

## Memorandum in Support

### COMMITTEE ON ANIMALS AND THE LAW

Animals #5

April 29, 2019

S. 2602

By: Senator Brooks

A. 1090

By: M. of A. L. Rosenthal

Senate Committee: Domestic Animal Welfare

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-t of the Executive Law.

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 information contained in this database would be available to various law enforcement and humanitarian agencies and would include all convictions in New York State of: i) animal cruelty; ii) animal fighting; iii) animal neglect; iv) animal abandonment; and v) mistreatment of animals, as set forth in Article 26 of the Agriculture and Markets Law and the Penal Law. The data of such crimes shall be collected and displayed in a manner that facilitates analysis and the protection of animals.

Section one identifies the bill's legislative intent and findings. It specifically notes that violent offenders frequently have childhood and adolescent histories of serious and repeated animal cruelty. It cites findings of the Federal Bureau of Investigation and the FBI's analysis of serial killers that suggests that most violent offenders had killed or tortured animals during their life, and other research that has shown consistent patterns of animal cruelty among perpetrators of more common forms of violence, including child abuse, spouse abuse, and elder abuse.

Section two, subdivision one, provides that the crime database will include all convictions of i) animal cruelty; ii) animal fighting; iii) animal neglect; iv) animal abandonment; and v) mistreatment of animals under Article 26 of Agriculture and Markets Law. Importantly, the database will also include all pleas to a different charge, where the i) animal cruelty; ii) animal fighting; iii) animal neglect; iv) animal abandonment; or v) animal mistreatment charge *was not* dismissed on the merits. Subdivision two provides that the database would include the name and age of all persons eighteen years old or older, the specific acts that were the basis of the conviction, the date or dates the acts took place, and the county where such acts took place.

Subdivision three provides that the database will be available in print and electronic form to all law enforcement entities, district attorneys, humane societies, societies for the prevention of cruelty to animals, dog and cat protective associations and animal control officers. Subdivision four provides that the enactment and enforcement of local laws, rules, regulations or ordinances establishing and maintaining an animal abuse registry or database or other means of tracking or identifying persons charged with violating animal abuse laws are not pre-empted by this state statute but may continue in effect.

Section three provides for the act to take effect twelve months after it shall become law, and delegates to the Division of Criminal Justice Services the promulgation of rules and regulations deemed necessary to effectuate the act before its effective date.

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 crimes. Recognition of the seriousness of animal cruelty crimes is nationwide; the FBI added animal abuse to its National Incident-Based Reporting System (NIBRS) in 2016, based upon the recognition that abuse of animals is a serious crime and is a crime against society.<sup>1</sup>

There have already been animal abuser registries 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 be a threat to animals.

The municipal animal registries have their limitations, the biggest of which is that they are only able to identify individuals who have been convicted of animal abuse and reside within that municipality. Therefore, a convicted animal abuser can easily evade a municipal registry by leaving that city, county, town or village. Even those that have a provision that a convicted animal abuser from another jurisdiction who moves into a municipality that has a registration requirement cannot be assured that the individual will voluntarily register when there is no other reporting required from local law enforcement. Local registries differ in the amount of time that an individual must remain on the registry, from five to 15 years under different laws, which also confuses the applicability of the reporting requirement when a convicted animal abuser moves.

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<sup>1</sup> "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."

While the Committee on Animals and the Law supports this bill, we are concerned about the differing requirements in the existing municipal laws and the requirement in S.2602/A.1090 for a statewide registry, absent any prohibitions that apply to individuals listed in the statewide registry. 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 registry enacted by S.2602/A.1090 would work alongside local registries that would remain in existence.

A bigger concern is the lack of any provision in S.2602/A.1090 that provides for the use of information in the registry to prevent those convicted animal abusers listed in the registry from owning or purchasing an animal. While some municipalities do cover that use of 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 registry, 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 registry as provided by S.2602/A.1090 is just a first step in providing information on animal abusers in order to protect animals from further abuse from these individuals.

We urge the sponsors of this bill to consider additional provisions in this bill, or consider additional legislation that would include a provision providing that individuals whose names appear on 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 last provision, legislation should broaden the categories of people who have access to the information in the Animal Cruelty Database, to include zoos, animal exhibitors, veterinary facilities, stables, pet dealers, and animal grooming and boarding facilities.

With those additions, the animal cruelty database created by S.2602/A.1090 would provide protection to animals from those individuals convicted of animal cruelty, who should not be given another opportunity to harm animals.