REPORT ON LEGISLATION
BY THE ANIMAL LAW COMMITTEE

A.1303-B  M. of A. L. Rosenthal
S.5532-B  Sen. Gianaris

AN ACT to amend the agriculture and markets law, in relation to the declawing of cats.

THIS LEGISLATION IS APPROVED

I. INTRODUCTION

Since 2014, the Animal Law Committee of the New York City Bar Association (“City Bar”) has been studying the controversial veterinary procedures of onychectomy, phalangectomy, and tendonectomy that are performed on cats; these procedures are commonly referred to as “declawing.” We have made significant efforts to learn about and consider arguments in favor of and against a law prohibiting these procedures, including studying international, federal, and local laws that prohibit declawing, reviewing opinions of veterinary medical associations and animal welfare organizations, consulting with veterinarians and shelters, screening a documentary film for public discussion, reviewing briefs and opinions of governmental entities and other bar associations, and speaking to owners of declawed cats. On February 5, 2018, the Animal Law Committee held a public program in which we invited speakers on both sides of the issue to discuss the practice and the prospect of banning these procedures by law. All of the speakers agreed that alternatives exist that can spare cats from this serious medical procedure, though some in the field think that a cat owner should have the right to declaw if that owner would otherwise relinquish the cat.¹

Since 2014 when the Animal Law Committee began considering declawing, there have been significant developments that influenced our decision to support legislation to ban the procedure at this time.

First, the bill has been amended. In light of the City Bar’s position on mass incarceration,² the Animal Law Committee felt that the bill must be amended to change the penalty for violation from a misdemeanor to a civil fine. The bill has been amended to remove

¹ A link to a recording of the program is available on the City Bar’s website, here http://bit.ly/2Ht6kdG. (All websites last visited on May 6, 2019.)
² For more on the City Bar’s work toward reducing over-criminalization and mass incarceration, please view the following: http://www.nycbar.org/member-and-career-services/committees/mass-incarceration-task-force-on.
the criminal penalty and also limited the applicability of the civil fine to persons who actually perform the procedure.

Second, convincing evidence from Los Angeles County suggests that a law banning the declawing procedure would not result in an increase in abandoned cats. Since 2009, when a law banning the declawing procedure in Los Angeles County went into effect, the number of cats surrendered to the Los Angeles Animal Services Department declined slightly in the five years following the ban.3 There are numerous factors that influence relinquishment rates, but in a city of roughly four million people, it is significant that there is no evidence that a prohibition on declawing caused a spike in the number of cats being abandoned to shelters.

Third, the first study about the effect of declawing on a comparatively large population of cats’ behavior and long-term health was published in 2017 in the Journal of Feline Medicine and Surgery.4 The study stated that declawed cats had “much greater” odds of eliminating outside of the litter box than cats who had not been declawed.5 The authors hypothesized that this is because stepping on litter in a litterbox is painful for declawed cats.6 In addition, years after the surgery, declawed cats had a “significant increase” in back pain, biting, aggression, and barbering (pulling out hair).7 The authors hypothesized that increased biting and aggression resulted because declawed cats, who lack the defenses of their claws, felt forced to use more aggressive tactics to protect themselves.8 The authors also noted that while cat scratches typically do not result in infection, cat bite infection rates can be as high as 30% to 50%.9

Fourth, since 2014, more organizations have changed their positions or issued statements concerning declawing of cats. In 2017, in a rare statement about pending legislation, the North Shore Animal League issued its support of the bill.10 In 2017, Denver, Colorado banned cat declawing.11 Also in 2017, the Canadian Veterinary Medical Association publicly denounced the practice of cat declawing.12 Six Canadian provinces have since banned the practice of declawing.

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4 Nicole K Martell-Moran et al., Pain and Adverse Behavior in Declawed Cats, J. OF FELINE MEDICINE AND SURGERY 1 (May 23, 2017). (Article on file with the Animal Law Committee.)
5 Id. at 6.
6 Id.
7 Id.
8 Id.
9 Id. at 1-2.
10 North Shore Animal League, Position Statements, https://www.animalleague.org/who-we-are/position-statements. (All webpages cited in this report were last visited on March 13, 2018).

