

## REPORT ON LEGISLATION BY THE ANIMAL LAW COMMITTEE

A.162

M. of A. L. Rosenthal

AN ACT to amend the Agriculture and Markets Law to in relation to establishing a task force on animal laws; and providing for the repeal of such provisions upon expiration thereof.

### THIS LEGISLATION IS APPROVED

#### I. SUMMARY OF PROPOSED LAW

The proposed legislation (A.162)<sup>1</sup> would amend New York State’s Agriculture and Markets Law to create a task force to examine, evaluate, and determine how to improve animal protection laws and the relationship between animals and humans. The task force would consist of fifteen members with expertise in animal abuse, investigation, and/or animals, each to serve for a term of one calendar year. Among its duties, the task force would:

- study laws, rules, and regulations governing animals, including but not limited to companion animals, farm animals or animals raised for food producing purposes, wildlife and animals used in entertainment, research or experimentation or any other field that governs the use or treatment of animals;<sup>2</sup>
- study laws, rules, and regulations governing the operations of duly incorporated societies for the prevention of cruelty, duly incorporated humane societies, pounds, shelters, municipal or otherwise, and pet dealers;
- recommend ways by which to modernize the laws governing animals; and
- submit preliminary and final reports of its findings, conclusions, recommendations, and previous actions, as well as legislative proposals, to the governor and the legislature within one year and two years of the effective date of the law, respectively.

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<sup>1</sup> The full text of the bill is available at [https://nyassembly.gov/leg/?default\\_fld=&leg\\_video=&bn=A00162&term=2021&Summary=Y&Text=Y](https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=A00162&term=2021&Summary=Y&Text=Y). (All websites last visited March 3, 2021.)

<sup>2</sup> Guide, hearing, service, assistance, and therapy animals are not included in the task force’s jurisdiction.

#### **About the Association**

*The mission of the New York City Bar Association, which was founded in 1870 and has 25,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.*

## II. JUSTIFICATION

Creating a task force to review New York’s animal protection laws will help the State more effectively protect animals.

While New York State has historically been a leader in animal protection,<sup>3</sup> it has more recently found itself in the middle of the pack. In the latest ranking of state animal protection laws by the Animal Legal Defense Fund, New York is ranked in the lower half of U.S. states and jurisdictions.<sup>4</sup> Many police academy graduates still finish their training with minimal understanding of how to handle an animal crimes case.<sup>5</sup>

One reason may be the lack of a uniform statewide approach to animal protection. For instance, the authority responsible for animal cruelty investigations and enforcement varies by jurisdiction. Some jurisdictions use specialized humane law enforcement to conduct investigations and enforce anti-cruelty laws in one to several counties. Nassau and Suffolk Counties, for example, rely on local SPCAs to enforce the animal cruelty laws.<sup>6</sup> Other localities rely on traditional law enforcement, such as police departments and prosecution agencies.<sup>7</sup> In New York City, the ASPCA was the primary animal crimes enforcement organization until 2014, when the New York City Police Department took over the role of animal cruelty investigations and enforcement.<sup>8</sup>

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<sup>3</sup> David Favre and Vivien Tsang, *The Development of the Anti-Cruelty Laws During the 1800’s*, 1993 Det. C.L. Rev. 13-22 (1993), <https://digitalcommons.law.msu.edu/cgi/viewcontent.cgi?article=1146&context=facpubs> (chronicling New York’s enactment of anticruelty legislation in 1866-67 and the “ripple effect” it had on other states’ legislation).

<sup>4</sup> Animal Legal Defense Fund, *Animal Protection: U.S. State Laws Rankings Report, 2020 4* (2021), <https://aldf.org/wp-content/uploads/2021/02/2020-Animal-Protection-US-State-Laws-Rankings-Report-Animal-Legal-Defense-Fund.pdf>.

<sup>5</sup> Lauren Mineau, *NYS Humane Association Teams up with State Police to Combat Animal Cruelty*, *The Record News* (Apr. 21, 2015), <http://www.troyrecord.com/general-news/20150421/nys-humane-association-teams-up-with-state-police-to-combat-animal-cruelty>.

According to a nationwide survey by the American Society for the Prevention of Cruelty to Animals (ASPCA), 81% of law enforcement professionals said that they received no formal training about animal crimes; only 41% said they are familiar with their jurisdiction’s animal cruelty laws; and less than 30% were familiar with the penalties for animal crimes. ASPCA, *ASPCA Announces Groundbreaking Research Study Underscoring Importance of Animal Cruelty Law Enforcement* (Dec. 15, 2010), <https://www.aspc.org/about-us/press-releases/aspc-announces-groundbreaking-research-study-underscorin-g-importance-animal>.

