



1-1-2018

## Chapter 86: Nevada Finally Outlaws Bestiality

Emily Malhiot

Follow this and additional works at: <https://scholarlycommons.pacific.edu/uoplawreview>

 Part of the [Legislation Commons](#)

### Recommended Citation

Emily Malhiot, *Chapter 86: Nevada Finally Outlaws Bestiality*, 49 U. PAC. L. REV. 555 (2017).

Available at: <https://scholarlycommons.pacific.edu/uoplawreview/vol49/iss2/19>

This Legislative Review is brought to you for free and open access by the Journals and Law Reviews at Scholarly Commons. It has been accepted for inclusion in The University of the Pacific Law Review by an authorized editor of Scholarly Commons. For more information, please contact [mgibney@pacific.edu](mailto:mgibney@pacific.edu).

# Chapter 86: Nevada Finally Outlaws Bestiality

Emily Malhiot\*

## Code Section Affected

Assemb. B. 391, 2017 Leg., 79th Sess. (Nev. 2017) (new).  
AB 391 (Carrillo); 2017 STAT. Ch. 86.

## TABLE OF CONTENTS

I. INTRODUCTION .....	555
II. LEGAL BACKGROUND .....	557
A. <i>Animal Law In Nevada Prior to Chapter 86</i> .....	558
B. <i>Connection Between Animal and Human Violence</i> .....	559
C. <i>Animal Sexual Abuse</i> .....	561
D. <i>History of Anti-Bestiality Laws</i> .....	563
III. CHAPTER 86 .....	563
IV. ANALYSIS.....	565
A. <i>"Bestiality" versus "Sexual Assault"</i> .....	566
B. <i>Felony or Misdemeanor, or Both?</i> .....	567
C. <i>Animal Cruelty or Crime Against Morals?</i> .....	569
D. <i>The Inclusion of Photography and Filming in the Statute</i> .....	570
E. <i>Psychological Counseling</i> .....	571
V. CONCLUSION.....	572

## I. INTRODUCTION

In March 2011, homeowners in Sacramento, California, returned home to find their tenant Robert Edward De Shields, who was confined to a wheelchair, holding their terrified eight-month-old Chihuahua named Shadow.<sup>1</sup> The next day, the homeowners walked into their garage to again find De Shields and Shadow,

---

\* J.D. Candidate, University of the Pacific, McGeorge School of Law, to be conferred May 2019; B.A., History, Franciscan University of Steubenville, 2015. I would like to thank my Primary Editor Kelci Binau and the entire Law Review staff for their support and guidance throughout this process. I would also like to thank my parents, Patty and Kirk, and brother Kevin for giving me the opportunity to follow my dreams and for their encouragement in doing things I never thought I could do. And lastly, to all my family and friends for their constant love, support, and encouragement.

1. *Man Who Sexually Assaulted Chihuahua Gets 10-Year Sentence*, L.A. NOW (Dec. 24, 2011, 8:31 AM), <http://latimesblogs.latimes.com/lanow/2011/12/man-convicted-sexual-assault-chihuahua.html> (on file with *The University of the Pacific Law Review*).

who was “almost lifeless, in pain and in shock.”<sup>2</sup> A veterinary examination revealed “severe injuries to [Shadow]’s rectum and internal organs,” as well as traces of asphyxiation.<sup>3</sup> De Shields was under the influence of methamphetamine when he attacked Shadow.<sup>4</sup> De Shields, “who has been in and out of prison since 1992,”<sup>5</sup> received in 2011 a ten-year prison sentence for choking and sexually assaulting Shadow.<sup>6</sup> “In an unusual move for an animal cruelty case,” the court required De Shields to “register as a lifetime sex offender.”<sup>7</sup>

Bestiality, or animal sexual abuse, is the “sexual molestation of an animal by a human.”<sup>8</sup> Bestiality is considered animal abuse because the act could physically harm or even kill the animal; however, this does not always mean a physical injury will occur.<sup>9</sup> Also, it is a precursor to other crimes, including sex-related offenses, crimes against children, and domestic violence.<sup>10</sup> Thus, legislators across the nation enacted anti-bestiality laws to address this concern and ultimately prevent these crimes from occurring.<sup>11</sup>

However, despite growing concern about animal cruelty and the recognized connection between animal and human violence, bestiality remains a “topic shrouded in taboo.”<sup>12</sup> As a result, research and resources remain limited in bestiality investigations,<sup>13</sup> and legislators are hesitant to sponsor proposed anti-

---

2. *US Man Gets 10 Years For Choke, Sexual Assault on Dog*, INQUIRER.NET (Dec. 25, 2011, 8:52 AM), <http://newsinfo.inquirer.net/116965/us-man-gets-10-years-for-choke-sexual-assault-on-dog> (on file with *The University of the Pacific Law Review*).

3. *Id.*; *Man Who Sexually Assaulted Chihuahua Gets 10-Year Sentence*, *supra* note 1.

4. *US Man Gets 10 Years For Choke, Sexual Assault on Dog*, *supra* note 2.

5. *Man Who Sexually Assaulted Chihuahua Gets 10-Year Sentence*, *supra* note 1.

6. *Id.*

7. *US Man Gets 10 Years For Choke, Sexual Assault on Dog*, *supra* note 2 (requiring De Shields to register as a sex offender means “he will have to wear an electronic surveillance device and keep a distance from schools and other places where children gather”).

8. VT. ANIMAL CRUELTY TASK FORCE, ANIMAL SEXUAL ABUSE FACT SHEET, *available at* <http://www.vactf.org/pdfs/bestiality-factsheet.pdf> (on file with *The University of the Pacific Law Review*).

9. *Id.*

10. NAT’L LINK COAL., THE LINK BETWEEN VIOLENCE TO PEOPLE AND VIOLENCE TO ANIMALS, *available at* <http://nationallinkcoalition.org/wp-content/uploads/2013/01/LinkSummaryBooklet-16pp.pdf> (on file with *The University of the Pacific Law Review*); *see also* Phyllis DeGioia, *Recognizing Sexual Abuse in Animals*, VIN NEWS SERV. (Mar. 5, 2015), <http://news.vin.com/vinnews.aspx?articleId=35718> (on file with *The University of the Pacific Law Review*) (“Animal welfare concerns aside, tracking animal cruelty is important, experts say, because those who engage in it are apt to commit crimes against people.”).

11. *Bestiality Crimes Targeted by New States Laws, FBI Reporting*, ABC NEWS (Apr. 1, 2017, 8:33 PM), <http://abcnews.go.com/amp/US/wireStory/bestiality-crimes-targeted-state-laws-fbi-reporting-46510752> (on file with *The University of the Pacific Law Review*).

12. Jessica DaSilva, *Bestiality Laws Matter in Preventing, Prosecuting Sex Crimes*, BLOOMBERG BNA (May 4, 2016), <https://www.bna.com/bestiality-laws-matter-n57982070635/> (on file with *The University of the Pacific Law Review*).