On balance, the Animal Law Committee believes that the growing arguments in favor of a ban outweigh the concerns of those opposed to a ban and, for this reason, as well as the reasons described below, we approve the bill.

II. SUMMARY OF THE PROPOSED LEGISLATION

The proposed legislation would amend Article 26 of the New York Agriculture and Markets Law by adding a new section 380, prohibiting any person from performing an onychectomy or partial or complete phalangectomy or tendonectomy on any cat within New York State, except when necessary to address the physical medical condition of the cat, such as an existing or recurring illness, infection, disease, injury or abnormal condition in the claw that compromises the cat’s health; performing these procedures for cosmetic or aesthetic reasons, or reasons of convenience in keeping or handling the cat, would be prohibited. Any person who performs an onychectomy, partial or complete phalangectomy or tendonectomy procedure on any cat within New York State would be guilty of a violation punishable by a civil penalty not to exceed one thousand dollars. The proposed legislation would take effect immediately.

III. BACKGROUND

Onychectomy, the standard method of declawing, involves the amputation of all or most of the last bone of each of the ten toes of the front feet using a scalpel, guillotine clipper, or laser and the severance of the surrounding tendons, nerves and ligaments. (A phalangectomy similarly involves the amputation of a phalanx, a bone of the finger or toe.) The feline bone

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contains both a growth plate and the nail; thus, by amputating this portion of the bone, the procedure permanently removes the animal’s nails. If performed on a human being, the anatomical equivalent of this procedure would be the amputation of a person’s fingers at the last joint. \(^{21}\) The wounds are closed with stitches or surgical glue and the feet are bandaged. Tendonectomy (or tenectomy) is a surgical procedure in which the tendons of the toes are severed, leaving the claws intact but rendering the cat unable to move or extend its claws. \(^{22}\) (Unless otherwise noted, as used in this report, “declawing” refers to onychectomy, phalangectomy, and/or tendonectomy.)

IV. JUSTIFICATION

The proposed legislation would prohibit performing an onychectomy, phalangectomy or tendonectomy on a cat or other animal for non-therapeutic purposes, \(^{23}\) but still permit these procedures when “necessary to address the physical medical condition of the cat.” The Committee supports the proposed legislation because performing such procedures on animals for non-medical purposes is unnecessary and inhumane.

a. Declawing Procedures for Non-Medical Purposes Are Unnecessary

Declawing procedures are generally not medically necessary for the health of the animal\(^{24}\) or the health of the pet owner.\(^ {25}\) The U.S. Centers for Disease Control and Prevention


\(^{22}\) See Wendy C. Brooks, *Declawing and Its Alternatives*, VeterinaryPartner.com (Jan. 24, 2002), at http://www.veterinarypartner.com/Content.plx?A=568. It was reported that 55% of the cats having tendonectomy procedures were still able to scratch to some degree and that 10% of the cat’s owners had the cats declawed after the procedure. See The Paw Project, *Frequently Asked Questions About Feline Declawing: Is declawing with a laser better? What about tendonectomy?*, PawProject.org, http://www.pawproject.org/faqs/ (citing A.J. Jankowski et al., *Comparison of Effects of Elective Tenectomy or Onychectomy in Cats*, 213 J. AM. VET. MED. ASSOC. 370-373 (1998)).

\(^{23}\) It is estimated that between 24-45% of all cats in homes are declawed. See Sylvie Cloutier et al., *Behavioural Signs of Postoperative Pain in Cats Following Onychectomy or Tenectomy Surgery*, 92 APPLIED ANIMAL BEHAVIOUR SCIENCE 325, 326 (citing G.J. Patronek, *Assessment of Claims of Short- and Long-term Complications Associated with Onychectomy in Cats*, 219 J. AM. VET. MED. ASSOC. 932–937 (2001)).

