THE “DE-CHATTELIZATION” OF COMPANION ANIMALS THROUGH FAMILY LAW LEGISLATION: HOW ALASKA’S H.R. 147 HAS DISMANTLED THE TRADITIONAL PROPERTY LAW VIEW OF PETS

Morgan Chandler
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Dogs are chairs; they’re furniture; they’re automobiles, they’re pensions. They’re not kids.¹
—The Honorable John Tomasello, New Jersey Superior Court

I. INTRODUCTION

Over 65 million households in the United States have a pet, otherwise known as a
companion animal.² Companion animals are defined as “animals who live and share their lives
with human beings, who are responsive to and interact emotionally with their guardians, and who
are valued as ends in themselves.”³ The term “companion animal” has been preferred by animal
activists over the term “pet” because it better describes the relationship and roles between
humans and domestic animals.⁴ Similarly, animal activists prefer the term “animal guardian”
instead of “owner.”⁵

Of the U.S. households that have companion animals, over 60% consider their
companion animals to be family members,⁶ with many animal guardians claiming that there is
little distinction between their companion animals and their children.⁷ Just 1% of U.S.
households consider their companion animals as property.⁸ When couples of these households

¹ Eric Kotloff, All Dogs Go to Heaven . . . Or Divorce Court: New Jersey Un“Leashes” A Subjective
Value Consideration to Resolve Pet Custody Litigation in Houseman v. Dare, 55 VILL. L. REV. 447
(2010).
http://www.humanesociety.org/issues/pet_overpopulation/facts/pet_ownership_statistics.html (last visited
Apr. 12, 2017).
⁴ Id. at 1098.
⁵ Elizabeth Paek, Fido Seeks Full Membership In the Family: Dismantling The Property Classification of
⁶ U.S. Pet Ownership Estimates, supra note 2.
⁷ Paek, supra note 5, at 482.
⁸ U.S. Pet Ownership Estimates, supra note 2.
separate or get divorced, courts have typically failed to reflect the modern social view of companion animals and have instead sided with the 1% by applying the principles of property law when deciding companion animal custody disputes.\(^9\) This means that under our current legal framework, there is no distinction between a companion animal and personal property such as household furniture or electronics.

When a couple divorces, a court divides the couple’s property and assets between them using the principles of property law, community property law, or equitable distribution.\(^{10}\) Generally, a jurisdiction’s marriage dissolution statutes control what standard applies to property divisions in divorces.\(^{11}\) The court must also adjudicate the custody of the couple’s children based on the best interests of the children.\(^{12}\) But when a court is confronted with companion animal custody issues, it’s not always clear what legal standard should apply.

The presence of a companion animal in a family implicates similar issues to raising children.\(^{13}\) Parties must consider care, protection, training, and personal, mutual relationships.\(^{14}\) Nevertheless, some courts have declined to adopt the best interest of the child standard when determining companion animal custody.\(^{15}\) These courts generally apply equitable distribution considerations when determining companion animal custody, and have declined to award visitation rights to parties in divorce proceedings because the companion animal is considered


\(^{13}\) Stroh, *supra* note 9, at 252.

\(^{14}\) Id.

\(^{15}\) See *In re Marriage of Pilskalns*, 2008 Mont. LEXIS 308, at **5 (Mont. June 18, 2008); In re Marriage of Stewart*, 356 N.W.2d 611 (Iowa Ct. App. 1984); *In re Marriage of Berger and Ognibene-Berger*, 834 N.W.2d 82 (Iowa Ct. App. 2013).
property.\textsuperscript{16} When applying the doctrine of equitable distribution, a court typically assigns a companion animal a monetary value based on its fair market value, and then distributes the companion animal along with other marital assets in a property settlement.\textsuperscript{17} In instances when a companion animal is acquired by one party prior to the marriage or relationship, a court will typically consider the companion animal to be excluded from the marital estate, and the companion animal’s original purchaser will retain it, even if the companion animal has developed an emotional bond with the other spouse.\textsuperscript{18}