13. Rebecca L. Bucchieri, *Bridging the Gap: The Connection Between Violence Against Animals and Violence Against Humans*, 11 J. ANIMAL & NAT. RESOURCE L. 115, 123 (2015).

bestiality bills,<sup>14</sup> “seeing the issue as a punch line advanced by some overly zealous animal lovers.”<sup>15</sup> Nonetheless, law enforcement agencies and the public are giving more attention to this issue because of “increased media interest and increased awareness of its connection with other criminal behavior of the offenders.”<sup>16</sup>

Nevada Assembly member Richard Carrillo introduced Chapter 86 to make bestiality a crime in Nevada.<sup>17</sup> Chapter 86 not only seeks to protect animals like Shadow but also seeks to prevent future violence against humans.<sup>18</sup> This article examines the legal background of anti-bestiality laws in other states, compares Chapter 86 to the laws, and analyzes whether Chapter 86 will ultimately prove effective in protecting Nevada animals and communities.<sup>19</sup>

## II. LEGAL BACKGROUND

This section examines the effects of anti-bestiality laws and the role those laws play in preventing violence to both animals and humans.<sup>20</sup> Part A of this section discusses animal law in Nevada prior to the enactment of Chapter 86.<sup>21</sup> Part B examines the link between animal abuse and human violence and how this link is a driving force behind anti-bestiality and other animal cruelty laws.<sup>22</sup> Part C explores why bestiality and animal sexual abuse crimes are more difficult to discuss and track than other forms of animal cruelty.<sup>23</sup> Lastly, Part D outlines a brief history of anti-bestiality laws in other states.<sup>24</sup>

---

14. *Bestiality Crimes Targeted by New States Laws*, *supra* note 11.

15. DeGioia, *supra* note 10 (“[V]eterinarian and abuse expert Dr. Helen Munro wrote: ‘The impression is that many continue to think of bestiality as a farmyard activity involving animals sufficiently large enough not to be injured and therefore not much to worry about. It seems that even in these modern times, the sexual abuse of animals is almost a last taboo, even to the veterinary profession.’”).

16. ALLIE PHILLIPS, NAT’L DISTRICT ATTORNEYS ASS’N, UNDERSTANDING THE LINK BETWEEN VIOLENCE TO ANIMALS AND PEOPLE (2014), available at <http://www.ndaa.org/pdf/The%20Link%20Monograph-2014.pdf> (on file with *The University of the Pacific Law Review*).

17. Assemb. B. 391, 2017 Leg., 79th Sess. (Nev. 2017); *Hearing on AB 391 Before the Assemb. Comm. on Nat. Res., Agric., and Mining*, 2017 Leg., 79th Sess. (Nev. 2017) [hereinafter 391 Nat. Res. Hearing] (on file with *The University of the Pacific Law Review*) (statement of Gina Griesen, President of Nevada Voters for Animals) (explaining that Ms. Griesen authored most of the language in AB 391).

18. Assemb. B. 391, 2017 Leg., 79th Sess. (Nev. 2017).

19. *See infra* Parts II–V (discussing the anti-bestiality laws of other states and analyzing how Chapter 86 compares to other state laws).

20. *Infra* Parts II–V.

21. *See infra* Part II.A (describing current animal laws in Nevada).

22. *See infra* Part II.B (discussing the connection between animal and human violence and its role in animal cruelty legislation).

23. *See infra* Part II.C (defining bestiality and its place among other forms of animal cruelty).

24. *See infra* Part II.D (examining the history of anti-bestiality laws, including its previous association with sodomy laws).

A. *Animal Law In Nevada Prior to Chapter 86*

Prior to the enactment of Chapter 86, Nevada was one of eight states that did not criminalize bestiality.<sup>25</sup> The Nevada legislature first attempted to prohibit bestiality in 2001, when Senator Rawson introduced Senate Bill 173.<sup>26</sup> Ultimately, the bill did not become law.<sup>27</sup> Nonetheless, Nevada has enacted numerous pieces of animal-related legislation.<sup>28</sup> In 2011, the Nevada Legislature enacted Senate Bill 223, or “Cooney’s Law,” which makes animal cruelty a felony on the first offense.<sup>29</sup> Prior to Cooney’s Law, Nevada courts applied the three strikes rule, under which an offender would not face a felony charge until the offender’s third conviction of animal cruelty.<sup>30</sup> Nevada’s domestic violence orders also protect animals by granting judges the authority to “[e]njoin the adverse party from physically injuring, threatening to injure or taking possession of” an animal owned by the party seeking the order.<sup>31</sup> Finally, the Nevada legislature introduced Senate Bill 405 in 2017 that sought to establish a statewide animal abuser registry.<sup>32</sup> The bill ultimately failed to pass the Assembly.<sup>33</sup>

Before Chapter 86 criminalized bestiality, Nevada citizens called Nevada police to report a crime of animal sexual abuse.<sup>34</sup> Unfortunately, the police informed them

---

25. *Bestiality Crimes Targeted by New States Laws*, *supra* note 11 (prior to Chapter 86, Hawaii, Kentucky, Nevada, New Mexico, Texas, Vermont, West Virginia, Wyoming, and the District of Columbia lacked anti-bestiality laws); Rebecca F. Wisch, *Table of State Animal Sexual Assault Laws*, ANIMAL LEGAL & HIST. CTR., MICH. STATE U. (2017), <https://www.animallaw.info/topic/table-state-animal-sexual-assault-laws> (on file with *The University of the Pacific Law Review*) (as of 2017, Hawaii, Kentucky, New Mexico, West Virginia, Wyoming, and the District of Columbia lack anti-bestiality laws).

26. S. B. 173, 2001 Leg., 2000–2001 Sess. (Nev. 2001) (as amended on February 15, 2001, but not enacted) (creating the crime of bestiality and classifying it as a felony).

27. *Id.*

28. Kathleen Wilde, Note, *Animal Law in Nevada: All Bark and No Bite*, 11 NEV. L.J. 254, 263 (2010).

29. Kathy McCarthy & Jennifer Braster, *Animal Law in Nevada*, NEV. LAW. MAG. (Dec. 2011), [https://www.nvbar.org/nvlawmag-archive-957232/NevLawyer\\_Dec2011\\_Overview-Animal-Law.pdf](https://www.nvbar.org/nvlawmag-archive-957232/NevLawyer_Dec2011_Overview-Animal-Law.pdf) (on file with *The University of the Pacific Law Review*) (explaining that the bill is named after a dog named Cooney, who died of shock and blood loss after her owner cut her open with a box cutter; the owner pleaded guilty to a misdemeanor, the highest penalty at the time).

30. *Id.*; Gail Connors, “*Three Strikes and You’re Out*” in *Nevada for Animal Cruelty and Abuse*, 8 NEV. LAW. 32 (March 2000) (“SB 396 provides that anyone convicted of a first-time animal cruelty/neglect case will receive a minimum two days in jail and \$250 fine. Both penalties increase with a second offense, and a defendant will be slapped with a felony charge including potential jail time of up to six months for a third offense.”).

31. NEV. REV. STAT. § 33.030 (2017).

32. S. B. 405, 2017 Leg., 2016–2017 Sess. (Nev. 2017) (as amended on May 30, 2017, but not enacted) (creating an animal abuser registry website and requiring offenders convicted of certain animal cruelty offenses to register with the website).

