

Helping Hands for Animals Resolution Proposal¹

A) Animal Control and Welfare Commissioner Findings and Intent:²

1. No statute precludes San Francisco from enacting this legislation.
2. San Francisco recognizes that animal cruelty is pervasive.
3. It is in the public interest to prosecute as many of these violations as possible because cruelty to animals is directly related to other crimes.
 - a. Numerous studies have shown that violence against animals is directly related to violence against humans.
 - b. Animal fighting is often linked to other crimes such as gambling and drug trafficking.
4. Law enforcement is unable to take action on every case involving animal cruelty.
 - a. There is already economic strain on the Government.
 - b. The legislature desires to provide relief to the workload of government attorneys and investigators.
5. This statute would allow other attorneys to help the government enforce the animal cruelty statute and share duties, thus, the proposed Ordinance is entitled Neighborhood Watch, so that the private attorneys may alleviate some of the overwhelming duties from the government.
6. The inclusion of private attorneys facilitating the prosecution against animal abuse will not impact the County DA ratings.

¹ A copy of the language of the Proposed Resolution to be suggested to a Supervisor is attached as Attachment 1.

² The citations for the research on this proposal is included within Attachment 2.

B) Proposed Resolution:

That the following language be added under Article 1 as section Three (3) of the Municipal Health Code, entitled: Public Participation (or) Shared Duties (or) Private Enforcement (or) Private Right of Action:³

Section 3(a) The County of San Francisco hereby confers a private right of action for private citizens to prosecute cases for animal welfare misconduct which occurs in the County of San Francisco. Wherefore, private attorneys are hereby authorized to enforce animal welfare misconduct statutes through the liaison of the San Francisco Animal Care and Control Department (“ACC”). Thirty (30) days after an ACC investigation has been forwarded to the District Attorneys office for prosecution, and no Complaint of the following animal welfare misconduct statutes has been filed, or it is later found that such investigation and complaint filing was closed without completing the prosecution of the animal welfare misconduct statutes, the County of San Francisco authorizes private attorneys to file such a complaint upon the subjects of an ACC investigation on behalf on the People of the State of California.

(b) “Animal welfare misconduct” cases in which citizen participation is hereby vested include the following: San Francisco Ordinances, and State and Federal laws pertaining to animal abuse, the interest of animal welfare and animal cruelty laws specifically framed for the prevention of inhumane treatment of animals, including, but not limited to, San Francisco Local Ordinance, Art. I-IA, §§ 1A.3, 1A.4, 12, 32, 37, 40.5, 40.6, 41.12, 42.1, California Penal Code Sections 596, 596.5, 596.7, 597, 597.1, 597.3,

³ A duplicate of the index of how Article 1 currently appears is found in Attachment 3.

597a through x, 598, 598 a through d, 599 et al, 600, 623, 374d, 384h, 399, 399.5 and 7

U.S.C. § 2131 et seq.⁴

⁴ Attachment 4 displays how the proposed ordinance would appear as part of the local ordinance.

Attachment 1

SAN FRANCISCO

RESOLUTION OF THE BOARD OF SUPERVISORS

MEETING OF _____ 2006

Resolutions to pass the Helping Hands for Animals Ordinance:

WHEREAS, No statute precludes San Francisco from enacting this legislation.

WHEREAS San Francisco recognizes that animal cruelty is pervasive.

WHEREAS It is in the public interest to prosecute as many of these violations as possible because cruelty to animals is directly related to other crimes.

WHEREAS. Numerous studies have shown that violence against animals is directly related to violence against humans.

WHEREAS. Animal fighting is often linked to other crimes such as gambling and drug trafficking.

WHEREAS Law enforcement is unable to take action on every case involving animal cruelty.

WHEREAS. There is already economic strain on the Government.

WHEREAS The legislature desires to provide relief to the workload of government attorneys and investigators.

WHEREAS This statute would allow other attorneys to help the government enforce the animal cruelty statute and share duties of the government.

NOW BE IT RESOLVED, that the San Francisco Board of Supervisors passes the Helping Hands for Animals Ordinance.

