SENATE, No. 472

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Senator NICHOLAS J. SACCO
District 32 (Bergen and Hudson)
Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)

Co-Sponsored by:
Senators Beach and Gill

SYNOPSIS

Establishes Animal Cruelty Offender Registry; prohibits purchase, adoption, and breeding of animals by animal cruelty offenders.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 3/5/2020)

AN ACT establishing a Statewide animal cruelty offender registry, supplementing Title 4 of the Revised Statutes, and amending R.S.4:22-55.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. (New section) This act shall be known and may be cited as the "Animal Cruelty Offender Registry Act."

2. (New section) a. The Legislature finds and declares that:

(1) Reputable studies in the fields of psychology, sociology, and criminology have consistently demonstrated that violent offenders often have childhood or adolescent histories involving serious, intentional acts of animal cruelty, and one study indicates that animal abuse may be characteristic of the developmental histories of up to 66 percent of violent offenders.

(2) The Federal Bureau of Investigation has recognized the link between animal abuse and later acts of violence since the 1970s, when its analysis of serial killers revealed that most had killed or tortured animals during their lives.

(3) More recent studies have revealed consistent patterns of animal cruelty and abuse in the criminal histories of perpetrators of other forms of violence, including child abuse, spousal abuse, and elder abuse, and a groundbreaking study conducted in 1983 of 53 New Jersey families being treated for child abuse found that, in 88 percent of these families, animal abuse was also present.

(4) Studies in this area have additionally found a common history of documented animal abuse among sexually violent offenders, with one study showing that nearly one-half of rapists and almost one-third of pedophiles had also engaged in acts of cruelty towards animals.

(5) As reported by the Humane Society of the United States and the American Society for the Prevention of Cruelty to Animals, persons who participate in animal fighting - a lucrative business endeavor that centers around the ongoing and sadistic abuse, torture, and killing of innocent animals for profit - are also often participants in other crimes that are associated with violence, including drug and gun crimes, gambling offenses, and homicide offenses, and many such offenders will continue to participate in animal fighting endeavors and violence-related offenses even after raids, arrests, and jail time.

(6) The American Psychiatric Association has listed animal abuse in its diagnostic manual of major psychiatric disorders, as a symptom of Conduct Disorder, which is a disorder that is

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

characterized by a general and ongoing disregard for societal rules and the feelings of others.

(7) Because evidence shows that persons who commit animal cruelty offenses are likely to engage in recidivist acts of violence against either or both animals or humans, such persons pose a clear and significant threat to public safety, and, as a result, have a reduced expectation of privacy upon being convicted of or found civilly liable for these offenses.

(8) Knowledge of an animal cruelty offender’s presence in the community could be a significant factor in protecting oneself, one's family members, and one's companion animals or livestock, from recidivist acts of the offender, and the technology afforded by the Internet would make this information readily accessible to private persons and entities, and enable them to undertake appropriate remedial precautions to prevent or avoid placing potential victims at risk.

(9) Required registration of animal cruelty offenders, which utilizes complete and accurate data, will provide law enforcement with additional information that may be critical to preventing and appropriately responding to incidents of violence in the community, and will allow law enforcement officials to alert the public as to the presence of these violent offenders within the community, when necessary to promote the public safety.

(10) The registration of animal cruelty offenders and the public disclosure of information pertaining to these offenders is a necessary and appropriate means of assuring the protection of the public and at-risk animals, and such registration and disclosure of information is not intended to punish or additionally sanction the offender's behavior, or to allow or encourage members of the public to seek retribution against the offender, or to be used for any purposes other than the protection of the public and at-risk animals, and should not be construed to be punitive.

b. The Legislature therefore determines that, in order to further the Legislature's primary interest of protecting vulnerable populations from potential harm, it is both necessary and proper to provide for the establishment and implementation of an animal cruelty offender registry that will require the continuing registration of animal cruelty offenders, and allow for the public disclosure of certain information pertaining to these offenders in order to promote the public safety.

3. (New section) For the purposes of this act:

"Animal cruelty offense" means the commission of a criminal or civil offense constituting cruelty against an animal, and includes the commission of an act that constitutes a criminal offense under R.S.4:22-17, R.S.4:22-18, subsection (a) of R.S.4:22-19, R.S.4:22-20, R.S.4:22-21, R.S.4:22-23, or R.S.4:22-24; or the commission of an act that constitutes a civil offense under sections a., c., e., f., g.,

h., j., k., t., u., v., w., z., aa., bb., and cc. of R.S.4:22-26; or the commission of an act that constitutes a comparable offense in another state, country, or jurisdiction.

"Animal cruelty offender" or "offender" means a person who has been convicted at any date in time of an animal cruelty offense, as defined in this section.

"Animal Cruelty Offender Registry" means the centralized registry established by the Attorney General pursuant to subsection d. of section 9 of this act, which contains information pertaining to all registered animal cruelty offenders.

"Conduct Disorder" means a psychiatric disorder that is characterized by a general and ongoing disregard for societal laws and the feelings of others, and for which animal abuse is a symptom.

