SENATE No. 1914

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act Protecting Animal Welfare and Safety (PAWS).

PETITION OF:

Name:	DISTRICT/ADDRESS:
Bruce E. Tarr	First Essex and Middlesex
Robert L. Hedlund	Plymouth and Norfolk
Richard J. Ross	Norfolk, Bristol and Middlesex
Linda Campbell	15th Essex
Diana DiZoglio	14th Essex
Mark C. Montigny	Second Bristol and Plymouth
William N. Brownsberger	Second Suffolk and Middlesex
Gale D. Candaras	First Hampden and Hampshire
Joan B. Lovely	Second Essex
Denise Andrews	2nd Franklin
James Arciero	2nd Middlesex
Brian M. Ashe	2nd Hampden
Bruce J. Ayers	1st Norfolk
Michael J. Barrett	Third Middlesex
F. Jay Barrows	1st Bristol
Matthew A. Beaton	11th Worcester
Stephen M. Brewer	Worcester, Hampden, Hampshire and
	Middlesex

Paul Brodeur	32nd Middlesex
Christine E. Canavan	10th Plymouth
James M. Cantwell	4th Plymouth
Tackey Chan	2nd Norfolk
Katherine M. Clark	Fifth Middlesex
Cheryl A. Coakley-Rivera	10th Hampden
Leah Cole	12th Essex
Mark J. Cusack	5th Norfolk
Josh S. Cutler	6th Plymouth
Angelo L. D'Emilia	8th Plymouth
Sal N. DiDomenico	Middlesex and Suffolk
Stephen L. DiNatale	3rd Worcester
Kenneth J. Donnelly	Fourth Middlesex
Peter J. Durant	6th Worcester
James J. Dwyer	30th Middlesex
Lori A. Ehrlich	8th Essex
Ryan C. Fattman	18th Worcester
Kimberly N. Ferguson	1st Worcester
Ann-Margaret Ferrante	5th Essex
Linda Dorcena Forry	First Suffolk
Paul K. Frost	7th Worcester
Colleen M. Garry	36th Middlesex
Susan Williams Gifford	2nd Plymouth
Anne M. Gobi	5th Worcester
Carlos Henriquez	5th Suffolk
Paul R. Heroux	2nd Bristol
Bradford Hill	4th Essex
Kevin G. Honan	17th Suffolk
Steven S. Howitt	4th Bristol
Donald Humason	
Bradley H. Jones, Jr.	20th Middlesex
John F. Keenan	Norfolk and Plymouth
Peter V. Kocot	1st Hampshire
Kevin J. Kuros	8th Worcester
Jason M. Lewis	Fifth Middlesex
Marc T. Lombardo	22nd Middlesex
Timothy R. Madden	Barnstable, Dukes and Nantucket
Paul W. Mark	2nd Berkshire
Paul McMurtry	11th Norfolk

James R. Miceli	19th Middlesex
Leonard Mirra	2nd Essex
Michael O. Moore	Second Worcester
Richard T. Moore	Worcester and Norfolk
Shaunna O'Connell	3rd Bristol
Marc R. Pacheco	First Plymouth and Bristol
Elizabeth A. Poirier	14th Bristol
Michael J. Rodrigues	First Bristol and Plymouth
Michael F. Rush	Norfolk and Suffolk
John W. Scibak	2nd Hampshire
Alan Silvia	7th Bristol
Frank I. Smizik	15th Norfolk
Theodore C. Speliotis	13th Essex
Karen E. Spilka	Second Middlesex and Norfolk
James E. Timilty	Bristol and Norfolk
Walter F. Timilty	7th Norfolk
Timothy J. Toomey, Jr.	26th Middlesex
David T. Vieira	3rd Barnstable
Martin J. Walsh	13th Suffolk
Donald H. Wong	9th Essex

SENATE No. 1914

By Mr. Tarr, a petition (subject to Joint Rule 12) of Bruce E. Tarr, Robert L. Hedlund, Richard J. Ross, Linda Campbell and other members of the General Court for legislation to protect animal welfare and safety. The Judiciary.

The Commonwealth of Alassachusetts

In the Year Two Thousand Thirteen

An Act Protecting Animal Welfare and Safety (PAWS).

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Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 35WW of chapter 10 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after the word "residents" in line 7, the following words:- ", to protect against cruelty or abuse of domestic animals, to promote the welfare of abused or cruelly treated domestic animals".

SECTION 2. Chapter 20 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting at the end thereof the following new section:-

"Section 33. The State Police or their designee shall establish and advertise a toll-free telephone hotline and website that shall be capable of responding to suspected cases of animal cruelty. The State Police or their designee shall determine the administration of said hotline, response service, and coordination with appropriate authorities to investigate cases of animal cruelty."

