



**OPPOSE SB882 – An Act Relative to the Wrongful Death or
Injury of Animal Companions
[Sen. Keenan (D)]
Referred to Joint Committee on the Judiciary**

WHAT THIS BILL DOES:

This bill elevates the loss of animals to a similar position to the loss of humans. It allows for damages for emotional distress of loss of companionship in cases of injury or death of an animal.

1. It raises the legal status of dogs, cats, birds, horses, rabbits, guinea pigs or other warm-blooded animals to the same status humans have in case of loss or injury.
2. It allows up to \$25,000 damages in non-economic damages plus economic damages when an animal is killed or injured and charges are pursued.
3. It allows an action of tort by a “guardian ad litem or next friend” of an animal.

WHY YOU SHOULD OPPOSE THIS BILL:

Laws governing animal ownership and animal care have been remarkably consistent for over two hundred years. These laws are based on agreement that pets are the legal property of their owners while benefitting from laws governing their care and treatment. Under this system, owners whose pets are negligently injured or killed can recover the economic value of a pet, the cost of any veterinarian bills resulting from an alleged injury, and in some instances, other reasonable and necessary costs arising out of the injury. These types of damages are called "economic damages" because they are of a certain or determinable dollar value.

In addition to these "economic" damages, if a defendant is found to have acted with malice and intended to injure or kill the plaintiff's pet, punitive damages may be awarded in an effort to punish as well as to deter further intentional or reckless behavior or actions motivated by malice.

This bill would add a third type of award — "non-economic" damages, named so because they attempt to cure intangible harms, such as pain and suffering, which cannot be readily represented by an actual dollar amount. Non-economic damages are typically not available in cases involving damage to personal property (remember, animals are considered property under the law). This principle has provided the justification for courts to almost universally reject allowing compensation for an owner's emotional loss in pet injury and death cases.

Legal scholars and animal experts agree that significant negative consequences would flow from allowing non-economic damages to be awarded in pet injury and death cases. The risk of increased legal liability will result in increased costs to cover that liability for all parties in the animal care chain (which will ultimately be passed on to animal owners), while posing increased risks to public health. For example, the potential award of non-economic damages would subject veterinarians to more lawsuits alleging damage to an owner's animal. Increased malpractice insurance costs would make it more expensive for veterinarians to practice, which would, in turn, increase the cost of veterinary care. Higher pet care costs could easily put routine veterinary care and diagnostic testing out of reach for many dog owners. Furthermore, dogs that do not receive regular health care represent an increased risk to public health, since they may not be adequately vaccinated against zoonotic diseases.

The availability of non-economic damages would also likely result in an increase in litigation subjecting all types of parties to the risks of increased liability, including pet sitters, dog parks, and even neighbors. It would likely open the door for more lawsuits against veterinarians and in cases where an animal is accidentally run over by a car or killed in an accident.

FOR MORE INFORMATION:

Massachusetts Federation of Dog Clubs and Responsible Dog Owners
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03/01/17

Senate. No. 882
The Commonwealth of Massachusetts

PRESENTED BY:
John F. Keenan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the wrongful death or injury of animal companions.

PETITION OF:

Kris MacDonald, Michael O. Moore , Hannah Kane, Kimberly N. Ferguson , Kevin J. Kuros

SB882 - Sen. Keenan, John (D) - An Act relative to the wrongful death or injury of animal companions

SECTION 1. Section 85A of chapter 272 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out the first sentence.

SECTION 2. Said chapter 272, as so appearing, is hereby amended by inserting after section 85A the following section:-
Section 85A 1/2.

(a) As used in this section, the term "animal-companion" shall mean a dog, cat or any warm-blooded, domesticated non-human animal dependent on one or more human persons for food, shelter, veterinary care, or companionship. Animal-companion shall not include animals that are the subjects of legal, humane farming practices, legal, humane biomedical research practices or activities regulated by the federal Animal Welfare Act.

(b) A person who by willful, wanton, reckless or negligent act or omission kills or causes or procures the death of an animal-companion shall be liable in damages for the fair monetary value of the deceased animal to his or her human companions, including damages for the loss of the reasonably expected society, companionship, comfort, protection and services of the deceased animal to his or her human companions; reasonable burial expenses of the deceased animal; court costs and attorney's fees; and other reasonable damages resulting from the willful, wanton, reckless or negligent act or omission. Non-economic damages shall have a cap value of \$25,000.

(c) A person who by willful, wanton, reckless or negligent act or omission injures, or causes or procures to be injured, an animal-companion shall be liable in damages for the expenses of veterinary and other special medical care required; the loss of reasonably expected society, companionship, comfort, protection and services of the injured animal to his or her human companions; court costs and attorney's fees; and other reasonable damages resulting from the willful, wanton, reckless or negligent act or omission. Non-economic damages shall have a cap value of \$25,000.

(d) Damages under this section for injuries sustained by an animal shall be recovered in an action of tort by the aggrieved or a guardian ad litem or next friend, commenced within three years from the date of injury or from the date when the aggrieved or guardian ad litem or next friend knew, or in the exercise of reasonable diligence should have known, of the factual basis for a cause of action.