"Convicted" or "conviction" refers to any decision resulting from a formal civil or criminal court action, and includes a conviction, an adjudication of delinquency, a finding of not guilty by reason of insanity, and a finding of civil liability.

"Form of registration" means the entirety of the registration package submitted by an animal cruelty offender in accordance with the provisions of this act, and includes the form of registration statement and all other items required by subsection b. of section 9 of this act.

"Form of registration statement" or “form” means the form statement developed by the Attorney General in accordance with the provisions of subsection a. of section 9 of this act, which contains information provided by the offender as required by paragraph (1) of subsection b. of section 9 of this act.

"Homeless resident" means a person who does not maintain a primary residence or secondary residence in this State or in any other state, country, or jurisdiction, but who is physically present within this State for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year.

"Non-resident" means a person who does not maintain either primary residence or secondary residence in this State but who maintains primary residence in another state, country, or jurisdiction, and who is physically present in this State for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year.

"Primary residence" means a residentially-zoned property, including a house, apartment, or condo, where the offender abides, lodges, resides, or is accommodated for living purposes for more than 183 days in a calendar year.

"Registered animal cruelty offender" means a person who has been convicted of an animal cruelty offense, and who has registered with the State in accordance with the provisions of section 4 of this act.

"Registering authority" means the law enforcement agency or court with whom an animal cruelty offender files initial registration in accordance with the provisions of section 4 of this act.

"Risk of re-offense" means the likelihood, as determined in accordance with the provisions of section 12 of this act, that an animal cruelty offender will, in the future, commit another animal cruelty offense or a crime against humans.

"Secondary residence" means a residentially-zoned property, including a house, vacation home, trailer, apartment, condo, or time-share rental, which is not the offender's primary residence, and in which the offender abides, lodges, resides, or is accommodated for living purposes for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year, but for no more than 183 days in a calendar year.

4. (New section) a. An animal cruelty offender who (1) maintains, establishes, or re-establishes a primary residence or secondary residence in this State, or (2) is otherwise physically present in this State for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year, shall register with the State in accordance with the provisions of this act.

b. An animal cruelty offender who is required to register under the provisions of this act shall register on forms provided by the designated registering authority, and in compliance with the following registration requirements:

(1) An animal cruelty offender who maintains primary residence or secondary residence in, or is a homeless resident of, this State, and who is convicted of an animal cruelty offense in this State following the effective date of this act, shall register with the presiding court at the time of conviction. An animal cruelty offender who maintains primary residence or secondary residence in, or is a homeless resident of, this State, and who is convicted of an animal cruelty offense in another state or jurisdiction following the effective date of this act, shall register, within 10 days after the date of conviction or the date of the offender’s release from incarceration, whichever is later, with the chief law enforcement officer of the municipality in which the offender’s primary residence and secondary residence, if any, is located, or in which the offender is physically present, or if the municipality does not have a local police force, with the chief law enforcement officer of the county in which the offender’s primary residence or secondary residence, if any, is located, or in which the offender is physically present;

(2) An animal cruelty offender who maintains primary residence or secondary residence in, or is a homeless resident of, this State, and who was convicted of an animal cruelty offense prior to the effective date of this act, shall register within 120 days after the effective date of this act with the chief law enforcement officer of

the municipality in which the offender's primary residence or secondary residence, if any, is located, or in which the offender is physically present, or, if the municipality does not have a local police force, with the chief law enforcement officer of the county in which the offender's primary residence or secondary residence, if any, is located, or in which the offender is physically present;

(3) An animal cruelty offender who (a) establishes or re-establishes a primary residence in this State after moving or returning to the State from another state, country, or jurisdiction, or (b) establishes or re-establishes a secondary residence in this State at any time, shall register with the chief law enforcement officer of the municipality in which the primary residence or secondary residence is located, as the case may be, or, if the municipality does not have a local police force, with the chief law enforcement officer of the county in which the primary residence or secondary residence is located, as the case may be, within 120 days after the effective date of this act or within 10 days after first establishing or re-establishing the primary residence or secondary residence, whichever is later;

(4) An animal cruelty offender who is enrolled on a full-time or part-time basis in any post-secondary public or private educational institution in this State, including any trade or professional institution or institution of higher education, shall register with the chief law enforcement officer of the municipality in which the educational institution is located or, if the municipality does not have a local police force, with the chief law enforcement officer of the county in which the educational institution is located, within 120 days after the effective date of this act or within 10 days after commencing attendance at such educational institution, whichever is later;

(5) An animal cruelty offender who does not maintain primary residence or secondary residence in, and is not a homeless resident of, the State, but who (a) engages in employment or carries on a vocation or business in this State, on either a full-time or part-time basis, with or without compensation, that requires the offender's physical presence in the State for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year, or (b) is otherwise physically present in the State for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year, shall register with the chief law enforcement officer of the municipality in which the employer is located, the vocation or business is carried on, or the person is physically present, as the case may be, or, if the municipality does not have a local police force, with the chief law enforcement officer of the county in which the employer is located, the vocation or business is carried on, or the person is physically present, as the case may be, within 120 days after the effective date of this act or within 10 days after

commencing such employment, vocation, business or physical presence in the State, whichever is later;

c. An animal cruelty offender who fails to register as required by subsection b. of this section, or who falsifies information when complying with the registration requirements set forth in that subsection, shall be guilty of a crime of the third degree, and shall, in addition to any other penalties provided by law, be subject to pay a fine of $2,500, which shall be deposited into the Animal Cruelty Offender Registration Fund established in accordance with section 20 of this act.