SECTION 3. Section 58B of chapter 112 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking said section and inserting in place thereof the following:-

Section 58B. "A veterinarian who, while in the normal course of business, obtains knowledge of or observes an animal whom he or she knows or reasonably suspects has been the victim of animal cruelty prohibited under section 77 or section 94 of chapter 272 shall report said suspected animal cruelty to a police officer or a special state police officer appointed under section 57 of chapter 22C.

A veterinarian duly registered under section 55 who reports, in good faith and in the normal course of business, a suspected act of cruelty to animals prohibited under section 77 or section 94 of chapter 272 to a police officer, or a special state police officer appointed under section 57 of chapter 22C, shall not be liable in a civil or criminal action for reporting such act.

Any veterinarian who fails to report such an act of cruelty shall be punished by not more than \$1,000 and shall be reported to the Board of Registration in Veterinary Medicine."

SECTION 4. Section 112 of chapter 266 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking, in lines 5-8, the words "for not more than five years or by imprisonment in the house of correction for not more than 2 ½ years or by a fine of not more than \$2,500, or by both such fine and imprisonment" and inserting in place thereof the following:-

"for not more than 5 years in state prison or imprisonment in the house of correction for not more than 2 1/2 years and by a fine of not less than \$2,500 but not more than \$10,000; provided, however, that a second or subsequent offense shall be punished by imprisonment in the state prison for not less than 5 years but not more than 10 years and by a fine of not less than \$5,000 but not more than \$20,000. The court may, at its discretion, expand these penalties for a period of years not to exceed 5 years or an additional fine not to exceed \$10,000 for an individual who has violated this section based on a finding of extreme atrocity and cruelty, including but not limited to: the number of animals involved; premeditation and planning by the defendant; whether the abuse occurred as a result of acts undertaken for financial benefit; whether the offense occurred in front of a minor child, or whether the abuse was systematic."

SECTION 5. Chapter 272 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended, in section 77, by striking lines 19 through 21, inclusive, and inserting in place thereof the following wording:-

"for not more than 5 years in state prison or imprisonment in the house of correction for not more than 2 1/2 years and by a fine of not less than \$2,500 but not more than \$10,000; provided, however, that a second or subsequent offense shall be punished by imprisonment in the state prison for not less than 5 years but not more than 10 years and by a fine of not less than \$5,000 but not more than \$20,000. The court may, at its discretion, expand these penalties for a period of years not to exceed 5 years or an additional fine not to exceed \$10,000 for an individual who has violated this section based on a finding of extreme atrocity and cruelty, including but not limited to: the number of animals involved; premeditation and planning by the defendant; whether the abuse occurred as a result of acts undertaken for financial benefit; whether the offense occurred in front of a minor child, or whether the abuse was systematic."

SECTION 6. Section 80H of chapter 272 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking the section in its entirety and inserting in place thereof the following:-

Section 80H. Whoever operates a motor vehicle upon any way or in any place to which the public has right of access, or upon any way or in any place to which members of the public shall have access as invitees or licensees, and without stopping and making known, to a police officer or owner of the dog or cat, his or her name, residence and the registration number of the motor vehicle, goes away after knowingly colliding with or otherwise knowingly causing injury or death to said dog or cat shall be punished by imprisonment for not more than 60 days or by a fine of not more than two thousand dollars, or both.

SECTION 7. Chapter 272 of the General Laws is hereby replacing section 104 with the following section:-

Section 104. (a) As used in this section the word "Authority" shall mean an organization or authorized agent thereof that seizes or impounds an animal pursuant to the General Laws.

- (b) If an animal is lawfully seized or impounded pursuant to the General Laws relating to cruelty to animals or animal fighting resulting in the issuance of a criminal complaint or a criminal indictment, the authority or prosecuting agency, including the district attorney or attorney general, may file a petition with the court that is exercising jurisdiction over the criminal complaint or criminal indictment requesting that the person from whom an animal is seized or a person claiming an interest in the seized animal, be ordered to post a security. The authority shall serve a copy of the petition on the person from whom the animal was seized, or if the person cannot be found, by posting of copy at the place where the animal was taken into custody. The authority shall also serve a copy of the petition on the district attorney or the attorney general, whichever is appropriate. The court may order that person to post a security.
- (c) The security shall be in an amount sufficient to secure payment for all reasonable expenses incurred, and to be incurred, by the authority having custody of the seized animal from the date of seizure or impoundment and thereafter for a period of at least 30 days. The amount of the security shall be determined by the court upon the recommendation of the authority. Reasonable expenses shall include, but shall not be limited to, estimated medical care, shelter, and board.
- (d) When security is posted in accordance with this section, the authority may draw from the security the actual reasonable costs incurred for medical care, shelter, and board. If the expenses already incurred by the seizing authority at the time of judicial decision on the petition exceed the petitioned for security amount, the court may permit the security amount to be paid in its entirety to the seizing authority through the court, or directly from the respondent to the authority, as the court deems appropriate in the interest of justice.
- (e) If the court orders the posting of security, the security shall be posted with the clerk within 10 business days of the court's decision on the petition. The respondent's failure to post security as determined within the appointed time shall be deemed an immediate forfeiture of the

seized animal to the authority, with the full force and effect of a court order. The court may waive the security requirement or reduce the amount of the security for good cause shown.

