

SENATE No. 2672

The Commonwealth of Massachusetts

—
In the One Hundred and Ninety-Second General Court
(2021-2022)
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SENATE, February 10, 2022.

The committee on the Judiciary, to whom was referred the petitions (accompanied by bill, Senate, No. 943) of Sonia Chang-Diaz and Kay Khan for legislation to address investigations of reports of abuse and neglect; (accompanied by bill, Senate, No. 1097) of Mark C. Montigny, Steven G. Xiarhos, Jack Patrick Lewis, Adam J. Scanlon and other members of the General Court for legislation to enhance the issuance of citations for cruel conditions for animals; (accompanied by bill, Senate, No. 1111) of Michael O. Moore, Steven G. Xiarhos, Jack Patrick Lewis, Jessica Ann Giannino and other members of the General Court for legislation relative to the ownership of pets by convicted animal abusers; (accompanied by bill, House, No. 1651) of Bradford Hill relative to the penalty for the abuse of certain animals; (accompanied by bill, House, No. 1652) of Bradford Hill relative to the penalty for the abuse of certain animals; (accompanied by bill, House, No. 1656) of Bradford Hill for legislation to protect animals from convicted animal abusers; (accompanied by bill, House, No. 1716) of Kay Khan and others relative to investigations of reports of abuse and neglect; (accompanied by bill, House, No. 1824) of Tram T. Nguyen, Bradford Hill and others relative to convicted animal abusers; and (accompanied by bill, House, No. 1840) of Angelo J. Puppolo, Jr., and others for legislation to impose penalties for cruel conditions for animals, reports the accompanying bill (Senate, No. 2672).

For the committee,
James B. Eldridge

SENATE No. 2672

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**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act addressing investigations of reports of animal abuse and neglect.

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 2020
2 Official Edition, is hereby amended by inserting after the figure “62”, in line 17, the following
3 words:- , fines collected pursuant to section 37 of chapter 129.

4 SECTION 2. Said section 35WW of said chapter 10, as so appearing, is hereby further
5 amended by inserting after the figure “140”, in line 9, the following words:- and include the
6 writing of citations under section 174E of chapter 140.

7 SECTION 3. Section 42 of chapter 19A, as so appearing, is hereby amended by striking
8 out, in line 52, the words “During any investigation or evaluation reported under section 18,”

9 SECTION 4. Section 14 of chapter 19C, as so appearing, is hereby amended by striking
10 out, in line 1, the words “During any investigation or evaluation reported under section 5,”

11 SECTION 5. Section 85 of chapter 119, as so appearing, is hereby amended by striking
12 out, in line 1, the words “During any investigation or evaluation reported under section 51A,”

13 SECTION 6. Section 37 of chapter 129, as so appearing, is hereby amended by inserting
14 after the fourth sentence the following sentence:- A fine assessed under this section shall be
15 deposited into the Homeless Animal Prevention and Care Fund established in section 35WW of
16 chapter 10.

17 SECTION 7. Section 174E of chapter 140, as so appearing, is hereby amended by
18 striking subsections (g) through (i) and inserting in place thereof the following subsections:-

19 (g) No person owning or keeping an animal, including a domestic animal or livestock,
20 shall subject the animal to cruel conditions that would otherwise violate section 77 of chapter
21 272.

22 (h) A person who violates this section shall: (i) for a first offense, be issued a written
23 warning or punished by a fine of not more than \$50; (ii) for a second offense, be punished by a
24 fine of not more than \$200; and (iii) for a third or subsequent offense, be punished by a fine of
25 not more than \$500; provided, however, that for a third or subsequent offense, the animal may be
26 subject to impoundment in a local shelter or appropriate facility at the owner's, keeper's or
27 guardian's expense pending compliance with this section, or loss of ownership of the animal.

28 (i) A special state police officer appointed by the colonel of state police at the request of
29 the Massachusetts Society for the Prevention of Cruelty to Animals or the Animal Rescue
30 League of Boston pursuant to section 57 of chapter 22C may enforce this section pursuant to the
31 notice and court procedures under section 21D of chapter 40 for the non-criminal disposition of a
32 violation, if an animal control officer, after being contacted by the Massachusetts Society for the
33 Prevention of Cruelty to Animals or the Animal Rescue League of Boston in response to a
34 violation of this section, is unresponsive or unavailable.

35 (j) A city or town shall enforce this section through its animal control officers or police
36 officers in a manner consistent with the disposition provisions in section 21D of chapter 40.

37 (k) Nothing in this section shall preclude prosecution under section 77 of chapter 272.

