dogs in puppy mills, the USDA would have to increase enforcement efforts.¹²¹ Given the Administration's emphasis on "education, not enforcement,"¹²² crackdowns on dealers seem unlikely.

Finally, the WOOF! Act would codify the USDA's current requirement that dealers pass a pre-license inspection before the USDA will issue or renew a license.¹²³ The current AWA simply states that the USDA may only issue a license after the dealer "ha[s] demonstrated that his facilities comply with the standards promulgated by the Secretary."¹²⁴ While the USDA currently requires pre-license inspections,¹²⁵ the WOOF! Act would unambiguously require the USDA to issue or renew a license only after the dealer "ha[s] demonstrated

cus/business-services/ies/ies_performance_metrics/ies-ac_enforcement_summary [https://perma.cc/Y3AF-YS69] (accessed May 27, 2020).

¹¹⁴ Amundson & Block, *supra* note 113.

¹¹⁵ 9 C.F.R. § 2.10 (2019).

¹¹⁶ H.R. 1002 § 2(d).

¹¹⁷ *Id.*

¹¹⁸ Amundson & Block, *supra* note 113.

¹¹⁹ *Id.*

¹²⁰ H.R. 1002 § 2(b).

¹²¹ See *The Horrible Hundred 2018*, HUMANE SOC'Y U.S., <https://www.humanesociety.org/sites/default/files/docs/2018-horrible-hundred.pdf> [https://perma.cc/LX4Y-CGGH] (accessed May 27, 2020) (reporting that the USDA did not revoke any breeder licenses between 2017 and 2018).

¹²² Karin Brulliar & William Wan, *Caged Raccoons Drowled in 100-Degree Heat. But Federal Enforcement Has Faded.*, WASH. POST (Aug. 22, 2019, 3:00 AM), https://www.washingtonpost.com/science/caged-raccoons-drowled-in-100-degree-heat-but-federal-enforcement-has-faded/2019/08/21/9abf80ec-8793-11e9-a491-25df61c78dc4_story.html [https://perma.cc/L66P-B3RQ] (accessed May 27, 2020).

¹²³ Amundson & Block, *supra* note 113.

¹²⁴ 7 U.S.C. § 2133 (2018).

¹²⁵ 9 C.F.R. § 2.3(b) (2018).

through facility inspection” that the facility meets the license requirements.¹²⁶

While the WOOF! Act would increase protections for dogs, it leaves other species without heightened protection.¹²⁷ Given that the additional requirements provided by the WOOF! Act only apply to dog dealers, dealers of every other species of animal would still be able to utilize the family member loophole.¹²⁸

The bill was referred to the House Agriculture Subcommittee on Livestock and Foreign Agriculture on March 1, 2019.¹²⁹ As of March 2020, the bill has 216 cosponsors.¹³⁰ With a strong showing of support in the House and from animal welfare groups, perhaps the bill will go to vote before the end of this session.

VII. ANIMAL FREEDOM FROM TESTING EXPERIMENTS & RESEARCH ACT

Another bill introduced this session that aims to amend the AWA is the Animal Freedom from Testing Experiments and Research (AFTER) Act.¹³¹ The AFTER Act would require federal research facilities to “facilitate[] the adoption or non-laboratory placement of any animal of the facility no longer needed for research . . . to an animal rescue organization, animal sanctuary, animal shelter, or individual.”¹³² Under the AFTER Act, “[a]ny department, agency, or instrumentality of the United States operating as a Federal research facility” would be required to promulgate their own standards to meet this aim.¹³³

Legislators from both the House of Representatives and the Senate introduced companion legislation in May and July 2019, respectively.¹³⁴ The Senate bill, though similar to the House bill, explicitly states that federal research facilities should work with nonprofit organizations to facilitate placements “beyond the immediate geographic vicinity of the Federal research facility.”¹³⁵ None of the four senators

¹²⁶ H.R. 1002 § 2(b)(3).

¹²⁷ See H.R. 1002 (referring specifically to dog dealers and facilities).

¹²⁸ The section of the Animal Welfare Act pertaining to licensing breeders, dealers, and exhibitors defines *animal* as “any live or dead dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit, or such other warm-blooded animal.” 7 U.S.C. § 2132(g) (2018).