\(^{24}\) AVMA Position Statement on the Declawing of Domestic Cats, American Veterinary Medical Association (April 15, 2003), https://www.avma.org/News/JAVMANews/Pages/030415c.aspx (“Surgical declawing is not a medically necessary procedure for the cat in most cases.”). See Eileen Jefferson, DMV, *The Ethics of Convenience*, Humane Society Veterinary Medical Association (December 6, 2011) at https://www.hsvma.org/ethics_of_convenience#.XHbDNXN7nSY. Declawing procedures are often referred to as “convenience surgeries” because they unnecessarily place the animal at risk without imparting any physical benefit. Many veterinarians decline to perform convenience surgeries on ethical grounds alone, since these procedures inhibit an animal’s behaviors and perpetuate avoidance of responsibilities inherent in living with the animal, at the expense of the animal. See also CFA Guidance Statement on Declawing, The Cat Fancier’s Association, Inc. (June 2003), http://www.cfainc.org/Portals/0/documents/articles/declawing.pdf (“CFA perceives the declawing of cats (onychectomy) and the severing of digital tendons (tendonectomy) to be elective surgical procedures that are without benefit to the cat”).

\(^{25}\) The health risk from cat scratches is less than those from bites, cat litter, or fleas carried by cats. See The Humane Society of the United States, *Declawing Cats: Far Worse Than a Manicure* (May 12, 2014), at
Declawing procedures are commonly performed to prevent or eliminate certain behaviors such as unwanted scratching. A number of simple and humane alternatives to address scratching include (1) keeping the animal’s claws trimmed, (2) providing scratching posts and boards around the home, (3) applying soft plastic caps over the animal’s nails at home or in the veterinarian’s office, and (4) attaching a double-sided sticky tape to furniture, which will provide negative reinforcement to the scratching.

b. Declawing and Tendonectomy Procedures Are Painful and Inhumane

Declawing and tendonectomy procedures—and the side effects of the procedures—may cause serious harm to animals. As recognized by the American Veterinary Medical Association, declawing is a “painful procedure” with inherent risks and complications, including anesthetization, excessive bleeding, and other post-operative complications. Declawed cats may develop lameness, nerve damage, tissue damage, hemorrhage, regrowth, infection, pain, and other problems. Similarly, tendonectomy is associated with a high incidence of abnormal claw growth and muscle atrophy, and the animals still require the regular trimming of their nails.

http://www.humane society.org/animals/cats/tips/declawing.html. Among the human diseases most commonly associated with cats are bartonellosis (also known as cat scratch fever) and toxoplasmosis. See Cornell Feline Health Center, Zoonotic Disease: What Can I Catch from my Cat? (2006), at https://www.vet.cornell.edu/departments-centers-and-institutes/cornell-feline-health-center/health-information/feline-health-topics/zoonotic-disease-what-can-i-catch-my-cat. The only way a human may contract bartonellosis is through contact with a cat who is infected with the disease which generally occurs through a flea infestation or blood transmission (typically as a result of a cat fight). The Centers for Disease Control and Prevention (CDC) therefore does not recommend cat declawing to prevent contraction of this disease but rather advises flea prevention, keeping cats indoors and the avoidance of rough play. See CDC, Cat-Scratch Disease (April 30, 2014), http://www.cdc.gov/healthypets/diseases/cat-scratch.html#tabs-258629-2. The CDC further notes that people are more likely to acquire toxoplasmosis from eating raw meat or gardening and recommends that people simply wash their hands thoroughly after touching cat feces to prevent the potential transmission of the disease. CDC, Cats (May 13, 2016), http://www.cdc.gov/healthypets/pets/cats.html.

See Wendy C. Brooks, Declawing and Its Alternatives, supra.


See Karen Swalec Tobias, Feline Onychectomy at a Teaching Institution: A Retrospective Study of 163 Cases, supra. Another amputation method involves the use of laser beams that burn through the animal’s toe joint. See The Humane Society of the United States, Declawing Cats: Far Worse Than a Manicure, supra. Some veterinarians note that this procedure offers no benefit over the conventional method of declawing and may actually cause worse complications in the first two days after surgery, including fourth degree burns of the bone. See The Paw Project, Frequently Asked Questions About Feline Declawing: Is declawing with a laser better? What about tendonectomy?, supra (citing J. Levy et al., “Evaluation of Laser Onychectomy in the Cat,” Proceedings. 19th Annual Meeting Society Laser Med. 73 (1999)).

