

Memorandum in Support

COMMITTEE ON ANIMALS AND THE LAW

Animals #5

May 19, 2017

S. 2167

By: Senator Serino

A. 668

By: M. of A. Rosenthal

Senate Committee: Judiciary

Assembly Committee: Judiciary

Effective Date: Immediately

AN ACT to amend the family court act, the criminal procedure law and the domestic relations law, in relation to an order of protection with respect to companion animals.

LAWS & SECTIONS REFERRED TO: Family Court Act sections 352.3, 446, 551, 656, 759, 842, and 1056; Criminal Procedure Law sections 530.12(1)(a)(6) and 530.13(1)(c); Domestic Relations Law sections 240(3)(a)(7) and 252(1)(g).

THE COMMITTEE ON ANIMALS AND THE LAW SUPPORTS THIS LEGISLATION

This bill would provide additional protections to companion animals in the household when there is risk of physical harm or injury to individuals in the household, including those companion animals, and a court issues an order of protection to protect those individuals.

It is well established that when there is physical abuse or violence within a family, animals are often subjected to the same physical abuse and harm suffered by individuals within the family or household. Traditional orders of protection designed to protect members of a family from an abuser did not take the household pets into account. Companion animals in the household should be protected not just for their own sake, but also because a family member will often place themselves at risk to protect an animal who is being abused, and will often decide not to leave the household if they must leave behind an animal who may be harmed by the abuser.

In 2013, the legislature included within the many provisions of law providing for the issuance of an order of protection when there is a threat of harm, or proven history of physical abuse to a member of a household, provisions explicitly prohibiting the respondent/defendant from intentionally injuring or killing a companion animal kept as a pet by the petitioner or a minor child in the household. However, these provisions may

not be sufficient to adequately protect animals in the household from harm when the likelihood of abuse is strong enough to warrant the issuance of an order of protection by the court.

This bill would take the 2013 law one step further by providing that an order of protection intended to protect members of a household can also protect a companion animal kept as a family pet, even if the animal is not explicitly owned by the individual primarily intended to be protected from harm by the order of protection. While some courts have extended orders of protection to animals in the household, others have raised concerns about the ability to protect an animal that is not specifically owned by an individual named as a protected party. The extension of current law to specifically cover any pet in the household, even if the animal may technically be owned by the person against whom the order of protection is issued, establishes clear public policy in extending orders of protection to any pet in the household and will protect animals who may be in danger at home. The bill provides additional protection to those household pets who are likely to be subject to the same abuse as the individuals in the household who are covered by the order of protection, and is needed to provide more protection from abuse to those pets than provided by current law.

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