33. *Id.*

34. Assemb. B. 391, 2017 Leg., 79th Sess. (Nev. 2017); *Hearing on AB 391 Before the S. Comm. on Judiciary*, 2017 Leg., 79th Sess. (Nev. 2017) [hereinafter 391 Judiciary Hearing] (on file with *The University of the Pacific Law Review*) (statement of Brian O’Callaghan, Las Vegas Metropolitan Police Department).

that no such law existed and they could not help them.<sup>35</sup> Despite Nevada's absence of bestiality legislation prior to Chapter 86, law enforcement and courts found an alternative way to punish offenders engaged in animal sexual abuse.<sup>36</sup> In February 2013, 23-year-old Kara Vandereyk of Las Vegas was caught having sex with a pit bull in her backyard, "in full view of the neighbors."<sup>37</sup> Las Vegas Metropolitan Police charged Ms. Vandereyk with gross lewdness for having sex in public.<sup>38</sup> Most acts of bestiality, however, occur behind closed doors against victims who cannot speak up, which makes investigations and arrests more difficult.<sup>39</sup> Therefore, an anti-bestiality law like Chapter 86 may allow law enforcement to take action whether the act of animal sexual abuse occurs in secret or in public.<sup>40</sup>

### *B. Connection Between Animal and Human Violence*

Numerous studies and research reveal a link between animal abuse and other crimes.<sup>41</sup> Statistics demonstrate that people who abuse animals are more likely to harm people.<sup>42</sup> For example, "animal abusers are five times more likely than are non-abusers to commit violent crimes, including rape, robbery and assault."<sup>43</sup> Another study of 44,000 adult male sex offenders revealed "animal sexual abuse is the number one risk factor and the strongest predictor of increased risk for sexual abuse of a child."<sup>44</sup> The most prominent examples of these individuals are serial killers, who begin with animal abuse, become bored, and progress to harming humans.<sup>45</sup> As a youth, Jeffrey Dahmer dissected animals, staked their bodies to trees, and eventually, as an adult, went on to murder 17 men.<sup>46</sup>

---

35. *Id.*

36. See Hunter Stuart, *Kara Vandereyk, Las Vegas Woman, Had Sex With Pit Bull: Police*, HUFFINGTON POST (Feb. 21, 2013, 11:27 AM), [http://www.huffingtonpost.com/2013/02/21/kara-vandereyk-las-vegas-woman-sex-with-pitbull-police\\_n\\_2732966.html](http://www.huffingtonpost.com/2013/02/21/kara-vandereyk-las-vegas-woman-sex-with-pitbull-police_n_2732966.html) (on file with *The University of the Pacific Law Review*) (explaining that Nevada has a law against gross and open lewdness).

37. *Id.*

38. *Id.*; NEV. REV. STAT. § 201.210 (2017).

39. VT. ANIMAL CRUELTY TASK FORCE, *supra* note 8.

40. *Id.*; 391 Judiciary Hearing, *supra* note 34 (statement of Brian O'Callaghan, Las Vegas Metropolitan Police Department).

41. *Tracking Animal Cruelty: FBI Collecting Data on Crimes Against Animals*, FBI (Feb. 1, 2016), <https://www.fbi.gov/news/stories/-tracking-animal-cruelty> (on file with *The University of the Pacific Law Review*).

42. Wilde, *supra* note 28; Wayne Pacelle, *Deliver Us from the Evils of Bestiality*, HUMANE SOC'Y U.S. (May 15, 2017), <http://blog.humanesociety.org/wayne/2017/05/deliver-us-evils-bestiality.html> (on file with *The University of the Pacific Law Review*).

43. Wilde, *supra* note 28.

44. Pacelle, *supra* note 42 ("Some studies have found high rates of sexual assault of animals in the backgrounds of serial sexual homicide perpetrators.").

45. Angela Campbell, Note, *The Admissibility of Evidence of Animal Abuse in Criminal Trials for Child and Domestic Abuse*, 43 B.C. L. REV. 463, 467 (2002).

46. Wilde, *supra* note 28.

Law enforcement agencies typically find that animal abusers later commit other crimes of abuse as well.<sup>47</sup> These crimes include child abuse, domestic violence, and elder abuse.<sup>48</sup> With child abuse, “[a]nimal abuse was reported in 60% of child-abusing families and in 88% of families investigated for physical child abuse.”<sup>49</sup> Domestic violence cases also show a correlation with animal abuse: “71% of battered women said their partners harmed, killed, or threatened pets.”<sup>50</sup> Lastly, Adult Protective Services caseworkers report nearly 35% of their elderly clients “talk about pets being threatened, injured, killed, or denied care.”<sup>51</sup>

Child victims of abuse and domestic violence learn about abuse firsthand and some abuse animals as a coping mechanism.<sup>52</sup> As they grow older, they move on to other vulnerable victims, including the elderly and even their own children.<sup>53</sup> Therefore, child protective services, social services, and mental health professionals consider animal abuse one of the strongest indicators human abuse is also occurring.<sup>54</sup> Because of this dangerous link, Nevada requires juveniles convicted of animal cruelty to undergo psychological treatment or counseling.<sup>55</sup> This particular law took a major step in recognizing the growing importance of animal abuse cases to identify individuals who may harm people in the future. Nevada legislators recognized the growing importance of using animal abuse cases to identify individuals who may harm people in the future.<sup>56</sup>

The Federal Bureau of Investigation (FBI) also considers animal abuse and cruelty when profiling serial killers and predicting violent behavior.<sup>57</sup> For example, the FBI’s National Incident-Based Reporting System (NIBRS) collects data on cases of animal cruelty, including sexual abuse.<sup>58</sup> The FBI’s inclusion of

---

47. NAT’L LINK COAL., *supra* note 10.

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

52. *The Animal Abuse-Human Violence Connection*, PAWS, <https://www.paws.org/get-involved/take-action/explore-the-issues/animal-abuse-connection/> (last visited Oct. 6, 2017) (on file with *The University of the Pacific Law Review*); *How Are Animal Abuse and Family Violence Linked?*, NAT’L LINK COALITION, <http://nationallinkcoalition.org/faqs/what-is-the-link> (last visited Oct. 6, 2017) (on file with *The University of the Pacific Law Review*) (“Animal abuse is part of an inter-generational cycle of violence. Children living in homes with domestic violence and animal abuse absorb unhealthy attitudes and family norms . . . and hand these values down to their own children when they grow up.”).

53. *Id.*

54. *The Animal Abuse-Human Violence Connection*, *supra* note 52.

55. NEV. REV. STAT. § 62E.680 (2017).

56. Wilde, *supra* note 28.

57. *The Animal Abuse-Human Violence Connection*, *supra* note 52; *Tracking Animal Cruelty: FBI Collecting Data on Crimes Against Animals*, *supra* note 41 (“Some studies say that cruelty to animals is a precursor to larger crime, said Nelson Ferry, who works in the [FBI]’s Criminal Statistics Management Unit, which manages NIBRS. “That’s one of the items that we’re looking at.”).

58. *Id.* (“NIBRS began collecting detailed data from participating law enforcement agencies on acts of

animal cruelty in its investigations further highlights the importance of the implications that the link between animal and human violence reveals.<sup>59</sup>

### C. *Animal Sexual Abuse*

Because of the link between animal sexual abuse and other crimes, such as child sexual abuse and sexual homicide, many state legislators and law enforcement agencies monitor animal sexual offenders the same way human sexual offenders are monitored.<sup>60</sup>

Bestiality is considered animal abuse because the “sexual molestation of animals by humans may physically injure or kill the animal victim.”<sup>61</sup> Another theory for this designation is that animals cannot consent to the act.<sup>62</sup> Animals cannot be fully informed or tell others about their abuse.<sup>63</sup> Rather, in such relationships, the human asserts “power and control over the animal,” similar to cases of child sexual abuse and rape where the victim cannot consent.<sup>64</sup>

Bestiality is linked to various crimes, such as child sexual abuse, domestic violence, and child pornography.<sup>65</sup> Abusers often use animals as a way to assert power and control over their human victims: “actual or threatened animal abuse can be a way for the abuser to silence victims about the incident or to prevent them from leaving a violent relationship.”<sup>66</sup> Courts order “psychological counseling to break the cycle of abuse,”<sup>67</sup> recognizing that bestiality “is one of

---

animal cruelty, including gross neglect, torture, organized abuse, and sexual abuse.”).

