

## Memorandum in Support

### COMMITTEE ON ANIMALS AND THE LAW

Animals # 23

May 24, 2018

S. 7375

By: Senator Ritchie

A. 8851

By: M. of A. Ortiz

Senate Committee: Agriculture

Assembly Committee: Agriculture

Effective Date: Immediately

**AN ACT** to amend the agriculture and markets law, in relation to aggravated cruelty to animals.

**LAW & SECTION REFERRED TO:** Section 353-a of the Agriculture and Markets Law.

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

This bill would amend Section 353-a of the Agriculture and Markets Law, the section of law that defines aggravated animal cruelty, by modifying the definition of the crime of aggravated cruelty. Current law provides that an individual is guilty of aggravated cruelty to animals when he or she intentionally kills or intentionally causes serious injury to a companion animal, with no justifiable purpose. The current statute also includes a requirement that the individual acted with aggravated cruelty, and further defines aggravated cruelty to mean conduct intended to cause extreme physical pain or conduct that is done or carried out in an especially depraved or sadistic manner.

The bill would eliminate the double intent elements of the crime, consistent with the manner in which other crimes are defined in our laws, and leave in the statute a simple requirement that the individual “intentionally kills” or “intentionally causes serious injury” to a companion animal.

The crime of aggravated cruelty only applies to companion animals, and explicitly excludes lawful hunting, trapping or fishing; the dispatch of rabid or diseased animals in accordance with provisions of the Public Health Law or the dispatch of animals providing a threat to human safety or other animals; or the lawful conduct of scientific tests or experiments or investigations on living animals in laboratories or other institutions approved for such activities by the Commissioner of Health. Aggravated cruelty to animals is a felony offense, punishable by a definite sentence of imprisonment that may not exceed two years, and this section of the law is unchanged.

The bill would become effective immediately upon enactment.

The current language of Section 353-a of the Agriculture and Markets Law, defining the felony offense of aggravated cruelty to animals, contains a description of the crime that is difficult to prove. If a prosecutor is not able to show that an individual charged with aggravated animal cruelty intended to cause extreme physical pain to the animal that was killed or injured, or acted in an especially depraved or sadistic manner, even if there is proof that the individual intentionally killed or intentionally caused serious physical injury to the animal, the charge will not be proved.

District attorneys report that defense counsel for individuals charged with aggravated cruelty to animals frequently, in that situation, make motions to dismiss the charge and the individual is found guilty only of the lesser crime of cruelty to animals found in Section 353 of the Agriculture and Markets Law, which doesn't require intent on the part of the perpetrator, or death or serious injury on the part of the animal, and is a misdemeanor punishable by imprisonment for not more than one year, or a fine of not more than \$1,000, or both.

Cruelty to animals is a serious crime. Since the time that this statute was first added to the law in 1999, there has been a recognition that there is a link between animal abuse and violent crimes against people.<sup>1</sup> Recognition of the seriousness of this crime should be accompanied by the enactment of laws that classify and punish the intentional killing or causing serious physical injury to animals as a serious crime.

Current law in New York provides for the classification of intentional killing or injuring an animal to be a felony offense, but the specific language of the current law makes the offense difficult to prove in many cases. As a result, many of these crimes cannot be prosecuted under this section of the law. The sponsors of this bill are right when they state that only a small percentage of crimes in which animals are set on fire, stabbed, hung, beaten, starved and shot result in felony convictions.<sup>2</sup> Amending the description of Aggravated Cruelty to Animals to eliminate references to "extreme physical pain," and "depraved or sadistic manner," will enable prosecutors to prosecute the intentional actions causing the death or serious injury of a companion animal as a felony offense. The change in the description of the crime will continue to require a showing of intentional action on the part of the defendant, consistent with our principles of criminal intent.

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<sup>1</sup> One of the early studies in the U.S. was a 2001-2005 review of data by the Chicago Police Department, *Statistical Summary of Offenders Charged with Crimes Against Companion Animals July 2001-July 2005*, that "revealed a startling propensity for offenders charged with crimes against animals to commit other violent offenses toward human victims." Data in the study showed that of those arrested for animal crimes, 65% had been arrested for battery against another person.

<sup>2</sup> New York State Senate Introducer's Memorandum In Support, S.7375, submitted in accordance with Senate Rule VI, Sec. 1.

This amendment to the section of law describing Aggravated Cruelty to Animals also sends a message that these crimes against animals will be prosecuted as the serious crimes that they are. Better enforcement of the animal cruelty laws will raise awareness of the prohibitions against cruel treatment of animals, lead to greater reporting of these crimes, and ultimately reduce their occurrence.

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