¹²⁹ *H.R. 1002 – WOOF! Act*, CONG., <https://www.congress.gov/bill/116th-congress/house-bill/1002/committees?q=%7B%22search%22%3A%5B%22welfare+of+our+friends+act%22%5D%7D&r=1&s=3> [https://perma.cc/9XSL-JTC6] (accessed May 27, 2020).

¹³⁰ *H.R. 1002 – WOOF! Act*, CONG., <https://www.congress.gov/bill/116th-congress/house-bill/1002?q=%7B%22search%22%3A%5B%22woof%21+act%22%5D%7D&s=1&=1> [https://perma.cc/8RD5-D6NY] (accessed May 27, 2020).

¹³¹ S. 2322, 116th Cong. (2019); H.R. 2897, 116th Cong. (2019).

¹³² H.R. 2897.

¹³³ H.R. 2897.

¹³⁴ H.R. 2897; S. 2322.

¹³⁵ S. 2322.

who spearheaded the introduction of the AFTER Act in the Senate explained the reason for this change.¹³⁶

The AFTER Act would regulate the retirement of species already protected under the AWA, which includes warm-blooded animals except for mice, rats, and birds.¹³⁷ Under the unamended AWA, research facilities usually euthanize research animals once they are no longer useful for research purposes.¹³⁸ Since 2014, eight states have passed similar legislation requiring research facilities to facilitate adoption of retired dogs and cats.¹³⁹ With an estimated 50,000 animals used in federal labs in 2018,¹⁴⁰ the AFTER Act's passage would mean many retired research animals could have a new lease on life.

Although the AFTER Act has strong support from animal welfare groups, it does not appear to have much support in either body of Congress.¹⁴¹ As of January 2020, neither the Senate Agriculture, Nutrition, and Forestry Committee nor the House Subcommittee on

¹³⁶ Press Release, Jeanne Shaheen, U.S. Senator for N.H., Bipartisan Senators Introduce Bill to Help Retired Government Laboratory Animals Find Loving Homes (July 30, 2019), <https://www.shaheen.senate.gov/news/press/shaheen-bipartisan-senators-introduce-bill-to-help-retired-government-laboratory-animals-find-loving-homes> [https://perma.cc/YNG5-M4XM] (accessed May 27, 2020); Press Release, Martha McSally, U.S. Senator for Ariz., Bill to Help Retired Government Laboratory Animals Find Loving Homes Introduced by Bipartisan Group of Senators (July 31, 2019), <https://www.mcsally.senate.gov/news/press-releases/bill-help-retired-government-laboratory-animals-find-loving-homes-introduced-bipartisan-group> [https://perma.cc/GFQ5-PQ34] (accessed May 27, 2020); Press Release, Gary Peters, U.S. Senator for Mich., Peters Announces Bipartisan Bill to Help Retired Government Laboratory Animals Find New Homes (Aug. 26, 2019), <https://www.peters.senate.gov/newsroom/press-releases/peters-announces-bipartisan-bill-to-help-retired-government-laboratory-animals-find-new-homes> [https://perma.cc/S8K2-YMYN] (accessed May 27, 2020); Press Release, Susan Collins, U.S. Senator for Me., Bill to Help Retired Government Laboratory Animals Find Loving Homes Introduced by Bipartisan Group of Senators (Jul. 30, 2019), <https://www.collins.senate.gov/newsroom/bill-help-retired-government-laboratory-animals-find-loving-homes-introduced-bipartisan> [https://perma.cc/JH9E-KVSR] (accessed May 27, 2020).

¹³⁷ Tara Law, *Senate Bill Could Save Many Federal Lab Animals' Lives and Give Them a New Home*, TIME (July 30, 2019), <https://time.com/5639473/laboratory-animals-bill/> [https://perma.cc/NL9L-LM4K] (accessed May 27, 2020).

¹³⁸ Ellie Kaufman, *New Legislation Would Reduce the Number of Animals Killed in Government Testing*, CNN (May 20, 2019, 12:30 PM), <https://www.cnn.com/2019/05/20/politics/animal-testing-bill/index.html> [https://perma.cc/82NN-JPUQ] (accessed May 27, 2020).