IT IS FURTHER RESOLVED, that that the following language be added under Article 1 as Section Three (3) of the municipal health code, entitled: Public Participation (or) Shared Duties (or) Private Enforcement (or) Private Right of Action:

Section 3(a) The County of San Francisco hereby confers a private right of action for private citizens to prosecute cases for animal welfare misconduct which occurs in the County of San Francisco. Wherefore, private attorneys are hereby authorized to enforce animal welfare misconduct statutes through the liaison of the San Francisco Animal Care and Control Department (“ACC”). Thirty (30) days after an ACC investigation has been forwarded to the District Attorneys office for prosecution, and no Complaint of the following animal welfare misconduct statutes has been filed, or it is later found that such investigation and complaint filing was closed without completing the prosecution of the animal welfare misconduct statutes, the County of San Francisco authorizes private attorneys to file such a complaint upon the subjects of an ACC investigation on behalf on the People of the State of California.

(b) “Animal welfare misconduct” cases in which citizen participation is hereby vested include the following: San Francisco Ordinances, and State and Federal laws pertaining to animal abuse, the interest of animal welfare and animal cruelty laws specifically framed for the prevention of inhumane treatment of animals, including, but not limited to, San Francisco Local Ordinance, Art. I-IA, §§ 1A.3, 1A.4, 12, 32, 37, 40.5, 40.6, 41.12, 42.1, California Penal Code Sections 596, 596.5, 596.7, 597, 597.1, 597.3, 597a through x, 598, 598 a through d, 599 et al, 600, 623, 374d, 384h, 399, 399.5 and 7 U.S.C. § 2131 et seq.

AND SO IT IS RESOLVED.

Dated: _____ 2006

Signed,

THE SAN FRANCISCO
BOARD OF SUPERVISORS

Attachment 2

Citations for Legislative Findings

1. No statute prevents the County of San Francisco from enacting this legislation. There is no California statute or case law that expressly precludes private right of actions for criminal prosecution. Significantly, "in New Hampshire, no statute or court rule either expressly permits, or expressly prohibits, private prosecutions by either an interested party or an interested party's attorney. RSA 592-A:7 (2001) provides that criminal proceedings before a district or municipal court begin when a complaint is filed with the court, but does not specify who may file such complaints. Usually, such prosecutions are undertaken by a State official. However, we have held that "the common law of this State does not preclude the institution and prosecution of certain criminal complaints by private citizens." State (Haas Complainant) v. Rollins, 129 N.H. 684, 685, 533 A.2d 331 (1987). Additionally, the California Penal Code states that "[a]ll [of the penal code's] provisions are to be construed according to the fair import of their terms, with a view to effect its objects and to promote justice." See, CA Penal Code § 4. Likewise, the Code states that "[t]he omission to specify or affirm in this Code any liability to damages, penalty, forfeiture, or other remedy imposed by law and allowed to be recovered or enforced in any civil action or proceeding, for any act or omission declared punishable herein, does not affect any right to recover or enforce the same." Id. at § 9. Similarly, states such as Mississippi have expressly included a private right of action on these cases to share the duties of district attorneys.

2. The County of San Francisco recognized that animal cruelty is pervasive. Each month numerous animal cruelty situations go unprosecuted by the District Attorneys

Office. For more information on specific statistics, collaboration with the ACC and SSPCA and other animal welfare groups who receive hotline-type calls would be needed.

3. It is in the public interest to prosecute as many animal cruelty violations as possible because animal cruelty is directly related to other crimes, such as the following:

A. Animal abuse can indicate or predict situations of criminal violence against humans. *See*, Beirne, P. For a nonspeciesist criminology: Animal abuse as an object of study. *Criminology*. 37(1), 117-48, 1999.

B. Evidence links animal abuse to violence against children. *See*, De Viney, E; Dikert, J; Lockwood, R. The care of pets within child abusing families. *International Journal for the Study of Animal Problems*. 4, 321-9, 1998.

C. Research shows a strong correlation between animal abuse and spousal abuse. *See*, Ascione, F; Weber, C; Wood, D. The abuse of animals and domestic violence: A national survey of shelters for women who are battered. *Society and Animals*. 5(3), 1997.