Recently, some courts have attempted to “de-chattelize” companion animals in effort to recognize that companion animals do have emotional value to humans.\textsuperscript{19} However, most of these courts have been reluctant to fully depart from established common law and acknowledge animals as more than property.\textsuperscript{20} Courts generally struggle with adopting the “best interest of the animal” standard because animals lack legal standing in the court system.\textsuperscript{21} Applying this standard would require courts to first accept the premise that companion animals have a “legal personality, which is predicated on having the rights and privileges of a legal person, including the ability to sue or be sued.”\textsuperscript{22} Some scholars have suggested limiting the legal personality of animals to narrow companion animals’ legal participation as parties in family law cases.\textsuperscript{23}

Nevertheless, a court’s personal views as to the legal status of companion animals will greatly

\textsuperscript{17} Kotloff, \textit{supra} note 1, at 456.
\textsuperscript{18} Id.
\textsuperscript{21} Stroh, \textit{supra} note 9, at 246.
\textsuperscript{22} Id.
\textsuperscript{23} Id.
influence the outcome of companion animal custody disputes, which tends to create an arbitrary application of the law.\textsuperscript{24} 

A few courts have deviated from the conventional approaches to handling companion animal custody disputes, and have applied standards such as the “best for of all concerned.”\textsuperscript{25} However, courts in New Jersey have criticized this approach, and have instead opted to treat companion animals more like sentimental property, such as family heirlooms or works of art, rather than tangible personal property.\textsuperscript{26} The New Jersey appellate courts have reasoned that there are practical limitations of a court’s ability to apply a best standards approach in such disputes, finding that this would require courts to assume the perspective of a companion animal.\textsuperscript{27} Other courts have continued to treat companion animals as personal property, but have modified parties’ property rights to companion animals to resemble a joint custody arrangement.\textsuperscript{28} 

These varying legal standards applied by courts when adjudicating divorce and companion animal custody proceedings demonstrate a lack of uniformity and clarity in this area of the law. The often arbitrary distribution of companion animals leads to injurious results to both the animal guardians and the companion animal.\textsuperscript{29} Sometimes companion animals are awarded to the party who cares little for them, and denies the companion animal the affection and care it would have otherwise received had the court made a different decision.\textsuperscript{30} Even if a court applies special legal considerations to companion animals, the court is often limited in its statutory authority to continuously enforce the parties’ joint care and custody of a companion animal.

\textsuperscript{24} Id. at 249. 
\textsuperscript{25} Travis, 977 N.Y.S.2d at 631. 
\textsuperscript{27} Id. at 28. 
\textsuperscript{28} Juelfs v. Gough, 41 P.3d 593 (Alaska 2002). 
\textsuperscript{29} Stroh, supra note 9, at 249. 
\textsuperscript{30} Id.
animal. The Alaska Legislature has recognized this problem and has attempted to provide guidance to the state’s courts by passing a bill that specifically requires district court judges to consider a companion animal’s well-being when adjudicating divorce proceedings. The passage of Alaska’s H.R. 147 demonstrates a growing modern legal trend of giving companion animals special legal considerations and serves as a model for other states, whose courts would benefit from having clear and unambiguous statutory authority to consider companion animals’ interests in divorce proceedings.

II. BACKGROUND

The increased role of companion animals within families has led to widespread criticism of courts’ applications of property law when resolving companion animal custody disputes. Companion animals were first categorized as tangible personal property in the United States Supreme Court case, *Sentell v. New Orleans*. In *Sentell*, a plaintiff animal guardian sought to recover the value of his dog Countess Lona, who had been negligently killed by a train. The Court ultimately rejected the plaintiff’s claims. The Court found that a domesticated dog was more akin to personal property because it was not livestock, and thus had a “lack of intrinsic value” due to its inability to produce or be used as food for humans.