¹³⁹ Adam Edelman, *Lab Dog to Lap Dog: Research Animals Get New Lease on Life*, NBC NEWS (May 12, 2018, 1:30 AM), <https://www.nbcnews.com/politics/politics-news/lab-dog-lap-dog-research-animals-get-new-lease-life-n873391> [https://perma.cc/4AN8-B43P] (accessed May 27, 2020).

¹⁴⁰ Kaufman, *supra* note 138.

¹⁴¹ See *H.R. 2897 – AFTER Act of 2019*, CONG., <https://www.congress.gov/bill/116th-congress/house-bill/2897/cosponsors?searchResultViewType=expanded&KWICView=false> (accessed May 27, 2020) (showing only 69 cosponsors in the House of Representatives); *S. 2322 – AFTER Act of 2019*, CONG., [https://www.congress.gov/bill/116th-congress/senate-bill/2322/cosponsors?q=\[%22search%22:%22s.+2322%22\]}&r=1&s=2&searchResultViewType=expanded&KWICView=false](https://www.congress.gov/bill/116th-congress/senate-bill/2322/cosponsors?q=[%22search%22:%22s.+2322%22]}&r=1&s=2&searchResultViewType=expanded&KWICView=false) [https://perma.cc/6728-5M5J] (accessed May 27, 2020) (showing only 10 cosponsors in the Senate).

Livestock and Foreign Agriculture has indicated support for or opposition to the bills.

VIII. TRAVELING EXOTIC ANIMAL & PUBLIC SAFETY PROTECTION ACT

The Traveling Exotic Animal and Public Safety Protection Act¹⁴² returned to Congress in 2019 after Representative Raul Grijalva of Arizona failed to gain sufficient support for the bill in both 2016¹⁴³ and 2017.¹⁴⁴ If passed, the bill would amend the AWA to restrict the use of exotic and wild animals in traveling performances.¹⁴⁵ The bill lists animal welfare concerns, costly regulatory oversight, and public safety concerns as reasons why regulation is necessary.¹⁴⁶ In particular, the findings state that licensing fees do not fully cover the high cost of regulating traveling performances.¹⁴⁷ Therefore, taxpayers end up paying the difference.¹⁴⁸

While traveling performances, such as circuses, would no longer be allowed to use wild or exotic animals, the bill exempts educational programs “designed to impart knowledge or information for educational or conservation purposes about [an animal’s] natural behavior, habitat, and life cycle.”¹⁴⁹ However, exempt programs cannot “include any performance of behavior that does not naturally occur for that animal in the wild state.”¹⁵⁰

Proponents of the bill stress its importance for animal welfare reasons as well as public health and human safety.¹⁵¹ Advocates for exotic animal ownership, on the other hand, argue that the bill’s passage “would deprive countless Americans the ability to experience endan-

¹⁴² Traveling Exotic Animal and Public Safety Protection Act, H.R. 2863, 116th Cong. (2019).

¹⁴³ Traveling Exotic Animal and Public Safety Protection Act, H.R. 6342, 114th Cong. (2016).

¹⁴⁴ Traveling Exotic Animal and Public Safety Protection Act, H.R. 1759, 115th Cong. (2017).

¹⁴⁵ H.R. 2863.

¹⁴⁶ H.R. 2863 (“[C]onditions inherent to traveling performances, including constant travel, temporary and collapsible facilities, and the prolonged confinement and physical coercion of animals, subject exotic and wild animals to compromised welfare and chronic stress, . . . current regulatory oversight of traveling performances is complex and costly, . . . [and] traveling exotic and wild animal performances present safety risks by permitting or not preventing public contact and by displaying animals in inappropriate, uncontrolled areas in dangerous proximity to humans and other animals.”).

¹⁴⁷ H.R. 2863 (“[T]hese costs are not typically recouped via licensing fees.”).

¹⁴⁸ H.R. 2863 (“[T]hese costs . . . are left to the American taxpayer.”).

¹⁴⁹ H.R. 2863 § 3(3)(C).

