

## Memorandum in Support

### COMMITTEE ON ANIMALS AND THE LAW

Animals #6

February 23, 2023

S. 1659

By: Senator Bailey

A. 111

By: M. of A. L. Rosenthal

Senate Committee: Judiciary

Assembly Committee: Judiciary

Effective Date: 180 day after it shall have become a law

**AN ACT** to amend the Judiciary Law, in relation to the creation of a court-appointed advocate for animals.

**LAW & SECTION REFERRED TO:** New Article 22-B of the Judiciary Law.

### **THE COMMITTEE ON ANIMALS AND THE LAW** **SUPPORTS THIS LEGISLATION**

This bill adds to the Judiciary Law a new Article 22-B, entitled “Special Advocates for Animal Welfare Program,” consisting of one section, Section 858-a. The bill provides for the appointment of a special advocate in proceedings regarding animal welfare, and allows the advocate to represent the interests of the animal and to help ensure the well-being of any living animal victim.

Section 828-a has five subsections:

Subsection (1) of Section 858-a provides that a court may, on its own initiative or at the request of any party or counsel to a party, appoint a special advocate to represent the interests of justice in **any** proceeding concerning the welfare of an animal. The advocate shall be appointed from a list provided by the chief judge of the state, as prescribed by this legislation.

Subsection (2) describes the information the advocate can access and may present to the court. It allows the advocate to monitor the case; to have access to information related to the case; to review records related to the condition of the animal; attend hearings, to consult with individuals such as veterinarians, police and animal control officers or any other individuals with information about the condition of the subject animal, to review records and to present to the court information or recommendations pertinent to determinations that relate to the interests of the animal in question.”

Subsection (3) further defines the role of the advocate; and provides that the advocate may consult any individual with information that could aid the judge or factfinder, attend hearings and, as needed and appropriate, provide a victim impact statement to the court.

Subsection (4) provides that advocates will not have subpoena or discovery powers.

Subsection (5) provides that the Office of Court Administration shall maintain a list of attorneys and supervised law students knowledgeable in animal related legal issues and the legal system who have indicated a willingness to serve as voluntary advocates and are eligible to do so.

In the last decade, there has been increased recognition of the seriousness of crimes against animals, both for the animals harmed by the crime and as a warning of the potential for the perpetrator to commit violent crimes against people. When the FBI decided in 1916 to track more carefully crimes committed against animals, it did so because of the finding that crimes against animals can be an indicator of, and are often associated with, crimes against people.<sup>1</sup> Supporting that decision, John Thompson, the deputy executive director of the National Sheriff's Society, explained, "If somebody is harming an animal, there is a good chance they also are hurting a human. . . ."<sup>2</sup> Therefore, he has urged people to "shed the mindset that animal cruelty is a crime only against animals," stating, "It's a crime against society," and that "by paying attention to [these crimes], we are benefiting all of society."<sup>3</sup>

With this recognition of the gravity of crimes committed against animals, it is important that we adopt some mechanism to ensure that judicial determinations in cases involving animals and animal welfare are based upon a recognition of the seriousness of the crime and a knowledge of all information relevant to the crime and the victim. Since animal victims of crimes cannot speak for themselves, if there is information "pertinent to the determinations that relate to the interests of the animal in question"<sup>4</sup> that can be supplied by third parties who possess the information or are able to obtain it, that information should be provided to the court.

Creating the position of special advocate in proceedings regarding animal welfare and giving that person the responsibility of obtaining "information that could aid the judge or fact finder"<sup>5</sup> will provide the court with information that is key to a just determination in any case involving an animal, and will provide a mechanism to ensure that the determination will take into consideration all the facts known about the animal victims and the crimes committed against them. Thus, this bill offers attorneys and judges involved in animal welfare actions a way to receive all relevant information concerning the nature of the conduct at issue and its impact upon the animal that is the subject of the action.

---

<sup>1</sup> "Tracking Animal Cruelty: FBI Collecting Data on Crimes against Animals" (February 1, 2016), <https://www.fbi.gov/news/stories/-tracking-animal-cruelty>.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> New York S.1659 / A.111 (2023), page 2, lines 4-5.

<sup>5</sup> *Ibid.*, page 2, lines 12-13.

Notably, the advocate to be appointed is to represent the interests of the animal and to help ensure the well-being of any living animal victim. Importantly, the bill expressly states that information and recommendations may be based upon the knowledge and experience of the advocate or another specialist with specific knowledge and experience related to the type of animal involved in the case. In short, creating the position of animal advocate will ensure that the presiding judge in any animal welfare action receives all of the information available about the pending action and the animal involved in it, thereby enabling that judge to make a fully informed decision that will be fair to all parties involved.

Connecticut was the first state to enact a court advocacy program for animals, known as Desmond's Law, signed into law in Connecticut in 2016,<sup>6</sup> which allows for an advocate to be appointed in actions involving crimes against animals. Maine followed in 2020, with the enactment of a law to provide for court-appointed advocates for justice in animal cruelty cases.<sup>7</sup> Similar legislation, the Courtroom Animal Advocacy Program, has been introduced in New Jersey; it was passed unanimously by the New Jersey State Senate in 2021, and the 2022-23 bill is pending on the NJ Assembly calendar.<sup>8</sup> New York should join those states that recognize the importance of providing an advocate for animals who can provide relevant information on behalf of the animal in any animal welfare proceeding.

For the foregoing reasons, the Committee on Animals and the Law **SUPPORTS** the passage and enactment of this legislation.

---

<sup>6</sup> Connecticut Public Act No. 16-30; <https://law.justia.com/codes/connecticut/2019/title-54/chapter-961/section-54-86n/>.

<sup>7</sup> Maine L.D. 1442, 2020; Chapter 547, Public Law <http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP1054&item=3&snum=129>.

<sup>8</sup> New Jersey A1965 S2211, Session 2022-2023; <https://www.njleg.state.nj.us/bill-search/2022/A1965>.