See The Paw Project, Frequently Asked Questions About Feline Declawing: Is declawing with a laser better? What about tendonectomy?, supra. One veterinarian also notes: “Veterinarians who recommend tendonectomy for cats will tell their clients that they have to trim the cat’s claws at least every week. If the client is going to have to trim the nails every week, why not just trim the nails and avoid the tendonectomy procedure all together?” Id.
Physical pain may last several days after the operation and persist for years, according to a new study published in 2017. After surgery, a declawed cat may have to spend several days in a veterinary hospital but in many cases, declawed cats are not provided with pain medicine after the surgery.

In addition to causing physical problems, these procedures harm the animals in other ways. Scratching, for instance, is normal feline behavior used by cats as a means to fully stretch, mark their territory, maintain balance, remove dead husks from their claws, relieve stress, defend themselves, and assist in climbing. Without claws, these animals lose the ability to engage in this essential behavior. These procedures may also cause psychological harm or behavioral problems such as biting, jumping on counters, and not using the litter box. Cats with such behavioral problems are at an increased risk for abandonment at animal shelters.

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31 Lysa Pam Posner, Analgesia for Declaw Patients, NAVC Clinician’s Brief 63, 63 (May 2010) (stating that “[d]eclawed cats continued to have abnormal force plate analysis at 12 days post surgery” and recommending that “analgesic therapy should be instituted for at least 3 to 5 days”), available at https://www.cliniciansbrief.com/article/analgesia-declaw-patients.


36 Faye Rapoport DesPres, Cat Care: To Declaw or Not to Declaw? (Interview with Dr. Lisa Maciorakowski, DVM), Care.com, https://www.care.com/a/cat-care-to-declaw-or-not-to-declaw-05201424.

37 The Humane Society of the United States, Declawing Cats: Far Worse Than a Manicure, supra.

38 ASPCA, Position Statement on Declawing Cats, supra. As one veterinarian writes, “cats do not scratch to annoy us; they scratch to communicate something and the cues are physical and olfactory.”


40 Faye Rapoport DesPres, Cat Care: To Declaw or Not to Declaw?, supra.

41 Declawing deprives cats of their primary means of defense and leaves them no other way to protect themselves other than biting. See The Paw Project, Frequently Asked Questions: Do declawed cats have difficulty defending themselves?, supra.


c. Summary of Support and Opposition for Regulation of Non-Medically Necessary Declawing By Veterinary, Animal Welfare and Other Professional Organizations

A number of animal welfare organizations have taken positions against declawing and tendonectomy for non-medically necessitated purposes. These include the Humane Society of the United States, the North Shore Animal League, the Mayor’s Alliance for NYC’s Animals, People for the Ethical Treatment of Animals, In Defense of Animals, Neighborhood Cats, and Alley Cat Allies.

Some veterinary organizations such as the World Small Animal Veterinary Association and the Humane Society Veterinary Medical Association support a ban on declawing for purely cosmetic purposes.

Other veterinary, animal welfare, and feline professional organizations strongly oppose or are critical of the routine use of declawing procedures, but have not advocated for a general ban on the practice for non-medically necessitated purposes. These include the American Association of Feline Practitioners, American Animal Hospital Association, the Cat Fancier’s Association, Inc., and the ASPCA.

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45 See Humane Society of the United States, Declawing Cats: Far Worse Than a Manicure, supra.


52 World Small Animal Veterinary Association, WSAVA Code of Conduct Manual 50 (Oct. 2010), http://www.wsava.org/WSAVA/media/PDF_old/WSAVA-CodeOfConductManual_October2010.pdf (“Where possible legislation should be enacted to prohibit the performance of non-therapeutic surgical procedures for purely cosmetic purposes, in particular . . . Declawing . . . . Exceptions to these prohibitions should be permitted only if a veterinarian considers that the particular surgical procedure is necessary, either for veterinary medical reasons or where euthanasia is the only alternative to either devocalisation, declawing or defanging.”).