59. *Id.*; Colby Itkowitz, *A Big Win for Animals: The FBI Now Tracks Animal Abuse Like It Tracks Homicides*, WASH. POST (Jan. 6, 2016), [https://www.washingtonpost.com/news/inspired-life/wp/2016/01/06/a-big-win-for-animals-the-fbi-now-tracks-animal-abuse-like-it-tracks-homicides/?utm\\_term=.2fafa694b709](https://www.washingtonpost.com/news/inspired-life/wp/2016/01/06/a-big-win-for-animals-the-fbi-now-tracks-animal-abuse-like-it-tracks-homicides/?utm_term=.2fafa694b709) (on file with *The University of the Pacific Law Review*) (“There is overwhelming evidence that [animal abuse] is linked to crimes against people, including violent crimes and domestic violence,” [animal rights advocate and psychologist Mary Lou Randour] said. “It’s not about protecting people or animals, it’s protecting them both.”).

60. PHILLIPS, *supra* note 16.

61. VT. ANIMAL CRUELTY TASK FORCE, *supra* note 8 (“Not all cases of animal sexual abuse will involve physical injury to the animal, but all sexual molestation of an animal by a human is abuse.”).

62. *Id.*

63. *Id.*

64. *Id.*; *Animal Cruelty is a Crime Against Society*, FORENSIC VETERINARY INVESTIGATIONS, LLC, <http://www.vetininvestigator.com/why-do-we-need-it/> (last visited Oct. 6, 2017) (on file with *The University of the Pacific Law Review*) (“In the domestic violence setting, animal abuse is not a problem with anger management, but rather a method to exert power and maintain control over victims.”).

65. PHILLIPS, *supra* note 16; Bucchieri, *supra* note 13, at 124 (“[B]estiality is most often found among violent offenders, sex offenders, and those individuals who have themselves been sexually abused, and that it is an apparent precursor for later recurrent violent crimes.”).

66. *How Are Animal Abuse and Family Violence Linked?*, *supra* note 52.

67. 391 Judiciary Hearing, *supra* note 34 (statement of Heather Carpenter, Western Regional Director, The Humane Society of the United States).



the earliest signs of a conduct disorder and the need for mental health intervention.”<sup>68</sup>

Although bestiality remains a topic society either avoids or ridicules,<sup>69</sup> increasing animal sexual abuse over the past few years demonstrates it is a growing problem.<sup>70</sup> Since 2005, bestiality arrests have dramatically increased in the United States.<sup>71</sup> One explanation for this increase according to Jenny Edwards, a criminologist who researches bestiality, is the internet, which provides online forums where people “communicate and share animals for breeding and sexual experiences.”<sup>72</sup> Various websites provide opportunities for users to “seek out one another where they often trade, rent, and sell animals for sex.”<sup>73</sup>

Another explanation for this increase is that police often discover evidence of bestiality in cases of child exploitation.<sup>74</sup> Detective Jeremy Hoffman of the Fairfax County, Virginia, Sheriff’s Office, who investigated child exploitation cases, explained that once he discovered a correlation between child pornography cases and bestiality, he began to investigate animal sexual abuse cases.<sup>75</sup> As a result, he achieved “a lot of early success in revealing child sexual abuse.”<sup>76</sup> Bestiality crimes are difficult to detect, however, because responders take the abused animals directly to shelters without first testing for abuse.<sup>77</sup> Further, due to a lack of education and knowledge of the crime, law enforcement agencies do not know how best to approach, mitigate, and prevent these cases.<sup>78</sup>

---

68. Letter from Heather Carpenter, W. Reg’l Dir. State Affairs, Humane Soc’y U.S., to Assembly Natural Resources, Agric. & Mining Comm. (Apr. 6, 2017) [hereinafter Humane Soc’y Letter] (on file with *The University of the Pacific Law Review*).

69. Pacelle, *supra* note 42; see also *Bestiality Crimes Targeted by New States Laws*, *supra* note 11 (explaining that bestiality remains a taboo subject due to a lack of education, either because people are afraid to admit that it happens more frequently than realized or that bestiality is not seen as a serious issue but more of a joke).

70. *Id.*

71. *Id.*

72. *Id.*

73. Pacelle, *supra* note 42 (“A popular website that appears to be a hub for bestiality enthusiasts boasts over 1.5 million registered users.”).

74. DaSilva, *supra* note 12.

75. *Id.*

76. *Id.*

77. *Bestiality Crimes Targeted by New States Laws*, *supra* note 11; DeGioia, *supra* note 10 (recommending that veterinarians use human rape kits to detect sexual abuse to an animal).

78. *Bestiality Crimes Targeted by New States Laws*, *supra* note 11 (“[S]uch crimes are difficult to track, because the animals involved are often shuffled off to shelters without being tested for abuse, because police departments are focused on human crimes, and because veterinarians often don’t know what to look for.”).

*D. History of Anti-Bestiality Laws*

Historically, legislators in other states have categorized bestiality laws with “crimes against public morals” or “crimes against nature.”<sup>79</sup> Recent bestiality laws, however, are categorized as “animal cruelty statutes,” demonstrating the belief that bestiality is a crime against an animal.<sup>80</sup>

Bestiality laws were commonly found in state sodomy laws; however, throughout the 1970s and 1980s, states began to overrule these laws.<sup>81</sup> As a result, bestiality laws were simultaneously removed.<sup>82</sup> Significant cases during the 2000s brought anti-bestiality laws back to the forefront, with states closing the gap created years before by creating more uniform laws.<sup>83</sup>

Bestiality is controlled at the state level rather than the federal level.<sup>84</sup> Anti-bestiality laws are found at the state level because “bestiality falls under the interest of the state in protecting citizens’ health and, in many states, morality.”<sup>85</sup> In fact, no federal anti-bestiality law exists.<sup>86</sup> The only federal law related to this issue is the “sodomy law under the military code,”<sup>87</sup> which provides “[a]ny person subject to this chapter who engages in unnatural carnal copulation with an animal is guilty of bestiality.”<sup>88</sup> Ultimately, Chapter 86 seeks to protect both animal and human community members.<sup>89</sup>

III. CHAPTER 86

With the passage of Chapter 86, Nevada joins the majority of states<sup>90</sup> by making bestiality a crime.<sup>91</sup> Legislators added a new code section detailing the

---

79. Wisch, *supra* note 25 (“The act of bestiality was often placed in statute that covered other sexual acts that were considered historically ‘unnatural’ and ‘perverted’ (Maryland), or ‘abominable’ and ‘detestable’ (Rhode Island).”).