- (f) Posting of the security shall not prevent the authority from disposing of the seized or impounded animal for humane reasons and in a humane manner before the expiration of the period covered by the security.
- (g) The authority may humanely dispose of the animal at the end of the period for which expenses are covered by the security, if the court orders the disposition. If the disposition order is denied, the court may require the owner or custodian or any other person claiming interest in the animal, to provide additional security to secure payment of reasonable expenses and to extend the period of time pending adjudication by the court of the charges against the person from whom the animal was seized.
- (h) The owner or custodian of an animal humanely euthanized pursuant to this section shall not be entitled to recover damages or the actual value of the animal if the owner or custodian failed to post security.
- (i) The court may direct a refund to the person who posted the security in whole or part for any expenses not incurred by the authority. The court shall direct a refund to the person who posted security upon acquittal of the charges.
- SECTION 8. Chapter 272 of the General Laws, as appearing in the 2012 Official Edition, is hereby further amended by inserting at the end thereof the following new section:-
- Section 106 Animal Abuse Registry
- 113 (a) DEFINITIONS.

- The following words as used in this section, unless the context otherwise requires, shall have the following meanings:
- 1. "animal abuse crime" means the commission of any crime against an animal under Chapter 272, Sections 77 through 81, inclusive, of the General Laws, and comparable animal cruelty statutes of this state or any other state.
- 2. "animal breeder" means any entity engaged in the practice of facilitating the reproduction of animals for the purpose of distributing the resulting offspring to one or more other individuals or entities.
- 3. "animal shelter" means a public animal control facility, or any other facility which is operated by any organization or individual for the purpose of protecting animals from cruelty, neglect, or abuse.

125 4. "convicted of" means an adjudication of guilt by any court of competent jurisdiction, 126 whether upon a verdict or plea of guilty, nolo contender, or a finding of sufficient facts. 127 5. "pet store" means every place or premise where birds, mammals or reptiles are kept for 128 the purpose of sale. 129 (b) CREATION OF AN ANIMAL ABUSE REGISTRY. 130 1. The Department of Criminal Justice Information Services shall establish and maintain 131 a central computerized registry of all persons convicted of an animal abuse crime who are 132 required to register pursuant to section 3, to be known as the Massachusetts Animal Abuse 133 Registry. 134 2. The registry shall be updated based on information made available to the Department 135 of Criminal Justice Information Services, including information acquired pursuant to the 136 registration provisions of section 3. 137 3. The registry shall include the following information: the offender's name, the 138 offender's residential address, the date and a description of the crime for which registration is required, and an identifying photograph of the offender. 139 140 (c) REGISTRATION REQUIREMENT AND REQUIRED INFORMATION. 141 1. All persons eighteen (18) years of age or older, or minors who have been tried as an 142 adult, who reside in Massachusetts and are convicted of an animal abuse crime on or after the 143 effective date of this law, shall register within 10 days following either the date of judgment or 144 date of release from incarceration, whichever is later. Residents of other states who are 145 convicted of an animal abuse crime and who subsequently reside in Massachusetts, on or after 146 the effective date of this law, shall register within their first 10 days of residing in Massachusetts. 147 2. Each person required to register under this section shall submit to the Department of 148 Criminal Justice Information Services for inclusion on the registry: 149 a. Their name; 150 b. Their residential address; 151 c. A description of the offense for which registration is required, the city or town where 152 the offense occurred, the date of conviction or adjudication, and the sentence imposed; and 153 d. An identifying photograph. 154 3. A person required to register under this section shall update registration information to 155 reflect any change in address which may occur, or if no change in address occurs, annually from

the date of their first registration.

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4. Registration pursuant to this section shall remain in effect for a period of 15 years following either the date of judgment or date of release from incarceration, whichever is later, provided that such period shall be extended for an additional 15 years; provided further, however, that a registrant may, after the initial 15 year period, and every 15 years thereafter, petition the department to have his or her registration information removed from the registry upon a written finding by the department that the circumstances of the offense, in conjunction with the offender's criminal history and any other factors the department considers relevant, do not indicate a risk of reoffense or a danger to the public or the welfare of an animal.

(d) FEES.

Every person required to register under section 3 shall pay an annual fee of \$50 to the Department of Criminal Justice Information Services. These funds shall be used to pay the administrative costs of maintaining the registry; provided, however than any surplus in a fiscal year shall be transferred to the Homeless Animal Prevention and Care Fund of section 35WW of chapter 10.