5. (New section) a. Upon a change of address, a registered animal cruelty offender shall notify the law enforcement agency with which the offender is currently registered, and shall re-register with the appropriate law enforcement agency no less than 10 days before the offender intends to first reside at the new address. A registered animal cruelty offender shall notify the appropriate law enforcement agencies no later than five days after a change of employment or school enrollment status.

b. A registered animal cruelty offender shall verify the offender's address on an annual basis, in a manner prescribed by the Attorney General. One year after the effective date of this act, the Attorney General shall review, evaluate, and, if warranted, modify the address verification requirement pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. A registered animal cruelty offender who fails to notify the appropriate law enforcement agency of a change of address or status in accordance with subsection a. of this section, or who fails to verify his address as required by subsection b. of this section, or who falsifies information in complying with either subsection, shall be guilty of a crime of the fourth degree, and shall, in addition to any other penalties provided by law, be subject to pay a fine of $1,500, which shall be deposited into the Animal Cruelty Offender Registration Fund established in accordance with section 20 of this act.

6. (New section) a. After being required to register pursuant to section 4 of this act and during any period of time during which the animal cruelty offender is required to register, the animal cruelty offender is prohibited from adopting, purchasing, or engaging in any part of breeding, animals. If it is the first time the animal cruelty offender has been required to register and the animal cruelty offender owns, or has in the animal cruelty offender’s residence, any animals, the appropriate municipal official shall inspect the conditions under which the animals are kept and the health and environment of the animals, and determine if the animals are in good physical health, appear to receive necessary care as defined pursuant to R.S.4:22-15, and do not seem to be suffering

from any abuse or neglect. If such a determination is made, the animal cruelty offender shall be permitted to continue to own, care for, or live with the animals in the animal cruelty offender's residence. If the determination is that the animals are in poor physical health, do not receive necessary care, or show signs of abuse or neglect, or the animal cruelty offender commits a second offense that would require registering pursuant to section 4 of this act, the animals shall be immediately forfeited and offered for adoption.

b. The Attorney General shall release the animal cruelty offender from registration requirements after the animal cruelty offender has satisfied the provisions of section 7 of this act.

c. The Attorney General shall provide for the annual archiving of the registry and any animal cruelty offender's name and other required information shall remain accessible to law enforcement and the public, regardless of whether the animal cruelty offender is currently required to register or is on the current registry.

7. (New section) a. Except as provided in subsection b. of this section, a registered animal cruelty offender may make application to the Superior Court to terminate the obligation to register upon proof that the person has not committed an animal cruelty offense or an offense constituting violence against humans within 10 years following the date of conviction when no term of imprisonment is imposed, or if a term of imprisonment is imposed, 10 years following the date of release from the correctional facility where the term of imprisonment was served, and the registered animal cruelty offender is not likely to pose a threat to the safety of others.

b. A registered animal cruelty offender who has been convicted of more than one animal cruelty offense as defined by this act, or who has been convicted of one animal cruelty offense and one or more subsequent violent offenses against humans shall not be eligible under subsection a. of this section to make application to the Superior Court to terminate the registration obligation.

c. The Attorney General shall terminate a registered animal cruelty offender's obligation to register pursuant to this act upon the offender's submission of evidence sufficient to prove, in the judgment of the Attorney General, that the offender no longer maintains primary residence or secondary residence in the State and will not, for any reason, be physically present in the State for more than 14 consecutive days or for an aggregate period of 30 days or more in a calendar year. If, following the termination of an offender's registration obligation pursuant to this subsection, there is a change in the offender's residential status or an increase in the amount of time the offender is present in the State, such that registration would again be required pursuant to section 4 of this act, the offender shall re-register with the appropriate registering

agency in compliance with the provisions of section 4 of this act, and shall be subject to the penalties provided therein for noncompliance.

8. (New section) a. The Attorney General shall cause notice of the obligation to register under this act to be published in a manner reasonably calculated to reach the general public within 30 days after the effective date of this act.

b. The Motor Vehicle Commission shall provide notice of the obligation to register under this act in connection with each application for a license to operate a motor vehicle and each application for an identification card issued pursuant to section 2 of P.L.1980, c.47 (C.39:3-29.3).

c. The registering authority shall provide notice to the offender, at the time of registration, of this act's address verification and community notification requirements, as well as the penalties that would be applicable in the case of the offender's non-compliance with any of the provisions of this act.