<sup>6</sup> The Nassau County SPCA’s website provides additional information about its law enforcement activities. Nassau County SPCA, *Animal Crime — Fighting Animal Cruelty*, <http://nassaucountyspca.org/index.php/law-enforcement>. The Suffolk County SPCA has enforced animal cruelty laws for animals in Suffolk County, New York since 1984. Suffolk County SPCA website, *About Us*, <https://suffolkspca.org/about-2/about-us>.

<sup>7</sup> New York authorizes both the police and societies for the prevention of cruelty to animals (SPCAs) to enforce violations of the state animal cruelty law. N.Y. Agric. & Mkts. Law § 371.

<sup>8</sup> ASPCA, *Animal Protection: NYPD Partnership, ASPCA and NYPD: Partners Against Crime*, <https://www.aspc.org/animal-protection/nypd-partnership>. In 1866, Henry Bergh, the founder of the ASPCA, lobbied for the enactment of New York State’s anti-cruelty law and persuaded state lawmakers to provide the ASPCA with police enforcement powers. Roswell Cheney McCrea, *The Humane Movement: A Descriptive Survey*, Prepared on the Henry Bergh Foundation for the Promotion of Humane Education in Columbia University, 149-51 & 200 (Appendix VI, *Charter of the American Society for the Prevention of Cruelty to Animals*) (1910).

Similarly, the Columbia-Greene County SPCA began asking the public to report animal cruelty to the police instead of to the SPCA, due in part to the fact that the SPCA has only three part-time animal cruelty investigators.<sup>9</sup>

Just as the investigative and enforcement authority differ by locality, resources and expertise vary too. While some New York counties have ample resources and address animal abuse with sophisticated strategies, others lack adequate staffing, technology, or experience.<sup>10</sup> The Finger Lakes SPCA, for instance, has one humane law enforcement officer currently on staff.<sup>11</sup> And in Monroe, Orleans, Genesee, and Livingston counties, a single organization — the Humane Society of Greater Rochester — enforces animal cruelty laws across all four counties, doing so with only four peace officers and no government or agency funding.<sup>12</sup> The Ulster County SPCA likewise receives no government funding for its humane enforcement activities.<sup>13</sup>

Prosecution of animal cruelty varies as well. Some district attorneys assign animal crime prosecutions to attorneys without a specialty in animal crimes.<sup>14</sup> Other county prosecutors have initiated specialized units to deal with animal cruelty, including the Queens County District Attorney Animal Cruelty Prosecutions Unit,<sup>15</sup> the Richmond County District Attorney Animal Cruelty Prosecution Unit,<sup>16</sup> the Nassau County Animal Crimes Unit,<sup>17</sup> the Westchester County

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<sup>9</sup> Diane Valden, *Animal Cruelty Cases Now Start with Police*, The Columbia Paper (Mar. 12, 2015), <https://www.columbiapaper.com/2015/03/animal-cruelty-cases-now-start-with-police>; Columbia-Greene Humane Society / SPCA, Cruelty Intervention, <https://cghs.org/services/cruelty-intervention/>.

<sup>10</sup> See N.Y. Assembly Bill No. A.162, Memorandum in Support of Legislation, [https://nyassembly.gov/leg/?default\\_fld=&leg\\_video=&bn=A00162&term=2021&Summary=Y&Memo=Y&Text=Y](https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=A00162&term=2021&Summary=Y&Memo=Y&Text=Y).

<sup>11</sup> Finger Lakes SPCA of Central New York, Staff & Board, <https://www.flspcaofcny.org/staff-board>.

<sup>12</sup> Lollypop Farm, Humane Society of Greater Rochester, Humane Law Enforcement, <http://www.lollypop.org/humane-law-enforcement>.

<sup>13</sup> Ulster County SPCA, Donate, <http://www.ucspca.org/join-us-5/wish-list>.

<sup>14</sup> See Ken Shapiro and Jill Howard Church, *What It Takes to Prosecute Animal Abusers*, Animals & Society Institute (Dec. 30, 2014), <https://www.animalsandsociety.org/research-nutshell/what-it-takes-to-prosecute-animal-abusers/> (citing Andrea Kordzek, *An Exploratory Study of Animal Cruelty Prosecution in New York*, 22 Society & Animals 602-22 (2014)).