(e) FAILURE TO REGISTER.

Any person required to register under section 3 who knowingly: (i) fails to register; (ii) fails to verify registration information; (iii) fails to provide notice of a change of address; or (iv) knowingly provides false information, shall be punished in accordance with this subsection.

- a. A first conviction under this subsection shall be punished by imprisonment for not more than two and one-half years in a house of correction or by a fine of not more than \$1,000 or by both such fine and imprisonment.
- b. A second and subsequent conviction under this subsection shall be punished by imprisonment in the state prison for not more than 5 years.

(f) APPEALING REGISTRATION.

1. Anyone convicted of an animal abuse crime who would otherwise be required to register under Section 3, may appeal for a determination that registration is not required. The department may, upon making specific written findings that the circumstances of the offense, in conjunction with the offender's criminal history and any other information the department deems relevant, do not indicate a risk of reoffense or a danger to the public or the welfare of an animal, and the reasons therefore, relieve such offender of any further obligation to register, and shall remove such offender's registration information from the registry.

(g) AVAILABILITY OF REGISTRY.

The Department of Criminal Justice Information Services shall keep confidential and shall not publish the information contained in the registry, except that the information contained

in the registry shall be made available for inspection by any animal shelter, pet store, animal breeder, and local or state police department in Massachusetts.

(h) REQUIREMENT TO CHECK REGISTRY.

- 1. All animal shelters, pet stores, and animal breeders in Massachusetts shall determine whether the name and address of any person seeking to purchase, own, or adopt an animal appears on the registry. Any individual, not in the context of a transfer from an animal shelter, pet store, or animal breeder, who transfers ownership of an animal for compensation shall contact local or state police to determine if the person or persons acquiring ownership appear on the registry.
- 2. No animal shelter, pet store, animal breeder, or individual shall knowingly offer, sell, deliver, give or provide an animal to any person registered on the registry.

(i) PUNISHMENT FOR NOT CHECKING REGISTRY.

Any animal shelter, pet store, or animal breeder who violates the provisions of this act shall be punished by a fine of not less than \$1,000 or imprisonment for a period of not more than one year for a first offense, provided that each subsequent offense shall be punishable by a fine of not less than \$5,000 and imprisonment in a jail or house of correction for not more than five years. Any individual who violates the provisions of paragraph (h) and who transfers ownership to a person or persons required to register pursuant to this section shall be punished by a fine of not more than \$500.

SECTION 9. Section 53 of chapter 193 of the acts of 2012 is hereby amended by inserting after the words "consist of:", the following words:- "2 representatives of law enforcement, one of whom shall be a special state police officer appointed under section 57 of chapter 22C, and one of whom shall be a local, state or environmental police officer;"

and further in said section 53 of said chapter 193 of the acts of 2012, by inserting after the words "pet population control", the following words:- "or experience promoting animal welfare or preventing animal cruelty or abuse."

SECTION 10. Notwithstanding any general or special law to the contrary, a law enforcement officer of the commonwealth or a political subdivision of the commonwealth, including special officers appointed under section 57 of chapter 22C, while in the course of duty, may conduct a warrantless entry, upon exigent circumstances, to provide immediate assistance due to a reasonable belief of an imminent threat of death or grave injury to an animal protected by section 77 of chapter 272; provided, however, that the totality of the circumstances demonstrate said warrantless entry is reasonable, said warrantless entry is caused by the need to provide assistance against the death or grave injury of said animal, and said warrantless entry is limited to the time and place of the emergency.

SECTION 11. There shall be a special commission established to complete a systematic review of the laws pertaining to animal abuse and welfare. The commission shall assess the adequacy, effectiveness, and necessity of said laws, including but not limited to, section 57 of chapter 22C, section 85 of chapter 119, and the animal welfare laws contained in chapters 266 and 272.

The commission shall consist of the attorney general or a designee; the president of the district attorneys association or a designee; the colonel of the Massachusetts state police or a designee; the commissioner of the department of agricultural resources or a designee; the president of the Massachusetts Farm Bureau Federation or a designee; a designee from the Massachusetts bar association; and 3 members appointed by the Governor, 1 of whom shall be from a humane society, animal rescue or sheltering organization, 1 of whom shall be an animal control officer or representative of an association organized in the commonwealth for animal control officers, and 1 whom shall be a veterinarian or member of a veterinary medical association organized in the commonwealth. Said members of the commission shall appoint a chair.

The commission shall submit a report of its findings and legislative recommendations, examining any potential changes, expansions, reductions and laws which would improve the ability to deter abuse and neglect and promote animal welfare, to the clerks of the senate and house of representatives and the chairs of the joint committee on the judiciary not later than 90 days after the effective date of this act.