9. (New section) a. Within 60 days after the effective date of this act, the Attorney General shall prepare the form of registration statement as required in subsection b. of this section, and shall provide copies of this form to each local law enforcement agency in the State, and to the Administrative Office of the Courts. The Administrative Office of the Courts shall forward copies of the form of registration statement to each civil and criminal judge in the State.

b. The form of registration required by this act shall include:

(1) A statement in writing, signed by the animal cruelty offender who is required to register, acknowledging that the offender has been advised of the duty to register as imposed by this act, and including the offender's name, social security number, age, race, sex, date of birth, height, weight, hair and eye color; description of any physical evidentiary markers, such as moles, birthmarks, scars, piercings, or tattoos; address of primary residence and secondary residence if any, or county and municipality of physical presence if a non-resident or homeless resident; address of any anticipated or current places of employment; any anticipated or current school enrollment; the commission date and a brief description of the conviction offenses for which registration is required; and the indictment number or civil case number associated with each such conviction offense;

(2) A photograph showing the head and shoulders of the offender, which may be a photograph taken at the time of the offender's registration, or a passport photograph paid for and provided by the offender, or the photograph used on the offender's driver's license or State identification card; and

(3) Any other information that the Attorney General deems necessary to properly inform the public about the identity of the animal cruelty offender and to assess the offender's risk of re-offense, including criminal and corrections records, and non-privileged personnel, treatment, and abuse registry records, when available.

c. Within five days after receipt of an offender's form of registration submitted in accordance with the provisions of this act, the registering authority shall forward the contents of the form of registration to the Attorney General. In the event that the registering authority is a court, the Attorney General shall, upon receipt of the offender's form of registration, transmit the same to the law enforcement agencies responsible for the municipalities in which the offender's primary residence and secondary residence, if any, is or will be located, or in which the offender will be physically present, if a non-resident or a homeless resident. If the respective municipalities do not have a law enforcement agency, the Attorney General shall forward the form of registration to the appropriate law enforcement agencies responsible for the counties in which the offender's primary residence or secondary residence, if any, is or will be located, or in which the offender is physically present, if a non-resident or a homeless resident.

d. The Attorney General shall maintain a central registry of all registrations provided pursuant to this act, which shall be known as the Animal Cruelty Offender Registry. The Attorney General shall authorize the disclosure of information contained in the Animal cruelty offender Registry only to the extent provided by, and in a manner consistent with, the provisions of sections 10, 12, and 14 of this act.

10. (New section) a. Records maintained pursuant to this act shall be open to any law enforcement agency in this State, any other state, or the United States government, and may be released to the Office of Animal Welfare in the Department of Health, or to the Division of Child Behavioral Health Services, the Division of Prevention and Community Partnerships, or the Division of Youth and Family Services in the Department of Children and Families, for use in carrying out the office's and the divisions' respective responsibilities under law. Law enforcement agencies in this State shall be authorized to release relevant and necessary information regarding animal cruelty offenders to the public when the release of the information is necessary for public protection in accordance with the provisions of this act.

b. A public official, public employee, or public agency is immune from civil liability for damages for any discretionary decision to release relevant and necessary information to other employees or officials or to the general public, in accordance with

this section, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith.

c. Nothing in this act shall be deemed to impose any liability upon or to give rise to a cause of action against any public official, public employee, or public agency for failing to release information as authorized in subsection d. of this section.

d. Nothing in this section shall be construed to prevent law enforcement officers from notifying members of the public exposed to danger by any registered animal cruelty offender under circumstances that are not enumerated in this act.

11. (New section) a. After receiving an offender's form of registration, submitted by the offender in accordance with section 4 of this act, or forwarded by the Attorney General in accordance with subsection c. of section 9 of this act, the chief law enforcement officer of the municipality in which the offender's primary residence is or will be located, and the chief law enforcement officer of the municipality in which the offender's secondary residence, if any, is or will be located, shall provide notification to the community, in accordance with the guidelines and procedures established by the Attorney General pursuant to section 12 of this act, regarding the offender's presence therein. If the municipality does not have a police force, the chief law enforcement officer of the county in which the offender's primary residence or secondary residence is located, as the case may be, shall provide such notification.

b. After receiving notification pursuant to section 5 of this act that a registered animal cruelty offender intends to change his address, the chief law enforcement officer of the municipality to which the person is relocating shall provide notification to the community, in accordance with the guidelines and procedures established by the Attorney General pursuant to section 12 of this act, regarding the offender's relocation therein. If the municipality does not have a police force, the chief law enforcement officer of the county in which the new residence is located shall provide such notification.