*Sentell*’s common law categorization of animals was based on an animal’s utility, but this classification has become outdated and unsustainable in an era where many animal guardians

33 Kotloff, supra note 1, at 449.
34 Id. at 457.
36 Id. at 700.
37 Id. at 706.
38 Id. at 701.
39 Id.
view their companion animals as family members.\textsuperscript{40} Sentell plainly failed to recognize the emotional relationship between companion animals and humans.\textsuperscript{41} Since Sentell, many scholars have asserted that companion animals are sentient and emotive beings that share similar emotional and cognitive qualities with humans.\textsuperscript{42} Companion animals are capable of showing and returning love and affection, and can exhibit human-like traits and emotions such as fear and jealousy.\textsuperscript{43} The relationship and attachment between a human and an animal often evolves similarly to human relationships.\textsuperscript{44} Based on these qualities, the relationship between animal guardians and companion animals is more akin to the relationship between parents and children rather than owners and tangible personal property.\textsuperscript{45}

While most courts have been slow in granting companion animals special legal protections, lawmakers have attempted to recognize the unique relationship between humans and companion animals through various state and local legislation. In 2000, Boulder County, Colorado was the first jurisdiction in the United States to amend its county ordinance to better reflect the relationship between companion animals and human beings.\textsuperscript{46} Boulder City Council voted to replace its ordinances that referenced the term “animal owner” to “animal guardian.”\textsuperscript{47} Counties in California, Arkansas, Massachusetts, and Wisconsin soon followed Boulder City’s


\textsuperscript{41} Squires-Lee, \textit{supra} note 3, at 1060.

\textsuperscript{42} Paek, \textit{supra} note 5, at 488.

\textsuperscript{43} \textit{Id.}

\textsuperscript{44} Squires-Lee, \textit{supra} note 3, at 1065–66.

\textsuperscript{45} Paek, \textit{supra} note 5, at 488.

\textsuperscript{46} \textit{Id.} at 486.

\textsuperscript{47} \textit{Id.}
lead and adopted similar ordinances. In 2001, Rhode Island became the first state in the U.S. to apply the change in terminology to its entire state legislation.

While none of these earlier laws changed the substantive legal status of companion animals, Alaska’s H.R. 147 is unique because it is the first piece of passed legislation that grants substantive legal protections for companion animals outside the context of animal cruelty laws. Alaska wasn’t the first state to propose such a bill, however. In 2007, a similar bill was introduced in Wisconsin but ultimately failed in the state’s senate. Later that year, the state of Michigan proposed a pet custody bill based on Wisconsin’s, but the legislation was never passed. In 2011, Maryland also introduced a pet custody bill that failed to pass. Although special legal protections for companion animals never came to fruition in these states, these bills served as the basis for Alaska’s H.R. 147.

Prior to H.R. 147, no statute in Alaska specifically governed the custody or ownership of pets in such proceedings. Like most other jurisdictions, Alaska courts traditionally considered companion animals to be property. Companion animals were disclosed as assets along with

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48 Id. at 486–87.
49 Id. at 487–88.
50 H.R. 147, 29th Leg., 2d Sess. 1 (Alaska 2015) (Draft C, the final draft of the bill) at http://www.legis.state.ak.us/basis/get_documents.asp?session=29&docid=64796.
54 LEGIS. RESEARCH SERVICES REP., supra note 35.
other property in divorce cases.\textsuperscript{57} However, Alaska’s legislature noted that companion animals had been treated as “something more” than personal property in the Alaska Supreme Court case \textit{Juelfs v. Gough}.\textsuperscript{58} Alaska’s legislature relied in part on \textit{Juelfs} to support H.R. 147 because \textit{Juelfs} appeared to treat animals more like “living property” rather than personal property.\textsuperscript{59}