¹⁵⁰ H.R. 2863.

¹⁵¹ See *Traveling Exotic Animal and Public Safety Protection Act*, ANIMAL WELFARE INST., <https://awionline.org/legislation/traveling-exotic-animal-and-public-safety-protection-act> [<https://perma.cc/95V3-6JPE>] (accessed May 27, 2020) (mentioning four specific instances in which captive exotic animals injured spectators after escaping their confinements).

gered animals up close.”¹⁵² They claim this ability can “foster[] a love of wildlife in children that lasts a lifetime.”¹⁵³

Unlike the previous two times Representative Grijalva introduced the bill, this time, Senator Robert Menendez of New Jersey introduced a similar bill in the Senate.¹⁵⁴ Even though New Jersey, Rhode Island, Illinois, New York, and Hawaii recently passed similar legislation,¹⁵⁵ Congress still seems to have little appetite to ban traveling wild and exotic animal performances.¹⁵⁶

IX. REFUGE FROM CRUEL TRAPPING ACT

Amending the National Wildlife Refuge System Administration Act of 1966,¹⁵⁷ the Refuge from Cruel Trapping Act would ban the possession or use of ‘body-gripping traps’ in the National Wildlife Refuge System.¹⁵⁸ Body-gripping traps are defined to include leghold traps, kill-type traps, snare traps, or “modified version[s] of any such trap.”¹⁵⁹ The Act would require violators to forfeit the trap “and any wildlife captured by the use of such trap, including the pelt or raw fur of such wildlife” if a person were to violate the Act.¹⁶⁰

Initially introducing the proposed legislation in 2009,¹⁶¹ Representative Nita Lowey has shown her dedication to the issue by reintroducing the legislation again in 2011,¹⁶² 2013,¹⁶³ 2015,¹⁶⁴ and 2017.¹⁶⁵ Despite strong support from animal welfare groups,¹⁶⁶ it seems un-

¹⁵² *Urge Your Congressman and Senators to OPPOSE H.R. 2863 Banning Exotic Animal Exhibitions Nationwide*, CAVALRY GROUP, <https://the-cavalry-group.rallycongress.com/ctas/urge-your-congressman-senators-to-oppose-h-r-2863-banning-exotic-animal-exhibitions> [https://perma.cc/EP8T-C8M7] (accessed May 27, 2020).

¹⁵³ *Id.*

¹⁵⁴ S. 2121, 116th Cong. (2019).

¹⁵⁵ Press Release, Bob Menendez, U.S. Senator for N.J., Menendez Introduces Federal Ban on Using Exotic Animals in Performances (July 15, 2019), <https://www.menendez.senate.gov/news-and-events/press/menendez-introduces-federal-ban-on-using-exotic-animals-in-performances> [https://perma.cc/GRM2-X23K] (accessed May 27, 2020).

¹⁵⁶ See *H.R. – Traveling Exotic Animal and Public Safety Protection Act*, CONG., <https://www.congress.gov/bill/116th-congress/house-bill/2863?q=%7B%22search%22%3A%5B%22traveling+exotic+animal+and+public+safety+protection+act%22%5D%7D&s=3&r=2> [https://perma.cc/89F7-25YG] (accessed May 27, 2020) (showing only fifty-nine cosponsors of H.R. 2863 as of February 29, 2020).

¹⁵⁷ 16 U.S.C. § 668dd (2012).

¹⁵⁸ H.R. 5127, 116th Cong. (2019).

¹⁵⁹ H.R. 5127.

¹⁶⁰ H.R. 5127.

¹⁶¹ Refuge from Cruel Trapping Act, H.R. 3710, 111th Cong. (2009).

¹⁶² Refuge from Cruel Trapping Act, H.R. 2657, 112th Cong. (2011).

¹⁶³ Refuge from Cruel Trapping Act, H.R. 3513, 113th Cong. (2013).

¹⁶⁴ Refuge from Cruel Trapping Act, H.R. 2016, 114th Cong. (2015).

¹⁶⁵ Refuge from Cruel Trapping Act, H.R. 1438, 115th Cong. (2017).