80. *Id.*

81. DaSilva, *supra* note 12.

82. *Id.*

83. *Id.* (“This legal gap existed in just under half the states until a few high-profile cases in the U.S. made international headlines in the mid-2000s—namely, a 2005 case in Washington state where a man willingly sodomized by a horse died from the resulting injuries.”).

84. Wisch, *supra* note 25.

85. *Id.*

86. *Id.*

87. *Id.*

88. 10 U.S.C.A. § 925 (West 2017) (applies only to military personnel with a punishment of a court martial).

89. Humane Soc’y Letter, *supra* note 68.

90. Elizabeth Walker, *Gov. Sandoval of Nevada Signs Bill Banning Sexual Abuse of Animals*, HUMANE SOC’Y U.S. (May 24, 2017), [http://www.humanesociety.org/news/press\\_releases/2017/05/gov-sandoval-signs-bestiality-bill-052417.html](http://www.humanesociety.org/news/press_releases/2017/05/gov-sandoval-signs-bestiality-bill-052417.html) (on file with *The University of the Pacific Law Review*).

91. Assemb. B. 391, 2017 Leg., 79th Sess. (Nev. 2017).

crime and its penalties to Chapter 201, Crimes Against Public Decency and Good Morals, of the Nevada Revised Statutes.<sup>92</sup>

Under Chapter 86, bestiality occurs when a person knowingly and intentionally: (1) “[e]ngages in sexual conduct with an animal;” (2) “[c]auses another person to engage in sexual conduct with an animal;” (3) “[p]ermits any sexual conduct” with an animal on any premises owned by that person; (4) aids or abets in any way; or (5) “[p]hotographs or films, for purposes of” the sexual gratification of the person or another person.<sup>93</sup> Certain acts are excluded from the crime: animal husbandry, accepted methods of insemination for procreation, conformation judging,<sup>94</sup> and accepted medical procedures performed by a licensed veterinarian.<sup>95</sup>

If the abused animal does not die or suffer serious bodily injury during the commission of the offense, and the offender does not have a previous animal cruelty felony conviction, the penalty under Chapter 86 is a gross misdemeanor.<sup>96</sup> However, if the abused animal dies or suffers serious bodily injury during the commission of the offense, or if the offender has a previous animal cruelty felony conviction, the penalty increases to a Category D felony.<sup>97</sup>

The court must also order the convicted person to give up all ownership of any animals in his or her household to an animal shelter, an organization that cares for abused animals, or a Society for the Prevention of Cruelty to Animals (SPCA).<sup>98</sup> Additionally, offenders are prohibited from owning or having an animal in the offender’s household and volunteering or working anywhere with access to animals for a certain period of time, which the court will determine depending on the circumstances.<sup>99</sup>

---

92. *Id.*

93. *Id.*

94. See KYLEE JO DUBERSTEIN, UGA EXTENSION, EVALUATING HORSE CONFORMATION 11 (Mar. 2016), available at [https://secure.caes.uga.edu/extension/publications/files/pdf/B%201400\\_2.PDF](https://secure.caes.uga.edu/extension/publications/files/pdf/B%201400_2.PDF) (on file with *The University of the Pacific Law Review*) (“Evaluating conformation involves analyzing a particular breed and type of horse for balance, structural correctness, way of going, muscling, and perhaps breed and sex character. . . . Proper conformation is important to allow the horse to be balanced, powerful and maneuverable as well as to maintain soundness over its lifespan. [It] should give an idea of how the horse might perform a given task and how sound it will stay.”); *Conformation*, AM. KENNEL CLUB, <http://www.akc.org/events/conformation-dog-shows/> (on file with *The University of the Pacific Law Review*) (“‘Conformation’ is the official name for ‘dog shows.’ [T]he true purpose of conformation showing is to evaluate breeding stock. . . . [It’s] an indication of the dog’s ability to produce quality purebred puppies, and that is what is being judged in the ring.”).

95. Assemb. B. 391 (Nev. 2017).

96. *Id.*

97. *Id.*; NEV. REV. STAT. ANN. § 193.130 (West 2017) (a category D felony is a felony in which the court may sentence a person to state prison for a period of one to four years, and the court may also impose a fine of not more than \$5,000).

98. Assemb. B. 391 (Nev. 2017).

99. *Id.*

Finally, Chapter 86 presents the court with three additional options the judge may order a convicted person to comply with: (1) “a psychological evaluation and any recommended counseling;” (2) paying reasonable animal care and maintenance costs associated with the crime and any other fees associated with other abused animals the convict relinquishes custody of; and (3) if the convict is not the owner of the animal, reimbursing the owner for medical expenses incurred by the abused animal and related to the crime.<sup>100</sup>

#### IV. ANALYSIS

Prior to Chapter 86, Nevada was one of the minority of states that lacked an anti-bestiality statute.<sup>101</sup> Due to the clear link between bestiality and subsequent violence against humans, Senator Carrillo introduced Chapter 86 to criminalize bestiality to prevent future harm to Nevada communities.<sup>102</sup> With the enactment of Chapter 86, Nevada joins the majority of states in criminalizing bestiality.<sup>103</sup>

The following sections compare Chapter 86 with the anti-bestiality laws of other states, and analyzes whether it will achieve its goal of preventing violence against animals and humans.<sup>104</sup> Part A explains the difference between using the terms “bestiality” or “sexual assault” in animal sexual abuse statutes.<sup>105</sup> Part B examines why Nevada chose to categorize bestiality as either a felony and/or misdemeanor.<sup>106</sup> Part C discusses why statutes categorize bestiality as either animal cruelty or crimes against morals.<sup>107</sup> Part D examines the inclusion of photography and film in anti-bestiality statutes.<sup>108</sup> Lastly, Part E discusses the role of psychological counseling in anti-bestiality statutes and whether its inclusion in sentencing is important.<sup>109</sup>

---

100. *Id.*

101. Walker, *supra* note 90.

102. 391 Judiciary Hearing, *supra* note 34 (statement of Heather Carpenter, Western Regional Director, The Humane Society of the United States).

103. Walker, *supra* note 90.

104. *See infra* Part IV.

105. *See infra* Part IV.A (differentiating between the terms as well as discussing the role of sex offender registries in bestiality crimes).

106. *See infra* Part IV.B (comparing and contrasting state statutes that categorize bestiality as a felony, misdemeanor, or both).

107. *See infra* Part IV.C (examining the proper location for bestiality statutes among state law).

108. *See infra* Part IV.D (including photography and film in the statute allows law enforcement to investigate and find cases of bestiality).

109. *See infra* Part IV.E (analyzing whether sentencing an offender to psychological counseling proves effective in reducing rates of recidivism).

