

Dear Chairwoman Partridge and Committee Members,

Thank you for the opportunity to weigh in on H. 254. I was so appreciative of the careful consideration given to the issues and to the potential effects of any changes to legislation. Driving home it struck me again how connected the concerns around this bill are to the definition of humane officer, found in Title 13, Chapter 8, Sec. 351:

(4) "Humane officer" or "officer" means any law enforcement officer as defined in 23 V.S.A. § 4(11); auxiliary State Police officers; deputy game wardens; humane society officer, employee, or agent; animal control officer appointed by the legislative body of a municipality; local board of health officer or agent; or any officer authorized to serve criminal process.

The broadness of this definition makes it onerous to ensure that humane officers are properly trained and have the expertise needed to assess the animal and its well-being, per Joe's point. I'd like to take this opportunity to highlight one of the recommendations of the Animal Cruelty Investigations Advisory Board—to change the definition of the Humane Officer. I believe it would make a good first step in the right direction. I have excerpted below our reasoning for and recommended changes to the definition below.

The definition of "humane officer" or "officer" is overbroad. First, a "law enforcement officer as defined in 23 V.S.A. § 4(11)" includes: persons certified pursuant to 20 V.S.A. § 2358 including sheriffs, deputy sheriffs, constables whose authority has not been limited under 24 V.S.A. § 1936a, police officers, State's Attorneys, Capitol Police officers, motor vehicle inspectors, liquor investigators, State game wardens, and State Police.^[1] Under this definition, it is our opinion that there is no need for the additional enumeration in 13 V.S.A. § 351(4) for Auxiliary State police officers, Deputy game wardens, and any officer authorized to serve criminal process. It should be sufficient to define a "humane officer" as a "law enforcement officer" as defined in 23 V.S.A. § 4(11).

Second, the definitions around officers, employees or agents of an incorporated humane society organization is problematic. Under the current definition, there is no basis to determine whether an organization, other than the Vermont Humane Federation, is an incorporated humane society. In addition, the definition is circular

^[1] There is an additional definition of a "law enforcement officer" found in 20 V.S.A. § 2351a and is defined as "a member of the Department of Public Safety who exercises law enforcement powers; a member of the State Police; a Capitol Police officer; a municipal police officer; a constable who exercises law enforcement powers; a motor vehicle inspector; an employee of the Department of Liquor Control who exercises law enforcement powers; an investigator employed by the Secretary of State; a Board of Medical Practice investigator employed by the Department of Health; an investigator employed by the Attorney General or a State's Attorney; a fish and game warden; a sheriff; a deputy sheriff who exercises law enforcement powers; a railroad police officer commissioned pursuant to 5 V.S.A. chapter 68, subchapter 8; or a police officer appointed to the University of Vermont's Department of Police Services."

and meaningless because it authorizes officers, employees and agents of an incorporated humane society to enforce animal cruelty laws and also defines a “humane society” as an “any incorporated humane society that, through its agents, has the lawful authority to interfere with acts of cruelty to animals.” Nowhere in the statutory definition does it outline where this lawful authority comes from. And, as previously outlined, there is no regulation of who can call themselves an incorporated humane society.

Lastly, defining “humane officer” to encompassing a “local board of health” officer or agent authorized a “health officer, selectboard member or alderman” and allowing those individuals to enforce criminal animal cruelty laws is extremely problematic because it grants an alderman to have the same powers to enforce animal cruelty laws as a certified law enforcement officer for example.

Given this broad definition of “humane officer” we recommend that the 13 V.S.A. § 351(4) be amended to read as follows:

(4) “Humane officer” or “officer” means any law enforcement officer as defined in 23 V.S.A. § 4(11) or 20 V.S.A. § 2351a; an investigator of the Criminal Division of the Attorney General’s office or investigator of a State’s Attorney’s office; humane special agent certified under 13 V.S.A. § 356(b) to investigate acts of cruelty to animals; or certified animal control officer appointed by the legislative body of a municipality.

To address our previous recommendations regarding licensing and oversight of animal welfare and rescue organizations, we would further recommend that 13 V.S.A. § 351(5) be amended to read as follows:

(5) “Incorporated humane society” means a private, nonprofit animal care agency registered and in good standing with the Secretary of State’s Office^[2].

