

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

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

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

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 Massachusetts

In the Year Two Thousand Thirteen

An Act Protecting Animal Welfare and Safety (PAWS).

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

1 SECTION 1. Section 35WW of chapter 10 of the General Laws, as appearing in the
2 2012 Official Edition, is hereby amended by inserting after the word “residents” in line 7, the
3 following words:- “, to protect against cruelty or abuse of domestic animals, to promote the
4 welfare of abused or cruelly treated domestic animals”.

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

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

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

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

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

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

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

31 “for not more than 5 years in state prison or imprisonment in the house of correction for
32 not more than 2 1/2 years and by a fine of not less than \$2,500 but not more than \$10,000;
33 provided, however, that a second or subsequent offense shall be punished by imprisonment in the
34 state prison for not less than 5 years but not more than 10 years and by a fine of not less than
35 \$5,000 but not more than \$20,000. The court may, at its discretion, expand these penalties for a
36 period of years not to exceed 5 years or an additional fine not to exceed \$10,000 for an
37 individual who has violated this section based on a finding of extreme atrocity and cruelty,
38 including but not limited to: the number of animals involved; premeditation and planning by the
39 defendant; whether the abuse occurred as a result of acts undertaken for financial benefit;
40 whether the offense occurred in front of a minor child, or whether the abuse was systematic.”

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

44 “for not more than 5 years in state prison or imprisonment in the house of correction for
45 not more than 2 1/2 years and by a fine of not less than \$2,500 but not more than \$10,000;
46 provided, however, that a second or subsequent offense shall be punished by imprisonment in the
47 state prison for not less than 5 years but not more than 10 years and by a fine of not less than
48 \$5,000 but not more than \$20,000. The court may, at its discretion, expand these penalties for a
49 period of years not to exceed 5 years or an additional fine not to exceed \$10,000 for an
50 individual who has violated this section based on a finding of extreme atrocity and cruelty,
51 including but not limited to: the number of animals involved; premeditation and planning by the
52 defendant; whether the abuse occurred as a result of acts undertaken for financial benefit;
53 whether the offense occurred in front of a minor child, or whether the abuse was systematic.”

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

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

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

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

68 (b) If an animal is lawfully seized or impounded pursuant to the General Laws relating to
69 cruelty to animals or animal fighting resulting in the issuance of a criminal complaint or a
70 criminal indictment, the authority or prosecuting agency, including the district attorney or
71 attorney general, may file a petition with the court that is exercising jurisdiction over the criminal
72 complaint or criminal indictment requesting that the person from whom an animal is seized or a
73 person claiming an interest in the seized animal, be ordered to post a security. The authority shall
74 serve a copy of the petition on the person from whom the animal was seized, or if the person
75 cannot be found, by posting of copy at the place where the animal was taken into custody. The
76 authority shall also serve a copy of the petition on the district attorney or the attorney general,
77 whichever is appropriate. The court may order that person to post a security.

78 (c) The security shall be in an amount sufficient to secure payment for all reasonable
79 expenses incurred, and to be incurred, by the authority having custody of the seized animal from
80 the date of seizure or impoundment and thereafter for a period of at least 30 days. The amount of
81 the security shall be determined by the court upon the recommendation of the authority.
82 Reasonable expenses shall include, but shall not be limited to, estimated medical care, shelter,
83 and board.

84 (d) When security is posted in accordance with this section, the authority may draw from
85 the security the actual reasonable costs incurred for medical care, shelter, and board. If the
86 expenses already incurred by the seizing authority at the time of judicial decision on the petition
87 exceed the petitioned for security amount, the court may permit the security amount to be paid in
88 its entirety to the seizing authority through the court, or directly from the respondent to the
89 authority, as the court deems appropriate in the interest of justice.

90 (e) If the court orders the posting of security, the security shall be posted with the clerk
91 within 10 business days of the court's decision on the petition. The respondent's failure to post
92 security as determined within the appointed time shall be deemed an immediate forfeiture of the

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

95 (f) Posting of the security shall not prevent the authority from disposing of the seized or
96 impounded animal for humane reasons and in a humane manner before the expiration of the
97 period covered by the security.

98 (g) The authority may humanely dispose of the animal at the end of the period for which
99 expenses are covered by the security, if the court orders the disposition. If the disposition order is
100 denied, the court may require the owner or custodian or any other person claiming interest in the
101 animal, to provide additional security to secure payment of reasonable expenses and to extend
102 the period of time pending adjudication by the court of the charges against the person from
103 whom the animal was seized.

104 (h) The owner or custodian of an animal humanely euthanized pursuant to this section
105 shall not be entitled to recover damages or the actual value of the animal if the owner or
106 custodian failed to post security.

107 (i) The court may direct a refund to the person who posted the security in whole or part
108 for any expenses not incurred by the authority. The court shall direct a refund to the person who
109 posted security upon acquittal of the charges.

110 SECTION 8. Chapter 272 of the General Laws, as appearing in the 2012 Official
111 Edition, is hereby further amended by inserting at the end thereof the following new section:-

112 Section 106 Animal Abuse Registry

113 (a) DEFINITIONS.

114 The following words as used in this section, unless the context otherwise requires, shall
115 have the following meanings:

116 1. "animal abuse crime" means the commission of any crime against an animal under
117 Chapter 272, Sections 77 through 81, inclusive, of the General Laws, and comparable animal
118 cruelty statutes of this state or any other state.

119 2. "animal breeder" means any entity engaged in the practice of facilitating the
120 reproduction of animals for the purpose of distributing the resulting offspring to one or more
121 other individuals or entities.

122 3. "animal shelter" means a public animal control facility, or any other facility which is
123 operated by any organization or individual for the purpose of protecting animals from cruelty,
124 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 contendere, 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
139 required, and an identifying photograph of the offender.

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
156 the date of their first registration.

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

165 (d) FEES.

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

171 (e) FAILURE TO REGISTER.

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

175 a. A first conviction under this subsection shall be punished by imprisonment for not
176 more than two and one-half years in a house of correction or by a fine of not more than \$1,000 or
177 by both such fine and imprisonment.

178 b. A second and subsequent conviction under this subsection shall be punished by
179 imprisonment in the state prison for not more than 5 years.

180 (f) APPEALING REGISTRATION.

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

188 (g) AVAILABILITY OF REGISTRY.

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

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

193 (h) REQUIREMENT TO CHECK REGISTRY.

194 1. All animal shelters, pet stores, and animal breeders in Massachusetts shall determine
195 whether the name and address of any person seeking to purchase, own, or adopt an animal
196 appears on the registry. Any individual, not in the context of a transfer from an animal shelter,
197 pet store, or animal breeder, who transfers ownership of an animal for compensation shall
198 contact local or state police to determine if the person or persons acquiring ownership appear on
199 the registry.

200 2. No animal shelter, pet store, animal breeder, or individual shall knowingly offer, sell,
201 deliver, give or provide an animal to any person registered on the registry.

202 (i) PUNISHMENT FOR NOT CHECKING REGISTRY.

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

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

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

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

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

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

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