12. (New section) a. After consultation with members of the advisory council established pursuant to section 13 of this act, and within 30 days after the effective date of this act, the Attorney General shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), guidelines and procedures for the community notification required pursuant to this section. The guidelines shall identify factors relevant to the evaluation of the offender's risk of re-offense, and shall provide for two levels of community notification depending upon the degree of the offender's risk of re-offense.

b. Factors relevant to risk of re-offense shall include, but not be limited to, the following:

(1) Factors that are specific to the conviction offense requiring registration under this act, and which are indicative of a low risk of re-offense, including:

(a) Whether the offensive conduct was accidental or unintentional; and

(b) Whether the offender has evidenced regret for the offensive conduct;

(2) Factors that are specific to the conviction offense requiring registration under this act, and which are indicative of a high risk of re-offense, including:

(a) Whether the offensive conduct was premeditated, excessively sadistic, or shocking to the conscious;

(b) Whether the offensive conduct was of an ongoing nature in the character of a business practice, or was found to be characterized by repetitive or compulsive behavior;

(c) Whether the offender committed the animal cruelty offense in the presence of a child or other impressionable person, or in a manner designed to intimidate, threaten, coerce, or emotionally harm another person; and

(d) Whether the abused animal was a domestic animal owned and cared for by the offender and treated as a member of the offender’s family; and

(3) Other criminal history factors indicative of the offender's risk of re-offense, including:

(a) The number, date, and nature of prior animal cruelty offenses;

(b) The number, date, and nature of prior or contemporaneous criminal offenses not related to animal abuse;

(c) The existence of psychological or psychiatric profiles indicating a risk of recidivism;

(d) The offender's response to psychiatric or psychological treatment or therapy;

(e) Recent behavior, including behavior while confined or while under supervision in the community; and

(f) Recent threats against persons or animals, or expressions of intent to commit additional crimes.

c. The regulations shall provide for two levels of notification depending upon the animal cruelty offender's risk of re-offense, as follows:

(1) If the risk of re-offense is low, law enforcement agencies likely to encounter the person registered shall be notified; and

(2) If the risk of re-offense is moderate or high, members of the public likely to encounter the person registered, as well as animal shelters, pet adoption societies, Societies for the Prevention of Cruelty to Animals, humane societies, veterinarian's offices, and any other private or government sponsored animal welfare or

animal control groups in the offender's community, shall be notified in accordance with the Attorney General's guidelines, in addition to the notice required by paragraph (1) of this subsection.

d. The regulations shall prohibit categorization as a low-risk re-offender if the registered animal cruelty offender (1) has more than one prior conviction for an animal cruelty offense as defined in this act, (2) has one prior conviction for an animal cruelty offense in addition to a conviction for a violent offense against a person, or (3) has been diagnosed with Conduct Disorder.

e. The regulations shall provide that a private citizen or a business owner or employee who is entitled to obtain community notification pursuant to this section shall be provided with the offender's exact address of primary residence or secondary residence, if any and as the case may be, only after the private citizen or business owner or employee has signed a receipt of notice form, prepared by the Attorney General, which informs the private citizen or business owner or employee that the following acts are prohibited and may be penalized in accordance with the provisions of this act: (1) the sharing of the offender's identifying information and exact address with persons who are not members of the household or employees of the business, as the case may be; (2) the posting of the offender's identifying information and exact address in a public place or to persons who are not members of the household or employees of the business, as the case may be; (3) the unsolicited contact of the offender or the offender's family; and (4) the harming or harassment in any way of the offender, the offender's family, or the offender's property.

f. In order to promote uniform application of the notification guidelines required by this section, the Attorney General shall develop procedures for evaluating an offender's risk of re-offense and for notifying the community of an offender's presence therein. The procedures related to risk assessment shall provide (1) a method by which an offender will receive notice of the results of the risk assessment, and (2) a means by which an offender can obtain review of the risk assessment determination prior to the public release of any identifying information. The procedures related to community notification shall be reasonably calculated to allow the dissemination of relevant information to members of the public who have a particular need for it, while avoiding disclosure to those who have no similar need.

g. The Attorney General's guidelines shall provide for the manner in which records of notifications provided pursuant to this act shall be maintained and disclosed.

h. Nothing in this section shall be construed to prevent law enforcement officers from providing community notification concerning any registered animal cruelty offender who poses a danger under circumstances that are not provided for in this act.

13. (New section) There is created a community notification advisory council to consult with and provide recommendations to the Attorney General concerning the guidelines and procedures to be adopted pursuant to section 12 of this act. The council shall consist of 12 persons who, by experience or training, have professional expertise in law enforcement, crime prevention, animal welfare, animal advocacy, domestic violence prevention, criminology, psychology, public education, or community relations. The members of the council shall be appointed in the following manner: four shall be appointed by the Governor, of whom no more than two shall be of the same political party; four shall be appointed by the President of the Senate, of whom no more than two shall be of the same political party; and four shall be appointed by the Speaker of the General Assembly, of whom no more than two shall be of the same political party. Any vacancies occurring in the membership shall be filled in the same manner as the original appointments.

One year after the effective date of this section, the Attorney General and the council shall conduct a comprehensive review of the guidelines and procedures adopted pursuant to section 12 of this act to determine whether any changes or revisions should be made thereto. Upon completion of that review and the submission of any recommendations thereon, the council shall expire.