<sup>15</sup> This unit was established in January 2016 to work closely with the New York City Police Department's Animal Cruelty Investigations Squad to investigate animal cruelty, abuse, and neglect in Queens County. Press Release, Queens County District Attorney's Office, Queens District Attorney Richard A. Brown Establishes Animal Cruelty Prosecutions Unit (Jan. 11, 2016), [https://web.archive.org/web/20200930102814/http://www.queensda.org/newpressreleases/2016/JAN%202016/animal%20cruelty%20unit\\_01\\_2016.pdf](https://web.archive.org/web/20200930102814/http://www.queensda.org/newpressreleases/2016/JAN%202016/animal%20cruelty%20unit_01_2016.pdf).

<sup>16</sup> The establishment of the unit was announced in 2016; its mission is “to investigate and prosecute crimes against animals, to highlight and increase awareness of animal abuse, to educate the community about available resources and programs that could prevent neglect, abuse, and injury to animals, and to develop and facilitate relationships with Staten Islanders and local veterinarians to encourage the reporting of animal abuse by speaking for those who have no voice.” Richmond County District Attorney's Office, Who We Are, <https://statenislandda.org/who-we-are>; ASPCA, Staten Island District Attorney Establishes Animal Cruelty Prosecutions Unit (Apr. 14, 2016), <https://www.aspc.org/news/staten-island-district-attorney-establishes-animal-cruelty-prosecutions-unit>.

<sup>17</sup> Nassau County District Attorney, Nassau County District Attorney's Office Bureaus, <http://www.nassauda.org/152/Nassau-County-District-Attorneys-Office->.

District Attorney Animal Cruelty Unit,<sup>18</sup> the Albany County District Attorney Animal Cruelty Taskforce,<sup>19</sup> the Erie County Animal Cruelty Unit,<sup>20</sup> and the Essex County Animal Cruelty Task Force.<sup>21</sup>

By creating a task force to examine, evaluate, and determine how to improve animal protection laws and the relationship between animals and humans, New York can work to develop a more unified state-level approach toward animal protection. New York has already taken some steps toward doing so. In particular, in 2013 the New York State Attorney General launched its Animal Protection Initiative.<sup>22</sup> While this is an important achievement, the initiative targets only some animal-related crimes in New York State, such as shutting down animal fighting rings, ensuring compliance with New York State’s Pet Lemon Law, charging those who abuse or neglect animals, and cracking down on the abuses of so-called “puppy mills.”<sup>23</sup>

In addition to studying how animal protection laws concerning cruelty are enforced, New York’s task force would also consider how laws could improve the relationship between humans and nonhuman animals with respect to companion animals, farmed animals, service animals, wildlife, animals used in research, animals used in entertainment, and other fields involving humans’ use of nonhuman animals. The Animal Law Committee has commented on many bills concerning these issues over these years,<sup>24</sup> and we believe that a comprehensive approach to the human-animal relationship is useful, as many New York laws protect animals on an arbitrary basis.

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<sup>18</sup> Westchester County, About the District Attorney’s Office, <https://www.westchesterda.net/about.htm>.

<sup>19</sup> The task force was formed in August 2013 with a mission to “utilize a multi-agency response to animal abuse, neglect, and hoarding cases, as well as combine law enforcement prevention efforts and public education outreach.” Albany County District Attorney’s Office Animal Cruelty Taskforce, Animal Abuse Prevention Starts with You, <http://albanyda-animaltaskforce.squarespace.com>.

<sup>20</sup> Erie County District Attorney’s Office, Animal Cruelty Unit, <https://www2.erie.gov/da/index.php?q=animal-cruelty-unit>.

<sup>21</sup> The task force was established in 2012 “to ensure the safety and welfare of companion and farm animals in Essex County” and to “improve upon the prevention, identification, and prosecution of animal cruelty by recommending appropriate and clear legislation, by facilitating training of all involved, and by recommending the necessary resources to assist domestic animals in serious danger.” Minutes of the Essex County, NY Public Safety Committee (Mar. 11, 2013), [https://www.co.essex.ny.us/BdOfSupervisors/Minutes/2013\\_20\\_20130311\\_Public%20Safety%20Committee%203-11-2013.htm](https://www.co.essex.ny.us/BdOfSupervisors/Minutes/2013_20_20130311_Public%20Safety%20Committee%203-11-2013.htm).

<sup>22</sup> Press Release, New York State Office of the Attorney General, A.G. Schneiderman Launches New Animal Protection Initiative (May 1, 2013), <http://www.ag.ny.gov/press-release/ag-schneiderman-launches-new-animal-protection-initiative>; see also New York Attorney General, Animal Protection Initiative, <http://www.ag.ny.gov/animals>.