¹⁶⁶ *Born Free USA Applauds Reintroduction of Bill Banning Dangerous Traps on National Wildlife Refuges*, BORN FREE USA (Nov. 18, 2019), <https://www.bornfreeusa.org/2019/11/18/born-free-usa-applauds-reintroduction-of-bill-banning-dangerous-traps-on-national-wildlife-refuges/> [https://perma.cc/E3RS-8YFX] (accessed May 27, 2020). See

likely that the bill will leave the House Subcommittee on Water, Oceans, and Wildlife given the numerous introductions and low number of cosponsors—fifty-nine as of January 12, 2020.¹⁶⁷

Opponents of the bill claim that trapping is important not only for wildlife recreation but also wildlife management.¹⁶⁸ On the other hand, anti-trap proponents emphasize that traps, unlike hunters, cannot distinguish between their intended target and ‘non-target’ animals.¹⁶⁹ Therefore, traps can also easily ensnare pets and unsupervised children.¹⁷⁰ Nevertheless, groups such as The Wildlife Society, National Wildlife Refuge Association, Mule Deer Foundation, North American Bear Foundation, and the U.S. Sportsmen’s Alliance strongly oppose the bill.¹⁷¹

X. COURTHOUSE DOGS ACT

The Courthouse Dogs Act,¹⁷² which would amend Title 18 of the United States Code,¹⁷³ passed the Senate on December 19, 2019.¹⁷⁴ The bill would allow “certified facility dogs” into courtrooms to provide emotional support for upset witnesses while testifying.¹⁷⁵ Facility dogs are professionally trained dogs who have “graduated from an assistance dog organization that is a member of an internationally recog-

Refuge from Cruel Trapping Act, ANIMAL WELFARE INST., <https://awionline.org/content/refuge-cruel-trapping-act> [<https://perma.cc/SA8M-92CY>] (accessed May 27, 2020) (illustrating the Animal Welfare Institute’s support of the ban on cruel traps); *Rep. Nita Lowey Introduces Bill to Protect Wildlife from Cruel Trapping*, WOLF CONSERVATION CTR. (Nov. 16, 2019), <https://nywolf.org/2019/11/rep-nita-lowey-introduces-bill-to-protect-wildlife-from-cruel-trapping/> [<https://perma.cc/B9W7-38PW>] (accessed May 27, 2020) (outlining the importance of the ban and thanking Representative Lowey for introducing the bill).

¹⁶⁷ *H.R. 5127 – Refuge from Cruel Trapping Act of 2019*, CONG., <https://www.congress.gov/bill/116th-congress/house-bill/5127?q=%7B%22search%22%3A%5B%22refuge+from+cruel%22%5D%7D&s=6&r=1> [<https://perma.cc/VQW6-7HZH>] (accessed May 27, 2020).

¹⁶⁸ Letter from The Wildlife Soc’y et al. to Rob Bishop, Chairman, House Comm. on Nat. Res. and Raúl Grijalva, Ranking Member, House Comm. on Nat. Res. (June 17, 2015), http://wildlife.org/wp-content/uploads/2015/06/H.R.2016_NWRTrappingLetter_Sign-on_2015.06.17.pdf [<https://perma.cc/MRG8-J5KD>] (accessed May 27, 2020).

¹⁶⁹ Chris Miller, *Nuisance Trapping?*, SOURCE WKLY. (Apr. 11, 2018), <https://www.bendsource.com/bend/nuisance-trapping/Content?oid=5633488> [<https://perma.cc/2PU6-4PJP>] (accessed May 27, 2020).

¹⁷⁰ *Id.*

¹⁷¹ Letter from The Wildlife Soc’y et al. to Rob Bishop, *supra* note 168.

¹⁷² S. 1029, 116th Cong. (2019).

¹⁷³ S. 1029.

¹⁷⁴ *S.1029 – Courthouse Dogs Act*, CONG., [https://www.congress.gov/bill/116th-congress/senate-bill/1029/actions?q=\[%22search%22:%22courthouse+dog+act%22\]}&r=1&s=1&KWICView=false](https://www.congress.gov/bill/116th-congress/senate-bill/1029/actions?q=[%22search%22:%22courthouse+dog+act%22]}&r=1&s=1&KWICView=false) [<https://perma.cc/736G-5V5G>] (accessed May 27, 2020).