38 SECTION 8. Chapter 272 of the General Laws is hereby amended by inserting after
39 section 77 the following section:-

40 Section 77 ½: Prohibition on access to animals by convicted animal abusers

41 (a) A person convicted of a violation of this section or of sections 77, 80 ½, 94, or 95
42 shall not harbor, own, possess, exercise control over, reside with, adopt, or foster an animal or
43 engage in an occupation, whether paid or unpaid, or participate in a volunteer position at any
44 establishment where animals are present for any length of time that the court deems reasonable
45 for the protection of all animals; provided, however, that the length of time shall not be less than
46 5 years after the person's release from custody for a first offense or less than 15 years after the
47 person's release from custody for a second or subsequent offense.

48 (b) The court shall notify relevant authorities of the duration of the prohibition within 30
49 days. Such authorities shall include any municipal officer involved with animal control and any
50 municipal official responsible for the issuance of dog licenses in the municipality of the
51 offender's residence or residences, and any special state police officer duly appointed by the
52 colonel of the state police at the request of the Massachusetts Society for the Prevention of
53 Cruelty to Animals or the Animal Rescue League of Boston under section 57 of chapter 22C.
54 Such notice to authorities shall not be a public record under clause twenty-sixth of section 7 of
55 chapter 4 or chapter 66.

56 (c) A person convicted of a violation of the provisions in this section, as a first offense,
57 may petition the court to reduce the duration of the prohibition no more than once per year. Such
58 petition shall include: (i) an identification by county and docket number of the proceeding in
59 which the petitioner was convicted; (ii) the date the judgment of conviction entered; (iii) the
60 sentence imposed following conviction; (iv) a statement identifying all previous proceedings for
61 direct and collateral review and the orders or judgments entered; and (v) all grounds for
62 reduction of the duration of the prohibition claimed by the petitioner. The petitioner shall have
63 the burden of establishing by a preponderance of evidence all of the following: (i) the petitioner
64 does not present a danger to animals; (ii) the petitioner has the ability to properly care for any
65 and all animals the petitioner may harbor, own, possess, exercise control over, reside with, adopt,
66 or foster, or with whom the petitioner may engage in an occupation, whether paid or unpaid, or
67 with whom the petitioner may participate in a volunteer position at any establishment; and (iii)
68 the petitioner has successfully completed relevant classes and counseling deemed sufficient by
69 the court. The petitioner shall serve a copy of the petition upon the office of the prosecuting
70 attorney. The district attorney shall respond to the petition, specifying whether the petitioner
71 presents a danger to animals and whether the petitioner should have the duration of the
72 prohibition reduced. Upon receipt of a petition, the court shall schedule a hearing. If the
73 petitioner has met their burden, the court may reduce the prohibition, issuing corresponding
74 notice as established in subsection (b) and may order that the petitioner instead comply with
75 reasonable and unannounced inspections of the petitioner's residence or residences, for a period
76 of time the court deems appropriate, by an animal control officer as defined in section 136A of
77 chapter 140 or a police officer or special state police officer appointed under section 57 of
78 chapter 22C.

79 (d) Any person found in violation of an order incorporating the provisions of this section
80 may, in addition to any other punishment provided by law, be fined in an amount not exceeding
81 \$1,000 for each animal held in unlawful ownership or possession and shall forfeit custody of any
82 animal involved in a violation of this section to the custody of an entity incorporated under the
83 laws of the commonwealth for the prevention of cruelty to animals or for the care and protection
84 of homeless or suffering animals.

85 SECTION 9. Section 77C of said chapter 272, as so appearing, is hereby amended by
86 inserting after the word, “present”, in line 58, the following words:- , adopt or foster an animal,

87 SECTION 10. Said section 77C of said chapter 272, as so appearing, is hereby further
88 amended by inserting after the word, “custody”, in line 63, the following words:- for a first
89 offense or less than 15 years after the person’s second or subsequent offense.

90 The court shall notify relevant authorities of the duration of the prohibition within 30
91 days, such authorities shall include any municipal officer involved with animal control and any
92 municipal official responsible for the issuance of dog licenses in the municipality of the
93 offender’s residence or residences, and any special state police officer duly appointed by the
94 colonel of the state police at the request of the Massachusetts Society for the Prevention of
95 Cruelty to Animals or the Animal Rescue League of Boston under section 57 of chapter 22C.
96 Such notice to authorities shall not be a public record under clause twenty-sixth of section 7 of
97 chapter 4 or chapter 66.