The unique result in \textit{Juelfs} demonstrated Alaska’s need for clarity in adjudicating divorce cases involving companion animals. Generally, divorcing parties are not granted visitation rights to property,\textsuperscript{60} but the district court in \textit{Juelfs} impliedly acknowledged companion animals’ interests when it granted the wife visitation rights to the couple’s dog, Coho.\textsuperscript{61} On appeal, the wife challenged the district court’s refusal to modify the arrangement and increase her visitation with Coho.\textsuperscript{62} Although the Alaska Supreme Court ultimately held that the wife could not modify a divorce decree to gain physical custody and increased visitation rights of the dog, this case is unique because the appellate court upheld the district court’s original order granting the wife visitation rights.\textsuperscript{63} \textit{Juelfs} exemplifies the complicated problem modern courts face when addressing companion animals. The \textit{Juelfs} court attempted to maintain the traditional view that companion animals are property by disallowing the wife to modify her visitation rights, but nevertheless upheld the lower court’s decision to grant the wife the visitation rights to “property” in the first place.

\textsuperscript{57} See generally Alaska R. Civ. P. 90.1 (requiring creation of property division tables that list all assets and liabilities of divorcing parties); Alaska R. Civ. P.26.1 (delineating processes for discovery and disclosure of property); see also LEGIS. RESEARCH SERVICES REP., supra note 35.  
\textsuperscript{58} LEGIS. RESEARCH SERVICES REP., supra note 35, at 1; 41 P.3d 593 (Alaska 2002).  
\textsuperscript{59} Id. at 1.  
\textsuperscript{60} Stroh, supra note 9, at 244.  
\textsuperscript{61} 41 P.3d 593, 594 (Alaska 2002).  
\textsuperscript{62} Id.  
\textsuperscript{63} Id.
Some courts in other states have looked to *Juelfs* to support their departure from the traditional categorization of companion animals as property.\(^{64}\) This reliance on *Juelfs* could signal that other states are ready to consider a similar statute like H.R. 147 that provides clarity and guidance to courts deciding companion animal issues in family law cases.

### III. ANALYSIS

Alaska’s H.R. 147 was sponsored by Representative Liz Vazquez and the late Representative Max Gruenberg.\(^{65}\) The bill was first introduced in March of 2015.\(^{66}\) Among other key changes for companion animals, the bill sought to amend the existing dissolution statutes to require judicial consideration of companion animals’ well-being when adjudicating their “ownership or joint ownership.”\(^{67}\)

H.R. 147’s dissolution provision was premised on the idea that companion animals are often viewed as family members and have an inherent self-interest in their continued well-being and existence.\(^{68}\) Relying on *Juelfs*, H.R. 147 views animals as “living property,” not tangible personal property.\(^{69}\) H.R. 147’s protections apply to any animal that is “a vertebrate living creature not a human being,” a new definition created by the bill.\(^{70}\) Earlier drafts of the bill

\(^{64}\) *Travis*, 977 N.Y.S.2d at 629; *Houseman*, 966 A.2d at 28.


\(^{67}\) SPONSOR STATEMENT, supra note 63; see also Division of Legal and Research Services, H.R. 147 SECTIONAL SUMMARY COMPARISON MEMORANDUM, 29\(^{\text{th}}\) Leg., 2d Sess. 1 (Alaska 2015), available at http://www.akleg.gov/basis/get_documents.asp?session=29&docid=64998 (“Section 19 amends AS 25.24.160(a) to allow a court to consider the well-being of an animal when considering ownership of an animal as part of a divorce proceeding.”).