14. (New section) a. The Attorney General shall develop and maintain a registry for making certain information in the Animal Cruelty Offender Registry publicly available by means of electronic Internet technology.

b. Members of the public may, without limitation, obtain access to the Internet registry to view an individual registration record, any part of, or the entire, Internet registry concerning all offenders whose risk of re-offense is moderate or high, or for whom a court has ordered notification in accordance with paragraph (2) of subsection c. of section 12 of this act, regardless of the age of the offender.

c. The individual registration records of registered animal cruelty offenders whose risk of re-offense is low shall not be made available to the public on the Internet registry unless such publication is ordered by a court of competent jurisdiction.

d. The information concerning a registered animal cruelty offender to be made publicly available on the Internet shall include: the offender's name and any aliases the offender has used or under which the offender may be or may have been known; any animal cruelty offense requiring registration for which the offender was convicted; the date and location of disposition; a brief description of any such offense; a general description of the offender's modus operandi, if any; the determination of whether the risk of re-offense by the offender is moderate or high; the offender's age, race, sex,

date of birth, height, weight, hair, eye color and any distinguishing physical evidentiary markers, such as moles, birthmarks, scars, piercings, or tattoos; the photograph of the offender that was submitted as part of the offender's form of registration, and the date on which the photograph was taken; the make, model, color, year, and license plate number of any vehicle operated by the offender; and neighborhood or block, zip code, municipality, and county of the offender's primary residence and secondary residence, if any, or the municipality and county in which the offender is or generally will be physically present if the offender is a non-resident or a homeless resident.

15. (New section) The Attorney General shall:

a. Ensure that the Internet registry contains warnings that any person who uses the information contained therein to threaten, intimidate or harass another, or who otherwise misuses that information, may be criminally prosecuted;

b. Ensure that the Internet registry contains an explanation of its limitations, including statements advising visitors that some information contained in the registry may be outdated or inaccurate; that the Internet registry lists only the general vicinity of the offender's residence and that the offender's exact address will be provided only to those persons deemed likely to encounter the offender in accordance with the provisions of section 12 of this act; and that the Internet registry is not a comprehensive listing of every person who has ever committed an animal cruelty offense in New Jersey;

c. Strive to ensure that the information contained in the Internet registry is accurate, and that the data therein is revised and updated as appropriate, in a timely and efficient manner; and

d. Provide in the Internet registry, information designed to inform and educate the public about animal abuse, animal cruelty offenders, and the operation of this act, as well as any pertinent and appropriate information concerning crime prevention, domestic violence awareness and prevention, and personal safety, with appropriate links to relevant web sites operated by the State.

16. (New section) An Animal Cruelty Offender Internet Registry Advisory Council is hereby established to consult with and provide recommendations to the Attorney General concerning the making of animal cruelty offender registration records available to the public on the Internet. The council shall consist of nine persons who, by experience or training, have professional expertise in law enforcement, crime prevention, animal advocacy, domestic violence prevention, criminology, psychology, public education, or community relations. The members of the council shall be appointed in the following manner: three shall be appointed by the Governor, of whom no more than two shall be of the same political

party; three shall be appointed by the President of the Senate, of whom no more than two shall be of the same political party; and three shall be appointed by the Speaker of the General Assembly, of whom no more than two shall be of the same political party. Any vacancies occurring in the membership shall be filled in the same manner as the original appointments. The council shall hold at least two meetings per year to review the implementation and operations of the Internet registry.

17. (New section) Notwithstanding any other provision of law to the contrary, any person who provides or fails to provide information to the community in accordance with the procedures established in accordance with section 12 of this act, or who discloses or fails to disclose information on the Internet registry established in accordance with section 14 of this act shall not be liable in any civil or criminal action. Nothing herein shall be deemed to grant any such immunity to any person for his willful or wanton act or omission.

18. (New section) a. Any information disclosed pursuant to this act may be used by any person or by any public, governmental, or private entity, organization, or official, or any agent thereof, to protect an animal at risk, or for any other lawful purpose consistent with the enhancement of public safety.

b. Any person who uses information disclosed pursuant to this act to commit a crime against a registered animal cruelty offender shall be guilty of a crime of the third degree. Any person who uses information disclosed pursuant to this act to commit a disorderly persons or petty disorderly persons offense against a registered animal cruelty offender shall be guilty of a disorderly persons offense and shall be fined not less than $500 or more than $1,000, in addition to any other penalty or fine imposed.

c. Any person who uses information disclosed pursuant to this act to encourage, solicit, or assist a registered animal cruelty offender or other person to engage in criminal activity or an animal cruelty offense shall be guilty of a crime of the third degree and shall, in addition to any other penalties provided by law, be subject to pay a fine of $2,500, which shall be deposited into the Animal Cruelty Offender Registration Fund established in accordance with section 20 of this act.

d. Except as authorized by section 19 of this act or by any other provision of law, use of any information disclosed pursuant to this act for the purpose of applying for, obtaining, or denying any of the following, is prohibited:

(1) Health insurance;

(2) Insurance;

(3) Loans;

(4) Credit;

(5) Education, scholarships, or fellowships;

(6) Benefits, privileges, or services provided by any business establishment, unless for a purpose consistent with the enhancement of public safety; or

(7) Housing or accommodations.

e. The use of information disclosed pursuant to this act for any purposes other than those provided by subsection a. of this section and in violation of subsection d. of this section shall make the user liable (1) for actual damages, attorney's fees, and any amount that may be determined by a jury or a court sitting without a jury, which is not less than $250 nor more than three times the amount of actual damage, or (2) for a civil penalty of not more than $25,000, to be collected in accordance with the provisions of the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

f. Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the information disclosed pursuant to this act, the Attorney General, or any county or municipal prosecutor having jurisdiction, or any person aggrieved by the misuse of that information is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of and in addition to any other remedies or procedures that may be available under other provisions of law.

g. Evidence that a person obtained information about an offender from law enforcement or from the Internet registry within one year prior to committing a criminal offense against that offender shall give rise to an inference that the person used information in violation of subsection b. of this section.

19. (New section) Notwithstanding the provisions of section 18 of this act to the contrary, any information disclosed in accordance with the provisions of this act may be used by an animal shelter, pet adoption society, humane society, Society for the Prevention of Cruelty to Animals, veterinarian's office, 4-H club, or any other private or government-sponsored animal welfare or animal control organization or group, in order to screen potential applicants for employment or for pet adoption.

20. (New section) The Animal Cruelty Offender Registration Fund is hereby established, separate and distinct from the General Fund, in order to provide a dedicated source of moneys by which to finance the ongoing administrative and maintenance costs associated with the Animal Cruelty Offender Registry, the expenses associated with the community notifications required by the act's

provisions, and the municipal costs and responsibilities pursuant to section 6 of this act. The fund shall be credited with:

a. Fifty percent of all civil and criminal fines collected by a court in relation to the animal cruelty offenses for which registration is required pursuant to this act;

b. Any excess fines collected by a court as authorized by subsection c. of section 4, subsection c. of section 5 of this act, and subsection c. of section 18 of this act;

c. Any interest or other investment income accrued on moneys deposited in the account;

d. Any moneys gifted to the fund; and

e. Any other moneys appropriated by the Legislature and allocated to the fund for its purposes.

21. R.S.4:22-55 is amended to read as follows:

4:22-55. a. Except as provided **[**pursuant to**]** by subsection b. of this section **[**,**]** and by section 20 of P.L. , c. (C.) (pending before the Legislature as this bill), all fines, penalties and moneys imposed and collected under the provisions of this article, shall be paid by the court or by the clerk or court officer receiving the fines, penalties or moneys, within thirty days and without demand, to (1) the county society for the prevention of cruelty to animals of the county where the fines, penalties or moneys were imposed and collected, if the county society brought the action or it was brought on behalf of the county society, to be used by the county society in aid of the benevolent objects for which it was incorporated, or (2) in all other cases, the New Jersey Society for the Prevention of Cruelty to Animals, to be used by the State society in aid of the benevolent objects for which it was incorporated.

b. If an enforcement action for a violation of this article is brought primarily as a result of the discovery and investigation of the violation by a certified animal control officer, the fines, penalties or moneys collected shall be paid as follows: one half to the municipality in which the violation occurred; and one half to the county society or to the New Jersey Society for the Prevention of Cruelty to Animals, as applicable to the particular enforcement action.

c. Any fines, penalties or moneys paid to a municipality or other entity pursuant to subsection b. of this section shall be allocated by the municipality or other entity to defray the cost of:

(1) enforcement of animal control, animal welfare and animal cruelty laws and ordinances within the municipality; and

(2) the training therefor required of certified animal control officers pursuant to law or other animal enforcement related training authorized by law for municipal employees.

(cf: P.L.2005, c.372, s.19)

22. This act shall take effect on the 120th day after the date of its enactment, except for sections 12 and 13, which shall take effect immediately. The Attorney General may also take additional anticipatory action as is necessary for the implementation of this act.

STATEMENT

This bill would provide for the establishment and implementation of an animal cruelty offender registry that would require the continuing registration of animal cruelty offenders and allow for the public disclosure of certain information pertaining to those offenders.

Requiring the registration of animal cruelty offenders is necessary because the overwhelming evidence accumulated since 1970 shows that persons who cruelly abuse or torture animals are likely to engage in recidivist acts of violence against both animals and humans. In particular, studies have shown that early incidents of animal abuse are often part of the criminal histories of serial killers, child, spouse, and elder abusers, and sexually violent predators, and may be characteristic of the developmental histories of up to 66 percent of violent offenders, in general. In addition, it has been shown that those who abuse animals through participation in animal fighting rings also often engage in other crimes associated with violence, and will often continue to engage in animal abuse and other violence-related offenses even after serving jail time.