¹⁷⁵ Melissa Lemieux, *Courthouse Dogs Act Passed By Senate, Allowing Emotional Assistance Animals to Calm Witnesses on the Stand*, NEWSWEEK (Dec. 12, 2019, 8:59 PM), <https://www.newsweek.com/courthouse-dogs-act-passed-senate-allowing-emotional-assistance-animals-calm-witnesses-stand-1478603> [<https://perma.cc/SLH7-BSMD>] (accessed May 27, 2020).

nized assistance dog association.”¹⁷⁶ They “provid[e] quiet companionship to vulnerable individuals in legal settings without causing any disruption of the proceedings.”¹⁷⁷ According to Courthouse Dogs Foundation, both the dog and their handler go through extensive professional training before being certified as a facility dog team.¹⁷⁸

Often, courthouse facility dogs assist child victims of sexual assault, providing comfort and a sense of security.¹⁷⁹ Senator John Cornyn of Texas, who sponsored the bill, hoped it would, “ease stress, help witnesses feel safe to share their stories, and ultimately promote justice.”¹⁸⁰

While the number of courtrooms allowing facility dogs is rapidly increasing,¹⁸¹ many defense attorneys staunchly oppose the practice.¹⁸² One defense attorney believes that the presence of facility dogs “can illegitimately boost witness credibility,” and “tends to imply or infer that there has been some victimization. It tends to engender sympathy.”¹⁸³ However, psychology professor Dawn McQuiston, who researches effects of support dogs on juries, consistently found that the presence of a facility dog made no difference for the jury.¹⁸⁴

The bill, which passed to the House of Representatives, has been referred to the House Subcommittee on Crime, Terrorism, and Homeland Security.¹⁸⁵

XI. CONCLUSION

The year 2019 was momentous for animal protection laws. The passage of the PACT Act and the RAWR Act affirmed the country’s desire and willingness to make greater protections for animals both domestically and internationally. While most of the remaining animal

¹⁷⁶ S. 1029.

¹⁷⁷ *Facility Dogs*, COURTHOUSE DOGS FOUND., <https://courthousedogs.org/dogs/facility-dogs/> [<https://perma.cc/A24H-8WCQ>] (accessed May 27, 2020).

¹⁷⁸ *Id.*

¹⁷⁹ See Claire Kowalick, *Cornyn’s Courthouse Dogs Act Passes in Senate*, WICHITA FALLS TIMES RECORD NEWS (Dec. 31, 2019), <https://www.timesrecordnews.com/story/news/local/2019/12/31/cornyns-courthouse-dogs-act-passes-senate/2778159001/> [<https://perma.cc/DA8P-RYJ7>] (accessed May 27, 2020) (discussing the Courthouse Dog Act, which would allow for trained comfort dogs in court rooms).

¹⁸⁰ Press Release, John Cornyn, U.S. Senator for Tex., *Cornyn’s Dogs in the Courthouse Bill Passes the Senate* (Dec. 20, 2019), <https://www.cornyn.senate.gov/content/news/cornyns-dogs-courthouse-bill-passes-senate> [<https://perma.cc/VWG9-XQVD>] (accessed May 27, 2020).

¹⁸¹ See Kowalick, *supra* note 179 (“Eight states currently have legislation to allow certified facility dogs to assist witnesses as they give testimony and eight more states have determined use of such dogs could be appropriate in certain instances.”).

¹⁸² Dave Collins, *Comfort Dogs in Court Do Opposite for Some Defenders, Judges*, CHI. TRIB. (Apr. 5, 2018), <https://www.chicagotribune.com/nation-world/ct-comfort-dogs-in-court-20180404-story.html> [<https://perma.cc/ZX4A-LBMN>] (accessed May 27, 2020).

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ S.1029 – *Courthouse Dogs Act*, *supra* note 174.

legislation introduced in 2019 appears to have a limited chance of success, the Shark Fin Sales Elimination Act of 2019 seems to have enough support to be signed into law in 2020. Hopefully 2020 will produce more animal protection laws.