Yet other veterinary organizations do not recommend declawing for non-medical purposes, though they oppose legislatively restricting the practice, maintaining that declawing should remain a legal option for cat owners. These include the American Veterinary Medical Association (AVMA), which does not “recommend” the practice of declawing and “recommends that the procedure only be performed after exhausting other methods of controlling scratching behavior or if it has been determined that the cat’s claws present a human health risk,” but maintains the position that “the decision to perform declawing rests with the owner, in consultation with their veterinarian.” The California Veterinary Medical Association, the New York State Veterinary Medical Society, and the New York State Association of Veterinary Technicians have taken similar positions in opposing restrictions on declawing.

While some organizations have also stated that cats with destructive scratching behavior are more likely to be euthanized (that therefore some individuals may euthanize or abandon cats if declawing is prohibited), these organizations do not state whether euthanizations have actually risen in the jurisdictions that have prohibited declawing, nor whether euthanization and abandonment rates for cats with destructive scratching behavior exceed similar rates for

55 American Animal Hospital Association, Declawing (Aug. 2015), at https://www.aaha.org/professional/resources/declawing.aspx (“The American Animal Hospital Association strongly opposes the declawing of domestic cats and supports veterinarians’ efforts to educate cat owners and provide them with effective alternatives.”).

56 CFA Guidance Statement on Declawing, The Cat Fancier’s Association, Inc. (June 2003), http://www.cfainc.org/Portals/0/documents/articles/declawing.pdf (“Because of the discomfort associated with any surgery and potential future behavioral or physical effects, CFA disapproves of routine declawing or tendonectomy surgery in lieu of alternative solutions to prevent household damage.”).


59 AVMA, Literature Review on the Welfare Implications of Declawing of Domestic Cats, supra.

60 AVMA, Declaw or Not?, https://www.avma.org/KB/Resources/Reference/AnimalWelfare/Pages/Declaw-or-Not.aspx.

61 CVMA Position Statement & Fact Sheet on Cat Declaw: https://cvma.net/government/legislative-issues/legislative-archives/cat-declaw/cvma-position-statement-fact-sheet-on-cat-declaw/ (“The decision to declaw a cat should be made by their owner in consultation with their veterinarian. The declawing of cats may become necessary for medical or behavioral reasons and should be used instead of abandonment, or euthanasia.”).

62 New York State Veterinary Medical Society: https://vets.nysvms.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=f05253ff-d1ab-f27d-0d35-039a1127413a&forceDialog=0


65 See, e.g., New York State Veterinary Medical Society, Declawing (Onychectomy) (“It’s better for the client to have surgery as a last alternative before resorting to euthanizing their cat or relinquishing to a shelter, where it’s likely to be euthanized.”).

66 As noted above, euthanasia and relinquishment are far from the only declawing alternatives that curb destructive scratching. See Section III.A, supra.
declawed cats. As noted above, declawing may itself lead to health complications and abandonment.  

**d. Declawing and Tendonectomy Have Been Banned or Restricted in Several Jurisdictions in the United States and Abroad**

Numerous foreign jurisdictions have banned or restricted declawing. These foreign jurisdictions include the United Kingdom,  
France,  
Germany,  
Lithuania, Austria, Brazil, Israel, New Zealand, Switzerland, and certain states in Australia. The European

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67 See Section III.B, supra. In addition, the fact that an animal welfare law may make pet-owning less attractive for some individuals should not justifying continuing to allow a cruel practice. Indeed, the State imposes several restrictions on animal owners that may dissuade some individuals from owning pets—for instance, the requirement that certain medical procedures be performed by a licensed veterinarian—but which do reduce cruel practices. See, e.g., N.Y. AGRIC. & MKTS. L. § 365(1).