\(^{69}\) *Id.*

\(^{70}\) Division of Legal and Research Services, supra note 65 (Section 26 adds a definition of “animal” at AS 25.24.990).
sought to exclude fish from this definition, but later omitted the exclusionary language.\footnote{Alaska H.R. 147, at 7 (§ 25.24.990 in Version Y of the bill reads, “Definition. In this chapter, “animal” means a vertebrate living creature not a human being, but does not include fish”), available at http://www.akleg.gov/basis/get_documents.asp?session=29&docid=7724. \textit{But see} Alaska H.R. 147, at 10 (Showing a language comparison between Versions Y and U of the bill. Version Y’s § 25.24.990 language, “does not include fish,” has been stricken in Version U), available at http://www.akleg.gov/basis/get_documents.asp?session=29&docid=7917. \textit{See also} Alaska H.R. 147, at 17 (The final draft of the bill, Draft C, also provides a definition that includes fish), available at http://www.legis.state.ak.us/basis/get_documents.asp?session=29&docid=64796.} The audio recording and minutes from the House Judiciary Standing Committee indicate that this definition was initially included because similar definitions excluding fish were found elsewhere in the Alaska Code.\footnote{H.R., \textit{House Judiciary Standing Committee}, 29\textsuperscript{th} Leg., 2d Sess. 1, at 6 (Alaska April 1, 2015), available at http://www.akleg.gov/basis/Meeting/Detail/?Meeting=HJUD%202015-04-01%2013:00:00 [hereinafter \textit{House Judiciary Standing Committee}]. \textit{See also} Division of Legal and Research Services, H.R. 147 \textit{DEFINITION OF ANIMAL MEMORANDUM}, 29\textsuperscript{th} Leg., 2d Sess. 1 (Alaska 2015) (Citing various Alaska code definitions of animal), available at http://www.akleg.gov/basis/get_documents.asp?session=29&docid=6015.} After the chairman of the committee, Gabrielle Ledoux, noted that individuals could develop an emotional attachment with fish just like other animals, the bill sponsors agreed to change the bill’s definition to include fish.\footnote{\textit{House Judiciary Standing Committee}, supra note 70, at 9.}

In addition to adding a new definition of animal, H.R. 147 amended the existing dissolution statutes by adding a new subsection to permit spouses to provide for the ownership or joint ownership of an animal in a dissolution proceeding.\footnote{Division of Legal and Research Services, supra note 65.} When issuing a final divorce decree, the court is required to consider whether the agreement between the divorcing couple concerning the ownership or joint ownership of a companion animal takes into consideration the well-being of the companion animal.\footnote{\textit{Id.} (“Section 25 amends AS 25.24.230(a) requiring court to consider whether the written agreements between the spouses concerning the ownership or joint ownership of an animal take into consideration the well-being of the animal in issuing a final decree of dissolution.”).} The court is also given discretion to amend written agreements between the divorcing spouses if it appears the agreement does not consider the companion
animal’s well-being.76 In November 2016, H.R. 147 was signed into law.77 The law was made effective January 17, 2017.78

A. Understanding the Limitations of H.R. 147

H.R. 147’s passage signals a huge victory for those seeking legal protection for companion animals. Its passage reflects the social view that companion animals are an integral part of U.S. families. Support for H.R. 147 was voiced by numerous groups, including the Municipality of Anchorage Animal Control Advisory Board.79 The Animal Control Advisory Board unanimously passed a resolution finding that companion animals play a significant role in the lives of humans and should not be treated as personal property in divorce cases.80 Other bill proponents acknowledged that companion animals can suffer during divorce proceedings because they are often used as emotional pawns between parties in a dispute.81 The organization Friends of Pets supported H.R. 147’s dissolution provision because the “judicial support” for divorcing parties when deciding a companion animal’s best interest “could assist parties to think beyond their emotion of the moment.”82 Another group supported H.R. 147 because of the belief

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76 Id. (“Section 24 amending AS 25.24.220(g) allowing the court to amend the written agreements between the spouses relating to the ownership or joint ownership of an animal, taking into consideration the well-being of the animal.”).
78 Id.
80 Id. at 2.
82 Id.
that it is the public’s responsibility to determine the best situation for an animal that becomes a part of a family and is put in a situation through no fault of its own.  

While H.R. 147 is a substantial improvement in the field of animal law, the concerns raised by its opponents demonstrate that the bill does not adequately address the family law issues surrounding companion animals. Some opponents of the bill were concerned H.R. 147 would create an unintended consequence of divorcing couples using the court system as a means of emotionally manipulating each other. Opponents of the bill were also concerned that a divorcing spouse who sells a companion animal because he or she is unable care for a companion animal during the pendency of a divorce would suffer legal consequences similar to disposing of or selling marital assets without the permission of the other party or the court. Opponents also raised concerns about the length of divorce proceedings, and the possibility that courts would be inundated with temporary custody motions for companion animals, as is often seen with child custody issues.

