

Memorandum in Support

COMMITTEE ON ANIMALS AND THE LAW

Animals #2

February 9, 2023

S. 761

By: Senator Krueger

A. 776

By: M. of A. L. Rosenthal

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 AND SECTIONS 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 the Agriculture and Markets Law Section 353-a (1) to provide that a person is guilty of felony aggravated cruelty to animals when, with no justifiable purpose, he or she causes physical injury (rather than “serious” physical injury under the current law) to a companion animal if the person’s actions were intended to inflict extreme physical pain or were conducted in an especially depraved or sadistic manner, i.e. with aggravated cruelty.

In enacting Section 353-a (1), the Legislature correctly focused on the mental state of the perpetrator to intentionally cause unjustified physical harm, but the term “serious” physical harm confuses and complicates the application of the statute.

Section 353-a (1) has been interpreted by courts as inapplicable if a companion animal recovers completely from serious injuries sustained in perpetration of an act of aggravated cruelty. The perpetrator, then, may be found guilty of only misdemeanor cruelty under Section 353, even though his or her action constitutes aggravated cruelty. In practical terms, if an animal has recovered from the injuries inflicted by an individual charged with aggravated cruelty by the time the case goes to court, judges have been reluctant to proceed with the more serious degree of cruelty.

This bill would make it clear that Section 353-a applies to all instances of aggravated cruelty regardless of the severity of the animal’s injuries. It clarifies the

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language of the statute so that courts, law enforcement officers and the public do not misunderstand its intent.

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