New York State Bar Association

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Memorandum in Support

COMMITTEE ON ANIMALS AND THE LAW

Animals #10   June 8, 2021

S. 5156   By: Senator Brooks
A. 1549   By: M. of A. L. Rosenthal
                                Senate Committee: Codes
                              Assembly Committee: Agriculture
                                  Effective Date: 12 months after it shall have
                                                   become a law

AN ACT to amend the Executive Law, in relation to the creation of an animal cruelty and animal fighting database.

LAW AND SECTIONS REFERRED TO: New Section 837-w of the Executive Law.

THE COMMITTEE ON ANIMALS AND THE LAW SUPPORTS THIS LEGISLATION

This bill would add a new section to the Executive Law to require the establishment and maintenance of an Animal Cruelty Crime Database for the collection of information relating to crimes against animals. The database would contain information on individuals 18 years of age or older who have been convicted of the crimes of: i) animal cruelty; ii) animal fighting; iii) animal neglect; iv) animal abandonment; and v) mistreatment of animals; it would also contain information on the specific acts leading to conviction for any of those crimes, and the dates and location (by county) of the crimes. If an individual charged with those crimes pled guilty to a lesser charge, the database would be required to collect and retain that information. The information contained in this database would be available to law enforcement agencies, prosecutors, humane societies, SPCAs and dog and cat protective associations. It would be required to be collected and displayed in a manner that facilitates analysis, and aids in the protection of animals.

As specifically stated in the bill, the enactment of this bill would not preclude any municipality from adopting and enforcing a local law establishing an animal abuse registry or another means of tracking individuals who violate animal abuse laws.

The sponsors of this legislation note in section one of the bill, containing the bill's legislative intent, that violent offenders frequently have childhood and adolescent histories of serious and repeated animal cruelty; the crime database established by this legislation is intended to provide information on the individuals who commit those

crimes, and make the information available to law enforcement and prosecutors, who enforce animal cruelty laws and prosecute those who violate them; and to animal organizations charged with the custody and care of lost, stray and homeless animals.

Cruelty to animals is not just a minor deviation from the norms of society, but instead constitutes criminal conduct that is investigated, prosecuted and punished like other violent crimes. The federal government and state governments recognize the seriousness of animal cruelty crimes; in 2016 the FBI added animal abuse to its National Incident-Based Reporting System (NIBRS), based upon the recognition that abuse of animals is a serious crime and is a crime against society.[1] States across the nation have adopted and amended laws to emphasize the seriousness of crimes against animals.

The idea of tracking the commission of these crimes, and the individuals who commit them, has been proposed for many years at both the state level and within counties, towns, cities and villages in New York State. This bill allows municipalities to enact their own registries, and animal abuser registries have been adopted by at least fourteen counties within the state (including Suffolk, Nassau, Westchester, Putnam, Rockland, Ulster, Albany, Onondaga, Broome, Cattaraugus and Niagara), the City of New York, and a few towns, cities and villages. In each municipality that has passed a registry law, it is coupled with a prohibition on animal shelters, pet dealers and pet sellers (terms vary) selling an animal to any individual listed on the registry. Some of the municipal laws also prohibit an individual listed on the registry from owning an animal; only one, New York City's, prohibits an individual listed on the registry from residing with, having custody of, or intentionally engaging in physical contact with an animal. These prohibitions are written into the local laws to implement the legislative intent of preventing convicted animal abusers from being in a position where they may continue to harm animals.

Municipal animal registries have their limitations, the largest of which is that they are only able to identify individuals who reside within the municipality and have been convicted of animal abuse in that municipality. A convicted animal abuser can easily evade a municipal registry by leaving that city, county, town or village. Even when the local registry has a provision requiring that a convicted animal abuser from another jurisdiction must register when they move into the new municipality, there is no guarantee that the individual will voluntarily register in their new home county, city, town or village. Allowing local registries with differing requirements has resulted in different provisions on the amount of time that an individual must remain on the registry, which ranges from 5 to 15 years under different local laws in different jurisdictions.

While the Committee on Animals and the Law supports this bill to establish a statewide database of information, we are concerned about the different requirements in municipal

[1] "Tracking Animal Cruelty: FBI Collecting Data on Crimes against Animals" (February 1, 2016, located at https://www.fbi.gov/news/stories/-tracking-animal-cruelty) in which the National Sheriffs' Association's John Thompson urged people to shed the mindset that animal cruelty is a crime only against animals. "It's a crime against society," he said, urging all law enforcement agencies to participate in NIBRS. "By paying attention to [these crimes], we are benefiting all of society."

registry laws and the requirement in S.51562 / A.1549 for a statewide database. This bill explicitly does not pre-empt any local registries already in existence, or which may be passed after the enactment of this bill, but it is not clear how the statewide database enacted by S.5156 / A.1549 would work alongside local registries, and no provision for the sharing of information between the statewide database and the municipalities that wish to track resident animal abusers through a municipal registry.

A bigger concern is the lack of any provision in S.5156 / A.1549 that provides for the use of information in the database to prevent those convicted animal abusers listed in the database from owning or purchasing an animal. While some municipalities do allow for that use of local registry information, and those local laws would remain in effect, less than half the state's 62 counties would be covered by any prohibition, state or local, restricting a convicted animal abuser listed on the registry from owning an animal.

The Committee on Animals and the Law **SUPPORTS** the passage and enactment of this legislation, and further supports the extent of the information that would be provided in this database, which is more extensive than the information provided in many of the current local registries. However, the committee believes the creation of an animal abuser database as provided by S.5156/ A.1549 is just a first step in providing information on animal abusers in order to protect animals from further abuse by these individuals.

We urge the sponsors of this bill to consider additional provisions in this bill, or consider sponsoring additional legislation to provide those protections. For example, a statewide database could include a provision providing that individuals in the database are prohibited from owning a companion animal, prohibited from living in a household where a companion animal is present, and prohibited from working or volunteering in any facility where animals are regularly present, such as animal shelters, humane societies, SPCAs, animal rescues, zoos, animal exhibitors, veterinary facilities, stables, pet dealers, and animal grooming and boarding facilities. In order to implement this type of provision, information in the Animal Cruelty Database should be made available to zoos, animal exhibitors, veterinary facilities, stables, pet dealers, and animal grooming and boarding facilities.

With those additional provisions, the animal cruelty database created by S.5156 / A.1549 could provide the basic information to protect animals from those individuals convicted of animal cruelty, who should not be given another opportunity to harm animals.