D. Studies link violence against animals with a variety of antisocial behaviors aside from violence, including property offenses and public disorder offenses. *See*, Arluke, A; Levin, J; Luke, C; Ascione, F. The relationship of animal abuse to violence and other antisocial behavior. *Journal of Interpersonal Violence*. 14(9), 963-975, 1999.

Attachment 3

The Current State of How Article 1 Appears

ARTICLE 1: ANIMALS

Sec. 1. Report of Diseases of Animals Required.

Sec. 2. Penalty.

Sec. 7. Contagious Diseases of Animals.

Sec. 12. Keeping of Cows.

Et seq.....

SEC. 1. REPORT OF DISEASES OF ANIMALS REQUIRED.

Every veterinary physician or surgeon, and every person practicing as such, and every person owning or having animals in his care within the City and County of San Francisco, shall present to the Department of Public Health of said City and County a written notice of the existence of any and every case of glanders or farcy or other contagious or infectious diseases in animals, which may have come under his observation or to his knowledge, which notice shall be given within two days....

SEC. 2. PENALTY.

Any person violating any of the provisions of Section 1 of this Article shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by a fine of not less than \$20 nor more than \$500, or by imprisonment in the County Jail not less than 20 days nor more than six months.

SEC. 7. CONTAGIOUS DISEASES OF ANIMALS.

No animal affected with any infectious or contagious disease shall be brought or kept within the limits of the City and County of San Francisco, except by permission of the Department of Public Health of said City and County.

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Attachment 4

How the New Ordinance Would Appear as Part of Article 1

ARTICLE 1: ANIMALS

Sec. 1. Report of Diseases of Animals Required.

Sec. 2. Penalty.

Sec. 3. Public Participation or Shared Duties or Private Right of Action

Sec. 7. Contagious Diseases of Animals.

Sec. 12. Keeping of Cows.

Et seq.....

SEC. 1. REPORT OF DISEASES OF ANIMALS REQUIRED.

Every veterinary physician or surgeon, and every person practicing as such, and every person owning or having animals in his care within the City and County of San Francisco, shall present to the Department of Public Health of said City and County a written notice of the existence of any and every case of glanders or farcy or other contagious or infectious diseases in animals, which may have come under his observation or to his knowledge, which notice shall be given within two days

SEC. 2. PENALTY.

Any person violating any of the provisions of Section 1 of this Article shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by a fine of not less than \$20 nor more than \$500, or by imprisonment in the County Jail not less than 20 days nor more than six months.

SEC. 3. PUBLIC PARTICIPATION (or) SHARED DUTIES (or) PRIVATE ENFORCEMENT (or) PRIVATE RIGHT OF ACTION.

(a) The County of San Francisco hereby confers a private right of action for private citizens to prosecute cases in the County of San Francisco for animal welfare misconduct in the County of San Francisco. Wherefore, private attorneys are hereby authorized to enforce animal welfare misconduct statutes through the liaison of the San Francisco Animal Care and Control Department ("ACC"). Thirty (30) days after an ACC investigation has been forwarded to the District Attorneys office for prosecution, and no Complaint of the following animal welfare misconduct statutes has been filed, or it is later found that such investigation and complaint filing was closed without completing the prosecution of the animal welfare misconduct statutes, the County of San Francisco authorizes private attorneys to file such a complaint upon the subjects of an ACC investigation on behalf on the People of the State of California.

(b) "Animal welfare misconduct" cases in which citizen participation is hereby vested include the following: San Francisco Ordinances, and State and Federal laws pertaining to animal abuse, the interest of animal welfare and animal cruelty laws specifically framed for the prevention of inhumane treatment of animals, including, but not limited to, San Francisco Local Ordinance, Art. I-IA, §§ 1A.3, 1A.4, 12, 32, 37, 40.5, 40.6, 41.12, 42.1, California Penal Code Sections 596, 596.5, 596.7, 597, 597.1, 597.3,

597a through x, 598, 598 a through d, 599 et al, 600, 623, 374d, 384h, 399, 399.5 and 7
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SEC. 7. CONTAGIOUS DISEASES OF ANIMALS.

No animal affected with any infectious or contagious disease shall be brought or kept within the limits of the City and County of San Francisco, except by permission of the Department of Public Health of said City and County....