Some proponents of the bill noted the bill’s language of “ownership” instead of “custody” would render any temporary custody motions inappropriate and unactionable. However, Alaska courts were already making “ownership” determinations for animals using

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84 Letter from Peggy A. Grow, Executive Director, Alaska Network on Domestic Violence and Sexual Assault (ANDVSA), to Alaska House Representative Liz Vazquez (Mar. 27, 2015), available at http://www.akleg.gov/basis/get_documents.asp?session=29&docid=6005. ANDVSA’s opposition arises from the domestic violence protection order provision of the bill, not the dissolution provision. However, the organization discusses Juelfs v. Gough as an example of how couples use the court system as a means of emotional manipulation, and how this type of situation could become potentially lethal for domestic violence victims.
86 Id.
87 Email from Lisa Mariotti, Policy Director, ANDVSA, to Nicoli Bailey, supra note 86.
traditional property law principles prior to H.R. 147.\(^{88}\) Although the ownership wording invokes a traditional property law analysis, H.R. 147’s requirements implicate a different analysis because courts must consider the companion animal’s wellbeing, which is much more than determining which party gets possession of the animal. “Well-being” is not defined in H.R. 147 or in any other section of Alaska’s code, but it is commonly defined as “a state of being happy, healthy, or prosperous.”\(^{89}\) Considering the wellbeing of the animal necessarily implicates a custody analysis because the court must look at how and from whom an animal will receive its care, protection, affection, which all contribute to the animal’s physical and emotional health and wellbeing.\(^{90}\)

The concerns surrounding H.R. 147 have been similarly voiced by courts dealing with these issues.\(^{91}\) A number of courts have looked to the traditional child custody factors to attempt to address companion animal custody issues in divorce proceedings.\(^{92}\) Although Alaska’s best interest of the child standard presents several factors to guide courts in making child custody determinations,\(^{93}\) the factors do not fully address the wellbeing of the animal and are not the answer to resolving H.R. 147’s weaknesses. Under Alaska’s best interest of the child standard, a court must consider the child’s physical, emotional, mental, religious, and social needs.\(^{94}\) The court must also consider the capability and desire of each parent to meet the child’s needs, the child’s preference, the love and affection between the child and parent, the length of time the child has lived in a stable environment, evidence of abuse by a parent toward the child or the

\(^{88}\) See Juelfs, 41 P.3d at 596.


\(^{90}\) Id.

\(^{91}\) See Travis, 977 N.Y.S.2d at 631.


\(^{94}\) Id.
child’s other parent, and other “pertinent” factors.\textsuperscript{95} The court must only consider facts that directly affect the wellbeing of the child.\textsuperscript{96} Some courts have noted that the subjective factors relevant to a best interest analysis in child custody disputes, especially “those concerning a child’s feelings or perceptions as evidenced by statements, conduct and forensic evaluations,” are difficult to ascertain in animals.\textsuperscript{97} These courts have also noted that child custody battles are expensive, difficult, and emotionally tolling experiences for all parties involved.\textsuperscript{98} Courts also require an enormous amount of information to make a best interests finding.\textsuperscript{99} Additionally, the resource issues associated with child custody disputes frequently overwhelm courts, and companion animal custody cases decided using a similar analysis would likely burden courts further.\textsuperscript{100} These considerations suggest that the application of child custody factors cannot be applied to companion animals.

