



MODEL "DEPARTMENT OF ANIMAL AFFAIRS" STATUTE

Surely no one can dispute that government has a moral and political obligation to protect children from harm. At common law, before enactment of today's modern statutes, it was the consistent policy of government to look after the interests of children (although the form and extent of that protection often left much to be desired). Laws protected children from their own folly and improvidence, and from abuse by adults. Indeed, as regards their protection, from birth children have been considered wards of the state. These common law principles have been enacted into law in every state in America. Child-protection statutes reflect governmental concerns with physical and mental cruelty, neglect, food, clothing, shelter, education, vagrancy, capacity to contract, lack of capacity to consent to sexual acts, and much more.

The principle which underlies all modern child protection legislation unites the cause of children's rights with the parallel cause of Animal Rights. Government intervenes to prevent or remedy a child's fear, hunger, pain, suffering, abuse and even death, because children are incapable, mentally and physically, of protecting themselves from these conditions. So, too, are animals. Like children, they are defenseless. Like children, they can experience fear, hunger, pain, suffering, abuse and death. Like children, government has a duty to protect them.

This proposition-that government has an obligation to protect animals, at least to some extent-is not novel. Already, at least somewhat in existing animal protection legislation, government does recognize and implement its responsibility.

Regrettably, however, this sort of legislation is woefully inadequate.

Today, we live amidst what can fairly be characterized as animal genocide, especially of cats and dogs. Puppy mills and back-yard breeders grind out dogs. American cities are rife with pet shops, selling dogs and cats. Strays, dogs and cats alike, breed indiscriminately. And the surplus-animals unwanted for any reason, or no reason at all--end up dead in the streets or countryside, or "euthanized" at shelters and humane

societies. Estimates vary as to how many unwanted dogs and cats are killed annually at shelters and humane societies, but millions¹ is probably not an exaggeration.

Today, we live amidst people who cause untold animal suffering through ignorance, irresponsibility, negligence, recklessness, and yes, even intentional cruelty.

Today, we live amidst a governmental structure which, at best, has minor animal protection services spread throughout various agencies, or which, at worst, has no such services at all. And even in those jurisdictions where private shelters or humane societies do exist, they cannot, they do not, adequately cope with the profound animal protection problems which exist today.

Those problems do not include merely the countless strays who roam our streets and countryside, the fecal matter which pollutes our environment, the genocide of millions of unwanted cats and dogs, the cruelty, the neglect. No, those problems also embrace every other aspect of the relationship between humans and animals, and the responsibility of the former to the latter. And because, taken as a whole, there are so many problems born of this interaction, what is needed governmentally is a single public entity with know-how, power, and resources, a single public entity concerned with and devoted to animal problems, a single public entity which is empowered to take a coordinated across-the-board approach to those problems in the public interest and in the interest of animals. What is needed is a Department of Animal Affairs.

Department; commissioner. - The humane treatment and control of animals, to ensure their protection from cruelty and all forms of suffering and for other reasons pertaining to the public health, safety, and welfare, being a matter of great public concern, there shall be a department of animal affairs, the head of which shall be the commissioner of animal affairs who shall be appointed by the [insert Mayor, Governor, etc].

(a) The commissioner shall have jurisdiction to regulate all matters affecting animals in this jurisdiction and to enforce all provisions of law applicable to the humane treatment and control of animals to ensure their protection from cruelty and all forms of suffering, to the extent that such jurisdiction does not conflict with state law; provided, however, that such jurisdiction shall not extend to any pest extermination program now in effect under the jurisdiction of any other public agency, but provided further that the means of such extermination program shall be first approved by the department of animal affairs.

(b) In furtherance, but not in limitation, of such jurisdiction, the commissioner shall have and exercise the power and duty:

(1) to regulate all matters affecting animals in this jurisdiction and to enforce all provisions of law applicable to the humane treatment and control of animals and to ensure their protection from cruelty and all forms of suffering;

¹ I Neither ISAR, nor any other organization in the United States, has available a reliable estimate for how many dogs and cats are euthanized annually by animal shelters in this country.

- (2) to promulgate, amend, suspend, and abolish rules and regulations to implement the jurisdiction and carry out the powers and duties of the department;
 - (3) to exercise all functions in connection with the department's jurisdiction, powers and duties which are now or may hereafter be allowable under state law;
 - (4) to hold public and private hearings, administer oaths, take testimony, issue and serve subpoenas, receive evidence, make findings, promulgate and enforce orders as provided below, and generally to utilize the administrative fact finding and adjudicative process in furtherance of the department's function;
 - (5) to conduct studies and research pertaining to, to investigate, and to continually monitor the status of, the welfare of animals in this jurisdiction;
 - (6) to plan and develop programs, and make recommendations to the executive and legislative branches, concerning the humane treatment and control of animals to ensure their protection from cruelty and all forms of suffering;
 - (7) to establish and humanely operate, at no cost to the public for services rendered, a public shelter and pound for the care, redemption, adoption, and humane euthanization of unowned or unwanted animals or those incurably suffering from injury, disease, or other infirmity;
 - (8) to establish and humanely operate low-cost spay neuter clinics;
 - (9) to consult with and assist all schools below college level in connection with the preparation and implementation of educational programs concerning the humane treatment and control of animals to ensure their protection from cruelty and all forms of suffering;
 - (10) to register or license or both all owned or possessed animals in this jurisdiction or the owners or possessors thereof or both, including those who have only temporary possession of animals, subject to such requirements as the department may promulgate.
- (c) In furtherance, but not in limitation, of such jurisdiction, the commissioner shall have and exercise such additional powers and duties as shall be necessary and proper to fulfill its function and as may be assigned by law.
 - (d) In furtherance, but not in limitation, of such jurisdiction, the commissioner shall exclusively possess and exercise such powers and duties, regarding animals in this jurisdiction which, as of the effective date of this statute to the charter, are possessed by any other agency of this jurisdiction.

Definition of "animal."-For purposes of this statute, "animal" shall be defined as follows: birds, amphibians, fish, reptiles, crustaceans and every mammal except mankind.

Separability.-If any provisions of this statute shall be held invalid, or ineffective in whole or in part, or inapplicable to any given situation, it is the intent and purpose of this statute that all other provisions of this chapter shall nevertheless be separately and fully valid, effective, and applicable.

This law shall take effect immediately upon being duly approved.