Currently the statute mentions that there be some training for humane officers. The statutory language only requires that a humane officer “complete a certification program on animal cruelty investigation training as developed and approved by the Animal Cruelty Investigation Advisory Board.” See 13 V.S.A. § 356. However, the statute is wholly lacking in any oversight after the initial certification (a 4-hour course), no continuing education requirement, no registration, and no process for decertification of unfit investigators. To that end and following the direction of other states with more stringent humane officer definitions, we recommend that the Legislature amend § 356 as follows:

§ 356. Humane officer required certification; training

(a) All humane officers as defined in subdivision 351(4) of this title shall complete a certification program on animal cruelty investigation training as developed and approved by the Animal Cruelty Investigation Advisory Board (or whatever agency is designated to house these issues) and administered by the Vermont Criminal

^[2] Or whatever agency is designated to house these issues.

Justice Training Council. All certified humane officers shall complete periodic training to maintain certification as developed and approved by the Animal Cruelty Investigation Advisory Board (or whatever agency is designated to house these issues) and administered by the Vermont Criminal Justice Training Council.^[3]

(b) At the request of an incorporated humane society, the Animal Cruelty Investigation Advisory Board (or whatever agency is designated to house these issues) shall certify a designated employee of the humane society as a humane special agent if:

(1) The employee attends and successfully completes the certification program on animal cruelty investigation training as developed and approved by the Animal Cruelty Investigation Advisory Board (or whatever agency is designated to house these issues) and administered by the Vermont Criminal Justice Training Council;

(2) The Animal Cruelty Investigation Advisory Board (or whatever agency is designated to house these issues) determines that the employee is fit and qualified to perform the duties of a humane special agent;

(3) The incorporated humane society agrees in writing to save harmless and indemnify the State of Vermont and its officers, employees and agents from and against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission of the employee or the incorporated humane society, that relates to or results from the authority granted by the Animal Cruelty Investigation Advisory Board (or whatever agency is designated to house these issues); and

(d) The incorporated humane society furnishes to the Chair of the Animal Cruelty Investigation Advisory Board (or whatever agency is designated to house these issues) a copy of an insurance policy, purchased and maintained by the incorporated humane society, that the Chair determines is sufficient to satisfy any tort claim or demand described in paragraph (c) of this subsection.

(c) Before granting a certification under this section, the Chair may require the employee to take and subscribe to an oath of office to support the Constitution and laws of the United States and of the State of Vermont, and to honestly and faithfully perform the duties of a humane special agent.

(d) The Chair shall suspend or revoke a certification granted under this section if the Chair determines that:

(1) The certification of the employee lapsed and has not been reissued under 13 V.S.A. § 356(a);

(2) The employee has been separated from employment with the incorporated humane society;

(3) The employee has abused the certification.

^[3] Per our charge, the Animal Cruelty Investigations Advisory Board is required to “develop and identify funding sources for an animal cruelty investigation program for humane officers in accordance with 13 V.S.A. § 356, and develop a standard by which a person who has been actively engaged in this State as a humane officer conducting animal cruelty investigations for at least five years preceding July 1, 2017 may become certified without completion of the certification program requirements. 24 V.S.A. § 1943(c)(9). It follows that we should be able to develop and propose certification requirements and continuing education requirements for continued certification.

(e) An employee of an incorporated humane society certified under this section holds the certification at the pleasure of the Chair. The Chair may suspend or revoke a commission granted under this section at any time for good cause, as determined by the Chair. If the Chair revokes a commission granted under this section, the employee of the incorporated humane society is entitled only to an informal opportunity to be heard by the Chair, for the purposes of explaining any factual circumstances related to the revocation and attempting to persuade the Chair to reverse the decision to revoke the certification.

(f) Humane special agents certified under this section serve at the sole expense of the incorporated humane society employing the agent.

(g) The Animal Cruelty Investigation Advisory Board (or whatever agency is designated to house these issues) may adopt rules to carry out the provisions of this section.

Thank you again for your time and thoughtfulness. I and other members of the ACIAB Board would be happy to come and discuss this with you.

Best, Jessica

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