A. “Bestiality” versus “Sexual Assault”

Chapter 86 explicitly creates the crime of bestiality.<sup>110</sup> Nevada follows the majority of states by using the term “bestiality” in its statute.<sup>111</sup>

While bestiality is the traditional term, states like California and Oregon use the phrase “sexual assault of an animal,” demonstrating the concern that animals are unable to consent to these acts.<sup>112</sup> This label, however, potentially raises the question of whether these offenders should be placed on sex offender registries.<sup>113</sup>

The question of placing bestiality offenders on sex offender registries arose in a case in the Court of Appeals of Michigan, where the defendant “pleaded no contest to a charge committing the ‘abominable and detestable crime against nature’ with a sheep.”<sup>114</sup> In finding the defendant’s actions indicative of “sexual perversion,” the trial court “ordered the defendant to register under the Sex Offenders Registration Act.”<sup>115</sup> The defendant challenged the order, and the Court of Appeals reversed, holding that “while [the] sheep was the ‘victim’ of the crime, registration was only required if the victim was a human being less than 18 years old.”<sup>116</sup> Through statutory interpretation, the Court of Appeals determined the plain and ordinary meaning of the word “victim” did not include animals.<sup>117</sup>

Currently, five states mandate that persons convicted of bestiality or animal sexual assault be placed on sex offender registries.<sup>118</sup> Chapter 86, however, does not require a person convicted under this law to be placed on a sex offender registry.<sup>119</sup> Generally, sex offender registries remain controversial for many reasons, particularly because they “are not an effective method of preventing recidivism” despite the fact that preventing recidivism is exactly what legislators rely on when they pass sex offender registry laws.<sup>120</sup> Anti-bestiality statutes

---

110. Assemb. B. 391, 2017 Leg., 79th Sess. (Nev. 2017).

111. Wisch, *supra* note 25 (“One state (South Carolina) still refers to the activity as ‘buggery.’”).

112. CAL. PENAL CODE § 286.5 (West 2017); OR. REV. STAT. § 167.333 (West 2017); Wisch, *supra* note 25.

113. *Id.*

114. *People v. Haynes*, 281 Mich. App. 27, 28 (2008).

115. *Id.* at 32; Wisch, *supra* note 25.

116. *Haynes*, 281 Mich. App. at 28 (2008).

117. *Id.* at 31–32 (“[W]hen the word ‘individual’ is associated with the word ‘victim’ in crime victims’ rights legislation, its context potentially encompasses only human beings.”); Wisch, *supra* note 25.

118. Brenda V. Smith, *Fifty State Survey of Adult Sex Offender Registration Laws*, SSRN (Aug. 1, 2009), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1517369](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1517369) (on file with *The University of the Pacific Law Review*); Wisch, *supra* note 25 (explaining that Texas’ bestiality law amends the criminal procedure code making bestiality a “reportable conviction or adjudication” for registration).

119. Assemb. B. 391, 2017 Leg., 79th Sess. (Nev. 2017).

120. Stacy A. Nowicki, Comment, *On the Lamb: Toward A National Animal Abuser Registry*, 17 ANIMAL L. 197, 209 (2010).

reflect the known link between animal abuse and human violence and seek to eradicate the abusive behavior before it escalates into more violence; Nevada adopted this reasoning when enacting Chapter 86.<sup>121</sup> Despite the link between animal abuse and human violence, many states grant judges the option to require offenders to undergo psychological counseling and evaluations in an attempt to break the cycle of violence.<sup>122</sup> Chapter 86 does not require offenders to register as lifetime sex offenders but instead includes a provision recommending psychological counseling for offenders.<sup>123</sup> This suggests that Nevada considers not all persons convicted of bestiality are destined to become recidivists or escalate into more serious violent crimes, but rather these persons need mental health assistance.<sup>124</sup>

Introducing animal abuser registries is one proposed alternative to the sex offender registry issue in bestiality cases.<sup>125</sup> The Nevada legislature introduced Senate Bill 405 in 2017 to create a statewide animal abuser registry but ultimately the bill did not pass.<sup>126</sup> Concerns about sex offender registries also plague animal abuser registries, primarily that there is evidence suggesting that registries do not prevent recidivism.<sup>127</sup> Nevada's failure to pass its own statewide version of an animal abuser registry echoes the sentiment that the state prefers granting Nevada judges the option to require offenders to undergo psychological counseling.<sup>128</sup> Therefore, Chapter 86's use of the term "bestiality" over "sexual assault" further demonstrates the theory that Nevada prefers "breaking the cycles of violence" rather than requiring a person to register as a lifetime sex offender.<sup>129</sup>

#### *B. Felony or Misdemeanor, or Both?*

Under Chapter 86, bestiality offenders are afforded two separate penalties.<sup>130</sup> The first penalty provides that if the animal does not die or suffer serious bodily injury, and the person does not have a prior animal cruelty conviction, that

---

121. PHILLIPS, *supra* note 16; 391 Judiciary Hearing, *supra* note 34 (statement of Heather Carpenter, Western Regional Director, The Humane Society of the United States).

122. Wisch, *supra* note 25.

123. Assemb. B. 391, 2017 Leg., 79th Sess. (Nev. 2017).

124. Humane Soc'y Letter, *supra* note 68.

125. Danielle K. Campbell, Note, *Animal Abusers Beware: Registry Laws in the Works to Curb Your Abuse*, 48 VAL. U. L. REV. 271, 272 (2013).

126. S. B. 405, 2017 Leg., 2016–2017 Sess. (Nev. 2017) (as amended on May 30, 2017, but not enacted) (creating an animal abuser registry website and requiring offenders convicted of certain animal cruelty offenses to register with the website).

127. Nowicki, *supra* note 120.

128. Wisch, *supra* note 25.

129. NAT'L LINK COAL., *supra* note 10.

130. Assemb. B. 391, 2017 Leg., 79th Sess. (Nev. 2017).

person is guilty of a gross misdemeanor.<sup>131</sup> The second penalty, however, provides that if the animal dies or suffers serious bodily injury, or the person has a prior animal cruelty conviction, then that person is guilty of a category D felony.<sup>132</sup>

States with anti-bestiality laws are split between categorizing the offense as either a felony or misdemeanor.<sup>133</sup> A little more than half of the states with bestiality laws categorize the crime as a misdemeanor, whereas the remaining states categorize the crime as a felony.<sup>134</sup> Some states that categorize bestiality as a misdemeanor, however, allow for a felony conviction if the person was previously convicted of, or caused minors to engage in, the act.<sup>135</sup>

While most states designate bestiality as either a misdemeanor or a felony, Chapter 86 has opted for both, depending on various factors including the severity of the crime and the offender's criminal background.<sup>136</sup> Gina Griesen, the president of Nevada Voters for Animals and one of the authors of Chapter 86, explains the bill seeks to follow other states in categorizing bestiality as a misdemeanor, but also allows for a harsher penalty in extreme or serious cases.<sup>137</sup> A category D felony is reserved for "abhorrent situations," like the "gang rape of a dog."<sup>138</sup> Both Ms. Griesen and supporters of the bill reiterate that people who hurt animals also hurt people, especially children, and the inclusion of a felony provision may prevent future violence against humans.<sup>139</sup> This provision demonstrates Nevada's recognition of the recidivism rates for animal abusers and the belief that stopping offenders at this stage will ultimately protect Nevada communities from future violence.<sup>140</sup>

---

131. *Id.*

132. *Id.*; NEV. REV. STAT. ANN. § 193.130 (West 2017) (a category D felony is a felony in which the court may sentence a person to state prison for a period of one to four years, and the court may also impose a fine of not more than \$5,000).

133. Wisch, *supra* note 25.

134. *Id.*

135. *Id.*; *Charging Considerations in Criminal Animal Abuse Cases*, ANIMAL LEGAL DEF. FUND, <http://aldf.org/resources/advocating-for-animals/charging-considerations-in-criminal-animal-abuse-cases/> (last visited Oct. 6, 2017) (on file with *The University of the Pacific Law Review*) ("Some statutes are written expressly to allow certain charges to be elevated or 'enhanced' under specific conditions. [For example, in] Oregon, a misdemeanor charge of animal cruelty may become a felony charge where the act was carried out in the presence of a minor.").