\textbf{B. Improving H.R. 147 to Better Address Family Law Issues}

H.R. 147 could be amended to address the concerns of its opponents, strengthen its protections for companion animals, and achieve greater clarity for courts by replacing any notion of animal “ownership” with “custody,” and requiring courts to apply a best for all concerned standard to determine custody. To achieve this, the legislature could include factors for judges to rely upon when considering an animal’s wellbeing. Such factors could mirror New York’s standard of best for all concerned.\textsuperscript{101} This standard is different than the best interest of the child standard, and could avoid many of the issues brought up by those opposed to H.R. 147. Whereas the best interest of the child standard takes into consideration a parent’s constitutionally

\begin{footnotes}
\item[95] Id. at § 25.24.150(c)(2)–(9).
\item[96] Id. at § 25.24.150(d).
\item[97] Travis, 977 N.Y.S.2d at 631.
\item[98] Id.
\item[99] Id.
\item[100] Id.
\item[101] Id. (citing Raymond, 695 N.Y.S.2d 308).
\end{footnotes}
protected right to the care and custody of his or her children, animal guardians do not have these same constitutional rights to their companion animals. Courts that consider an animal’s wellbeing by applying a best for all concerned standard would likely be alleviated from the complex issues arising from the best interest of the child standard.

The best for all concerned standard was first articulated in the case *Travis v. Murray*. In *Travis v. Murray*, two divorcing spouses each sought custody of their dog, Joey, whom they had purchased together prior to their marriage. The plaintiff filed for divorce and argued that Joey was her property because she had purchased him with her own funds prior to the marriage. The plaintiff also asserted it was in Joey’s “best interest” to be returned to her sole care and custody because she had been the dog’s primary caretaker and financial supporter. However, the defendant argued that Joey was gifted to her by the plaintiff and that she “attended to all of Joey’s emotional, practical, and logistical needs.”

The *Travis* court acknowledged that it was confronted with two different approaches in determining which side should be awarded Joey. While the plaintiff had invoked the traditional property analysis, the defendant argued for application of a custody analysis. The court noted that the common thread in each side’s approach was “calling into play such concepts as nurturing, emotional needs, happiness and, above all, best interests—concepts that are firmly rooted in child custody analysis.” Even though raised by the parties, the court rejected the

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104 Id. at 624.
105 Id.
106 Id.
107 Id. (internal citations omitted).
108 Id.
109 Id.
110 Id. at 624–25.
“wholesale application of the practices and principles associated with child custody.”111 Instead, the Travis court formulated a set of factors to achieve what was “best for all concerned.”112

Under the best for all concerned standard, courts look to the benefit each spouse will receive by having the companion animal in his or her life.113 Courts also assess the companion animal’s well-being by evaluating the companion animal’s best chance of “living, prospering, loving and being loved in the care of one spouse as opposed to the other.”114 Additionally, courts look to which party bore the major responsibility for meeting the companion animal’s needs, such as feeding, walking, grooming, and paying for veterinary care.115 The time each party spent with the companion animal and where the companion animal was left when the couple separated are also relevant to a court’s analysis.116

This best for all concerned standard provides a holistic approach to determining companion animal custody cases, and it is a standard that can improve legislation such as H.R. 147 if included. Similar factors could still be adopted by the Alaska legislature or other states considering legislation like H.R. 147. These factors are necessary to guide family law courts in making companion animal custody determinations, and would further ensure H.R. 147’s purpose of providing legal protections to companion animals is properly carried out.

IV. CONCLUSION

In general, the prevailing legal view of companion animals is at odds with many animal guardians’ relationships with their companion animals. Legislation like Alaska’s H.R. 147 de-chattelizes companion animals because it gives courts the authority to recognize the unique

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111 Id. at 630.
112 Id.
113 Id.
114 Id.
115 Id.
116 Id.
relationship between humans and companion animals. H.R. 147 acknowledges that such a relationship deserves special legal consideration by requiring courts to consider the companion animal’s well-being when making custody determinations. Because of the legal protections H.R. 147 provides, the bill serves as a legislative model for other states whose current dissolution statutes fail to account for a companion animal’s sentimental value within a family. By passing a bill like H.R. 147, legislatures would provide courts with statutory authority to consider companion animals’ interests in divorce proceedings, while companion animals and their animal guardians would benefit from having legal protection over their unique relationship.