71 Republic of Lithuania, Law on the Care, Keeping and Use of Animals (official translation), Oct. 3 2012, No XI-2271, art. 4(9) (prohibiting “mutation or removal of . . . claws . . . except for . . . veterinary procedures performed by a decision of a veterinarian due to health concerns of the animal”).


73 Res. 877/08, de 15 de fevereiro de 2008 (art. 7°, § 1) (Brazil) (prohibiting declawing), available at portal.cfmv.gov.br/lei/download-arquivo/id/508.


Convention for the Protection of Pet Animals also proscribes the procedure. Jurisdictions at the national, state, and local level have likewise banned or restricted declawing procedures for non-medical purposes. For instance, in 2003 the City of West Hollywood became the first city in the country to enact a law prohibiting declawing or tendonectomy operations “except when necessary for a therapeutic purpose.” Los Angeles and San Francisco have passed similar laws, as have five other California cities; and, unlike the proposed legislation, these laws potentially subject violators to criminal penalties.

Still other cities in California have issued resolutions against the practice. And in 2017, Denver, Colorado prohibited declawing.

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80 Berkeley, Cal., MUNICIPAL CODE § 10.04.145 (2014) (prohibiting declawing “except when necessary . . . to address the medical condition of the animal . . . that compromises the animal’s health”); Beverly Hills, Cal., MUNICIPAL CODE §§ 5-2-601, 5-2-602 (2014) (same); Burbank, Cal., MUNICIPAL CODE § 5-1-1501 (2014) (same); Culver City, Cal., MUNICIPAL CODE § 9.01.600 (2014) (same); Los Angeles, Cal., MUNICIPAL CODE § 53.72 (2014) (same); San Francisco, Cal., HEALTH CODE § 45 (2014) (same); Santa Monica, Cal., MUNICIPAL CODE § 4.04.275 (2014) (same).

81 Berkeley, Cal., MUNICIPAL CODE § 10.04.145.B (providing that violation may be prosecuted as misdemeanor punishable by fine up to $1,000, imprisonment for 6 months, or both); Beverly Hills, Cal., MUNICIPAL CODE §§ 1-3-101.B, 1-3-106 (providing that violation may be prosecuted as misdemeanor punishable by fine up to $1,000, imprisonment up to 6 months, or both); Burbank, Cal., MUNICIPAL CODE § 5-1-1501.C (deeming violation misdemeanor punishable by fine up to $1,000, imprisonment in the county jail up to 6 months, or both); Culver City, Cal., MUNICIPAL CODE §§ 9.01.600.B, 1.01.040 (providing that violation may be prosecuted as misdemeanor punishable by fine up to $1,000, imprisonment up to 6 months, or both); Los Angeles, Cal., MUNICIPAL CODE § 11.00(m) (providing that violation may be prosecuted as misdemeanor punishable by fine up to $1,000, imprisonment in the county jail up to 6 months, or both); San Francisco, Cal., HEALTH CODE § 45(c) (deeming violation misdemeanor punishable by fine up to $1,000.00, imprisonment in the county jail up to 6 months, or both); Santa Monica, Cal., MUNICIPAL CODE § 4.04.275(c) (deeming violation misdemeanor punishable by fine up to $500, imprisonment of 6 months, or both).


83 Denver, Co. Code of Ordinances § 8-141.
California also has a statewide ban generally prohibiting declawing of “exotic or native wild cat species.” And, on the national level, the U.S. Department of Agriculture has issued a notice and policy statement declaring that declawing wild or exotic carnivores is “no longer considered to be appropriate veterinary care” and is prohibited under the Animal Welfare Act. As of the date of this report, New Jersey, Massachusetts, California, Rhode Island, and West Virginia each have a pending bill that would ban declawing for non-therapeutic purposes.

V. CONCLUSION
For the reasons above, the Committee approves the proposed legislation.

Animal Law Committee
Christopher Wlach, Chair

Reissued June 2019

84 CAL. PENAL CODE § 597.6 (2015); see also Cal. Penal Code § 597.6(b) (deeming violation misdemeanor punishable by fine of $10,000, imprisonment in county jail up to 1 year, or both).