136. Assemb. B. 391, 2017 Leg., 79th Sess. (Nev. 2017).

137. 391 Nat. Res. Hearing, *supra* note 17 (statement of Gina Griesen, President of Nevada Voters for Animals).

138. *Id.*

139. *Id.*

140. *Id.*; Wilde, *supra* note 28; Pacelle, *supra* note 42.

C. *Animal Cruelty or Crime Against Morals?*

Nevada moved away from the current trend of classifying bestiality as an act of animal cruelty.<sup>141</sup> Instead, the state categorized bestiality as a crime against morals.<sup>142</sup> Chapter 86's location in Chapter 201, Crimes Against Public Decency and Good Morals, of the Nevada Revised Statutes, poses an interesting question: Why here and not under Chapter 574, Cruelty to Animals?<sup>143</sup> The likely answer is that animal sexual abuse does not always result in physical injury to the animal.<sup>144</sup> Additionally, there are many acts that may occur before the act of cruelty, such as advertising or renting out the animal to another person.<sup>145</sup> Chapter 201 encompasses all acts relating to bestiality, whereas Chapter 574 consists of offenses that result in actual physical injury of the animal.<sup>146</sup> Additionally, law enforcement agencies are more familiar with Chapter 201 than with animal cruelty laws, which means police officers and other responders know what to look for.<sup>147</sup>

Most modern anti-bestiality statutes are found under animal cruelty laws because of the physical and fatal harm an animal may suffer through sexual molestation by a human.<sup>148</sup> Another reason for this shift in terminology results from states moving away from sodomy laws.<sup>149</sup> As states disposed of "old 'crimes against nature' laws that criminalized sodomy between consenting adults," they removed statutes relating to the sexual interactions between humans and animals.<sup>150</sup> As states enact separate anti-bestiality statutes, one question about personal freedom and privacy from sodomy laws remains: Are anti-bestiality laws an intrusion on a person's private life?<sup>151</sup> The answer comes down to consent: Similar to child sexual abuse and rape, bestiality is "an activity in which one party has no choice and cannot consent or refuse."<sup>152</sup> When sexual activity is based on one party being forced to participate, then "the sexual abuser of animals leaves the realm of private action."<sup>153</sup> Because the state owes a duty to

---

141. Wisch, *supra* note 25.

142. Assemb. B. 391, 2017 Leg., 79th Sess. (Nev. 2017).

143. Humane Soc'y Letter, *supra* note 68.

144. *Bestiality Crimes Targeted by New States Laws*, *supra* note 11.

145. *Id.*

146. Humane Soc'y Letter, *supra* note 68.

147. 391 Nat. Res. Hearing, *supra* note 17 (statement of Warren Hardy, The Humane Society of the United States).

148. Wisch, *supra* note 25; VT. ANIMAL CRUELTY TASK FORCE, *supra* note 8, at 4. *See, e.g.*, ALASKA STAT. ANN. § 11.61.140 (West 2017), ME. REV. STAT. ANN. tit. 17, § 1031 (West 2017) (examples of state bestiality statutes categorized under animal cruelty).

149. DaSilva, *supra* note 12.

150. *Id.*

151. VT. ANIMAL CRUELTY TASK FORCE, *supra* note 8, at 3.

152. *Id.* at 2.

153. *Id.*



protect the health and safety of its citizens, bestiality falls under this interest and requires the state to step in and protect those who cannot speak for themselves, including animals.<sup>154</sup>

While Chapter 86 echoes the notion that animals cannot consent to sexual activity, its categorization as a crime against morals is founded on the belief that while all animal sexual molestation is abuse, not all cases will result in physical injury to the animal.<sup>155</sup> Chapter 86 also seeks to encompass many other actions associated with the act of bestiality, such as filming and advertising, which do not physically injure the animal but play a significant role in the animal's abuse.<sup>156</sup>

#### D. *The Inclusion of Photography and Filming in the Statute*

Recent anti-bestiality laws include a new provision to tackle the issue of internet trafficking: “a prohibition on the photographing or filming of sexual acts with animals.”<sup>157</sup> Chapter 86 is no exception.<sup>158</sup> The statute's definition of bestiality contains a provision providing that photography or filming of sexual activity with an animal for the person's or another's sexual gratification is unlawful.<sup>159</sup> The internet provides a platform for offenders to promote this activity and communicate with like-minded people.<sup>160</sup> Offenders also use websites to “trade, rent, and sell animals for sex.”<sup>161</sup>

Although the act of animal sexual abuse “does not always result in physical injury to the animal,” the acts of “advertising, renting, selling, or training an animal for sex” often take place beforehand.<sup>162</sup> Chapter 86 defines these activities as an act of bestiality, which gives law enforcement a chance to act in these cases.<sup>163</sup> Again, these types of actions may not result in the physical harm of an

---

154. Wisch, *supra* note 25.

155. *Bestiality Crimes Targeted by New States Laws*, *supra* note 11.

156. *Id.*

157. Wisch, *supra* note 25 (“With the availability of online media outlets to distribute this material, these newer laws seek to protect the public from obtaining access to these images.”). *See also* ALASKA STAT. ANN. § 11.61.140(a)(6)(B)(i) (West 2017) (prohibits “photograph[ing] or film[ing], for purposes of sexual gratification, a person engaged in sexual conduct with an animal”); S.D. CODIFIED LAWS § 22-22-42(4) (West 2017) (“Videotape a person engaging in a sexual act with an animal”); WASH. REV. CODE ANN. § 16.52.205(3)(e) (West 2017) (“Knowingly photographs or films, for purposes of sexual gratification, a person engaged in a sexual act or sexual contact with an animal.”).

158. Assemb. B. 391, 2017 Leg., 79th Sess. (Nev. 2017).

159. *Id.*

160. *Bestiality Crimes Targeted by New States Laws*, *supra* note 11.

161. Humane Soc’y Letter, *supra* note 68 (“[T]here have been [dozens of] posts on the Nevada Craigslist page from owners offering their dogs for sex with strangers or people seeking animals for sex.”).

162. *Id.*

163. *Id.* (“law enforcement can identify and monitor dangers in their community”).

animal, but they play a major role in bestiality and are why supporters of the bill believe the statute is better suited under crimes against morals, rather than animal cruelty.<sup>164</sup> Persons who photograph or film the act can publish their pictures or videos on the internet where others can easily access these materials.<sup>165</sup> Websites allow persons to “seek out one another and trade, sell, and rent animals for sex.”<sup>166</sup> Therefore, the inclusion of a no-photography-or-film provision allows law enforcement agencies to find perpetrators of animal sexual abuse more quickly.<sup>167</sup> While the internet provides a platform for bestiality perpetrators, law enforcement agencies can easily track cases because these acts are exposed to the public, whereas before acts of bestiality occurred in secret.<sup>168</sup>

### *E. Psychological Counseling*

Because research reveals a connection between bestiality and other crimes, many state statutes require or recommend psychological counseling for convicted offenders.<sup>169</sup> Chapter 86 gives Nevada judges the option to order the convicted person to undergo a psychological evaluation or counseling.<sup>170</sup> The convicted person is also required to pay his or her own expenses for such treatment.<sup>171</sup>

States remain divided on the inclusion of psychological evaluations and counseling and to what extent they should be required.<sup>172</sup> Some states require psychological counseling whereas others, like Nevada, simply list it as an option in sentencing.<sup>173</sup> Often states that include psychological evaluations and counseling require convicts to pay their own expenses.<sup>174</sup> Unlike the anti-

---

164. 391 Judiciary Hearing, *supra* note 34 (statement of Heather Carpenter, Western Regional Director, The Humane Society of the United States).