<sup>23</sup> *Id.* The initiative is comprised of state investigators and attorneys from the Attorney General’s regional offices, specifically the Consumer Fraud Bureau, the Criminal Prosecutions Bureau, the Organized Crime Task Force and the Investigations Bureau. *Id.*

<sup>24</sup> For a list of the Animal Law Committee’s published reports, see <https://www.nycbar.org/member-and-career-services/committees/animal-law-committee> (click on “Reports”).

For example, New York’s law prohibiting aggravated cruelty to animals does not apply to wildlife,<sup>25</sup> even though wild animals are as capable of suffering as companion animals.<sup>26</sup>

Notably, several other states have developed similar task forces to review existing animal-related laws, identify enforcement problems, and make recommendations:

- Delaware established its State Animal Welfare Task Force in 2012 “to consider and evaluate the state of animal welfare in Delaware.”<sup>27</sup>
- Illinois Governor Pat McQuinn established the Illinois Pet Advocacy Task Force to “study issues of animal cruelty, neglect, and abuse and make recommendations that will ensure proper treatment and care of Illinois pets” in 2014.<sup>28</sup>
- Massachusetts established the Massachusetts Animal Cruelty and Protection Task Force to “complete a systematic review of the laws pertaining to animal cruelty and protection” in 2014.<sup>29</sup>
- New Hampshire established the Governor’s Task Force for the Humane Treatment of Animals in 2004 and re-established it in 2006 and 2014.<sup>30</sup> The Task Force is required to, among other things, prepare a biennial report suggesting legislation necessary to ensure the safety and welfare of domestic animals.<sup>31</sup>
- New Jersey Governor James E. McGreevey signed an Executive Order in 2002 creating the Animal Welfare Task Force to “[r]ecommend changes to the laws and regulations of this State so as to protect the State’s animals from inhumane treatment, improve the enforcement of anti-cruelty laws, and address the problem of unwanted and euthanized animals in the State.”<sup>32</sup>

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<sup>25</sup> N.Y. Agric. & Mkts. Law § 353-a (applying only to “companion animals”).

<sup>26</sup> One hopes this proposition is self-evident. If not, see Patrick Bateson, Assessment of Pain in Animals, 42 Anim. Behav. 827-39 (1991); Lynne U. Sneddon et al., Defining and Assessing Animal Pain, 97 Anim. Behav. 201-12 (2014), [https://animalstudiesrepository.org/cgi/viewcontent.cgi?article=1068&context=acwp\\_arte](https://animalstudiesrepository.org/cgi/viewcontent.cgi?article=1068&context=acwp_arte).

<sup>27</sup> Delaware State Senate, 146th General Assembly, Senate Concurrent Resolution No. 4 (Jun. 18, 2012), <https://legis.delaware.gov/json/BillDetail/GetPdfDocument?fileAttachmentId=42281>.

<sup>28</sup> State of Illinois, Executive Department, Executive Order 14-09 (Aug. 2, 2014), <https://www2.illinois.gov/Documents/ExecOrders/2014/execorder2014-09.pdf>.

<sup>29</sup> Mass. Gen. Laws ch. 293, § 5 (2014). The Task Force presented its findings in 2016. Massachusetts Animal Cruelty and Protection Task Force: Findings and Recommendations (Jul. 2016), <https://malegislature.gov/Bills/189/SD2649.pdf>.

<sup>30</sup> See State of New Hampshire, Office of the Governor, Executive Order 2016-01 (Jan. 22, 2016), <https://sos.nh.gov/media/tjfhckui/hassan-2016-1.pdf>.

<sup>31</sup> *Id.*

<sup>32</sup> State of New Jersey, Executive Order #23 (Jul. 25, 2002), <http://www.njleg.state.nj.us/OPI/eos/eom23.pdf>. The Task Force presented its findings in 2004. New Jersey Animal Welfare Task Force, Animal Welfare Task Force Report (Nov. 2004), [http://www.njleg.state.nj.us/OPI/Reports\\_to\\_the\\_Legislature/animalwelfaretaskforcereport.pdf](http://www.njleg.state.nj.us/OPI/Reports_to_the_Legislature/animalwelfaretaskforcereport.pdf).

- Vermont established the Vermont Animal Cruelty Task Force to “evaluate the state of animal cruelty investigation and response in Vermont, including the resources devoted to animal investigation and response services and to recommend ways to consolidate, collaborate, or reorganize to use more effectively limited resources while improving the response to animal cruelty” in 2015.<sup>33</sup>

### **III. CONCLUSION**

For the above reasons, the New York City Bar Association’s Animal Law Committee supports the proposed legislation.

Animal Law Committee  
Christopher Wlach, Chair

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<sup>33</sup> Law No. 53, Laws of 2015, § 9.