

Memorandum in Support, with Amendments

COMMITTEE ON ANIMALS AND THE LAW

Animals and the Law #12

May 22, 2014

S. 2305-A

A. 8443

By: Senator Ball

By: M. of A. Barrett

Senate Committee: Finance

Assembly Committee: Agriculture

Effective Date: 30 days after it shall have become a law

AN ACT to amend the agriculture and markets law, in relation to establishing a public registry for persons convicted of violating “Buster’s Law.”

SECTION AND LAW REFERRED TO: This bill would amend the Agriculture and Markets law by adding a new section 352 which establishes a registry of individuals who have been convicted of a violation of section 351, prohibitions on animal fighting, or section 353-a, aggravated animal cruelty. Subsection one of the new section 352 provides that the registration will be maintained by the Division of Criminal Justice Services and authorizes DCJS to determine the manner of registration. This subsection lists the individuals who will have access to the registry, in addition to the general public, and provides a procedure for an individual to follow in order to obtain a court order directing that his or her name to be removed from the registry.

Subsection one additionally forbids any person required to register pursuant to this section to own a companion animal or have employment at an animal shelter, pound, pet store, zoo or other business establishment where companion animals are present. It requires that any person who is required to register will be subject to a mandatory surcharge of fifty dollars, to pay for the costs and expenses associated with establishing and maintaining the registry.

Subsection two provides that the statewide registry established by this bill will supersede any local law, rule, regulation, code or ordinance establishing an animal cruelty or abuser registry within a specific locality.

THE COMMITTEE ON ANIMALS AND THE LAW **SUPPORTS THIS LEGISLATION, WITH AMENDMENTS**

Opinions expressed are those of the Section/Committee preparing this memorandum and do not represent those of the New York State Bar Association unless and until they have been adopted by its House of Delegates or Executive Committee.

Over the past several years, severe cases of animal abuse such as the Michael Vick dog fighting case have been heavily reported by the media and have garnered much public outrage. As animal cruelty has become recognized as a violent crime that is no different from any other form of violence, more is being done to protect the animal victims of violent crimes, including animal fighting and animal cruelty, especially from a recurrence of those crimes.

The proposed animal cruelty registry created by this legislation would operate much like the sex offender registry created to protect children from those who have been convicted of crimes and are determined to pose a continuing risk. Any person convicted of any of the offenses related to animal fighting under section 351 of the Agriculture and Markets Law, or of felony aggravated animal cruelty under section 353-a of the Agriculture and Markets Law, will be required to register annually with the Division of Criminal Justice Services in order to provide the same type of protection provided by the sex offender registry. DCJS will maintain a registry containing the information on those convicted of violent crimes against animals; this bill takes the right approach to creating an animal abuser registry by leaving much of the implementation to DCJS. By making information on animal abusers available to the general public, to law enforcement, district attorneys, and animal control officers, and to organizations that work with animals or where animals are present, the bill establishes a framework that will prevent prior offenders from harming animals again.

The bill seeks to prevent a reoccurrence of animal abuse crimes by providing that any individual required to register may not own a companion animal or work in an establishment where companion animals are present as long as their name remains on the registry. However, by making the names on the registry available to duly incorporated humane societies, societies for the prevention of cruelty to animals, dog or cat protective associations, breeders and the public, the bill also makes it possible for these organizations to search the registry database to see if a potential adopter or purchaser of an animal has previously been convicted of felony animal cruelty or animal fighting before an animal is adopted out. It also makes it possible for these organizations to check on potential employees or volunteers to be sure that anyone who has committed the listed crimes against animals will not be caring for them in any of these facilities.

By maintaining the registry with current information and providing easy access to the names on the registry, the bill will provide much needed protection to animals and the entities that protect, serve and work with them. The registry created by this legislation is a statewide registry, and will supersede any registry adopted by any locality. In the absence of state legislative action creating an animal abuser registry, several counties have adopted county registries. They are all different, and accessed differently, creating some confusion for the public about the availability of registry information. There must be a single statewide system of registration that the public can depend on.

The Committee does request that the sponsors make three changes to the current bill:

While the committee supports the provision giving the general public access to the registry, the public should only have access to the names of those required to register and their county and zip code of residence. This information is sufficient for the general public and protects children and other innocent family members living in the home with the individual named on the registry.

The bill lists organizations that have access to the information on the registry, and has a separate list of organizations where an individual who must register may not work. These two lists should correspond, and both should list, in addition to zoos, other animal exhibitors, and also veterinary facilities.

While the legislation provides a mechanism whereby an individual can obtain a court order directing the removal of his or her name from the registry, there is no limit to the length of time a name shall remain on the list. There should be a maximum time period of 15 years that a name will remain on the registry, unless removed earlier by court order, as provided in the bill.

For the foregoing reasons, the Committee on Animals and the Law **SUPPORTS** this legislation, with amendments.

Chair of the Committee: Amy L. Chaitoff, Esq.