165. *Id.*

166. *Id.*

167. *Id.*

168. *Bestiality Crimes Targeted by New States Laws, supra* note 11.

169. Wisch, *supra* note 25. See ARIZ. REV. STAT. ANN. § 13-1411(B)(1) (West 2017) (“Undergo a psychological assessment and participate in appropriate counseling at the convicted person’s own expense.”); IOWA CODE ANN. § 717C.1(3) (West 2017) (“Upon conviction for a violation of this section, and in addition to any sentence authorized by law, the court shall require the person to submit to a psychological evaluation and treatment at the person’s expense.”); N.J. STAT. ANN. § 4:22-17(g) (West 2017) (“If a juvenile is adjudicated delinquent . . . the court also shall order the juvenile to receive mental health counseling by a licensed psychologist or therapist named by the court for a period of time to be prescribed by the licensed psychologist or therapist.”).

170. Assemb. B. 391, 2017 Leg., 79th Sess. (Nev. 2017).

171. *Id.*

172. Wisch, *supra* note 25.

173. *Id.*; Assemb. B. 391 (Nev. 2017).

174. Wisch, *supra* note 25. See ARIZ. REV. STAT. ANN. § 13-1411(B)(1) (West 2017) (The convicted may be required to “[u]ndergo a psychological assessment and participate in appropriate counseling at the convicted person’s own expense.”); IOWA CODE ANN. § 717C.1(3) (West 2017) (“Upon conviction for a violation of this section, and in addition to any sentence authorized by law, the court shall require the person to submit to a

bestiality laws in other states, Chapter 86 does not provide courts with guidance on how to address the issue when a convict is indigent and unable to make the payments.<sup>175</sup> For example, Colorado's bestiality statute provides that if the convict is represented by a public defender, the judicial district covers the cost.<sup>176</sup> Additionally, Colorado's statute requires the psychological evaluation to be made before sentencing, whereas Chapter 86 makes the evaluation optional, at the judge's discretion.<sup>177</sup> Colorado requires the psychological evaluation prior to sentencing so the judge can determine the appropriate sentence.<sup>178</sup> Bestiality in Colorado, however, is punishable as a misdemeanor, as opposed to a felony, so the court and psychologist have an opportunity to determine the rate of recidivism for each offender.<sup>179</sup> In contrast, Nevada's placement of psychological counseling after sentencing suggests that the state regards animal abuse "as an indicator of a serious need for specialized treatment."<sup>180</sup> Again, this is consistent with Nevada's preference in "breaking the cycles of violence" rather than simply punishing offenders who need mental health treatment.<sup>181</sup>

Ultimately, Chapter 86 takes a modern approach in recognizing the danger of bestiality to both animals and humans, and its overall language seems to accomplish what Senator Carrillo and supporters of the bill envisioned.<sup>182</sup>

## V. CONCLUSION

Prior to Chapter 86, Nevada was one of a handful of states that did not criminalize bestiality.<sup>183</sup> Nevada police received numerous calls from concerned citizens seeking to report bestiality, only to find that the state did not criminalize animal sexual abuse and there was nothing law enforcement could do to help

---

psychological evaluation and treatment at the person's expense."); TENN. CODE ANN. § 39-14-214(c)(2) (West 2017) ("Participate in appropriate counseling at the defendant's expense").

175. Assemb. B. 391 (Nev. 2017).

176. COLO. REV. STAT. ANN. § 18-19-202 (West 2017) ("The person ordered to undergo an evaluation shall be required to pay the cost of the evaluation, unless the person qualifies for a public defender, then the cost will be paid by the judicial district.").

177. *Id.* ("The court shall order an evaluation to be conducted prior to sentencing to assist the court in determining an appropriate sentence.").

178. *Id.* ("The court shall order an evaluation to be conducted prior to sentencing to assist the court in determining an appropriate sentence.").

179. *Id.*

180. Elizabeth Shum, Nicole Pond, Karolyn Morawe & Leigh Kunkle, *Toward Mandatory Reporting of Animal Abuse by Psychologists*, SOC'Y FOR ADVANCEMENT PSYCHOTHERAPY (2016), <http://societyforpsychotherapy.org/toward-mandatory-reporting-animal-abuse-psychologists/> (on file with *The University of the Pacific Law Review*).

181. NAT'L LINK COAL., *supra* note 10.

182. VT. ANIMAL CRUELTY TASK FORCE, *supra* note 8, at 3; 391 Judiciary Hearing, *supra* note 34 (statement of Heather Carpenter, Western Regional Director, The Humane Society of the United States).

183. Walker, *supra* note 90.

them or their communities.<sup>184</sup> The enactment of Chapter 86 allows law enforcement officials to take steps toward protecting Nevada animals and communities by identifying potential sexual predators and intervening to prevent future harm to more animals and humans.<sup>185</sup>

Chapter 86 introduced the crime of bestiality to the state of Nevada.<sup>186</sup> In doing so, Nevada joined the majority of states in recognizing bestiality as animal abuse and the link between animal abuse and human violence.<sup>187</sup> Despite the strong connection between animal abuse and other violent crimes, Nevada favored “breaking the cycles of violence” through psychological counseling as opposed to requiring offenders to register as lifetime sex offenders.<sup>188</sup> Unlike most states that categorize bestiality as either a felony or a misdemeanor, Chapter 86 is broad in scope and encompasses both felony and misdemeanor bestiality crimes, with each conviction based on the severity of the crime and whether the offender has a prior animal cruelty conviction.<sup>189</sup> Chapter 86 also deviates from modern trends by using the term “bestiality” in its statute and by categorizing it as a crime against morals rather than an act of animal cruelty.<sup>190</sup> Lastly, Chapter 86 also encompasses many other acts associated with the bestiality, including: photographing, filming, advertising, and selling.<sup>191</sup>

With the promulgation of Chapter 86, Nevada unites with the majority of states and recognizes the importance of animal cruelty and anti-bestiality laws in protecting animals, like Shadow, and in preventing future violence toward humans.<sup>192</sup> In the words of Gina Griesen, “[i]t’s time and it’s common sense” for Nevada to take this step and criminalize bestiality.<sup>193</sup>

---

184. 391 Judiciary Hearing, *supra* note 34 (statement of Brian O’Callaghan, Las Vegas Metropolitan Police Department).

185. *Id.* (statement of Heather Carpenter, Western Regional Director, The Humane Society of the United States).

186. Walker, *supra* note 90.

187. VT. ANIMAL CRUELTY TASK FORCE, *supra* note 8, at 3.

188. Assemb. B. 391, 2017 Leg., 79th Sess. (Nev. 2017); NAT’L LINK COAL., *supra* note 10.

189. Assemb. B. 391 (Nev. 2017).

190. *Id.*

191. *Id.*

192. *Id.*; PHILLIPS, *supra* note 16.

193. 391 Nat. Res. Hearing, *supra* note 17 (statement of Gina Griesen, President of Nevada Voters for Animals).