The bill would require registration for any person convicted of an enumerated animal cruelty offense who maintains, establishes, or re-establishes a primary residence or secondary residence in this State or who is otherwise physically present in the State for more than 14 consecutive days or a period exceeding 30 days in a calendar year. In particular, a person would be required to register if they have been convicted, adjudicated delinquent, found not guilty by reason of insanity, or found civilly liable for any of the following animal cruelty offenses:

(1) overdriving, overloading, driving when overloaded, overworking, depriving of necessary sustenance, abusing, or needlessly killing a living animal by direct or indirect means, including through the use of another living animal;

(2) tormenting, torturing, maiming, hanging, poisoning, unnecessarily or cruelly beating, or needlessly mutilating a living animal by direct or indirect means, including through the use of another living animal, whether or not such actions cause the death of the animal;

(3) cruelly killing, by direct or indirect means, a living animal, including through the use of another living animal;

(4) causing, allowing, or permitting the fighting or baiting of a living animal for amusement or gain;

(5) engaging in the management of, or receiving money or other consideration for the admission of a person to, a place that is kept or used for the purposes of fighting or baiting a living animal;

(6) owning, possessing, keeping, training, promoting, purchasing, or knowingly selling a living animal for the purposes of fighting or baiting that animal;

(7) allowing or suffering a place under a person's ownership or control to be used for the purposes of fighting or baiting a living animal;

(8) acting as a spectator, gambling on the outcome of a fight, or otherwise encouraging or assisting in activities occurring at a place that is kept or used for the purposes of fighting or baiting a living animal;

(9) carrying a living animal in or upon a vehicle or otherwise, in a cruel or inhumane manner;

(10) impounding or confining a living animal and failing to supply it during such confinement with a sufficient quantity of good and wholesome food and water;

(11) abandoning a maimed, sick, infirm, or disabled animal to die in a public place;

(12) abandoning a domestic animal;

(13) unlawfully debarking or silencing a dog;

(14) using a live pigeon, fowl, or other bird as a target or to be shot at for amusement or as a test of skill in marksmanship, or shooting such a bird, except where such use or shooting conforms with the rules pertaining to the shooting of game animals; and

(15) any comparable offense in another state, country, or jurisdiction.

The bill establishes a prohibition against the animal cruelty offender from adopting, purchasing, or engaging in any part of breeding animals after being required to register and during any period of time when the animal cruelty offender is required to register. If it is the first time the animal cruelty offender has been required to register and the animal cruelty offender owns, or has in the animal cruelty offender's residence, any animals, the appropriate municipal official shall inspect the conditions under which the animals are kept and the health and environment of the animals, and determine if the animals are in good physical health, and appear to receive necessary care as defined pursuant to R.S.4:22-15, and do not seem to be suffering from any abuse or neglect. If such a determination is made, the animal cruelty offender would be permitted to continue to own, care for, or live with the animals in the animal cruelty offender's residence. If the determination is that the animals are in poor physical health, do not receive necessary care, or show signs of abuse or neglect, or the animal cruelty offender has committed a second offense that would

require registering, the animals would be immediately forfeited and offered for adoption.

The bill would require the Attorney General to provide for the release of the animal cruelty offender from registration requirements after the animal cruelty offender has remained incident-free for 10 years. The Attorney General is required to provide for the annual archiving of the registry and any animal cruelty offender's name and other required information would remain accessible to law enforcement and the public, regardless of whether the animal cruelty offender is currently required to register.

The bill would require that notice of the duty to register be provided by the Attorney General within 30 days after the bill's enactment, and by the Motor Vehicle Commission upon application for a driver's license or identification card. The court or local law enforcement agency with which an offender is required to initially register pursuant to this bill would be required to notify the offender of the specific requirements of the bill, and the penalties for noncompliance.

The information to be included in an offender's registration would consist of the following:

(1) A statement in writing, signed by the animal cruelty offender, acknowledging that the offender has been advised of the duty to register, and including the offender's name, social security number, age, race, sex, date of birth, height, weight, hair and eye color; address of primary residence and secondary residence if any, or county and municipality of physical presence if a non-resident or homeless resident; address of anticipated or current places of employment; any anticipated or current school enrollment; the commission date and a brief description of the conviction offenses for which registration is required; and the indictment number associated with each such offense;

(2) A photograph of the defendant; and

(3) Any other information that the Attorney General deems necessary to properly inform the public about the identity of the offender and to assess the risk of re-offense.

The bill would require each offender to verify the address on the registration statement on an annual basis, and would additionally require each offender to notify law enforcement officials of any change in address.

Any person who fails to register as required by the bill's provisions would be guilty of a crime of the third degree and would be subject, in addition to any other penalties provided by law, to pay a fine of $2,500. Any registered animal cruelty offender who fails to comply, or who falsifies information in complying with the change of address requirements or address verification requirements provided by the bill, would be guilty of a crime of the fourth degree, and would be subject, in addition to any other penalties provided by law, to pay a fine of $1,500.

The Attorney General would be required to maintain a central registry of all registrations submitted in accordance with this bill's provisions, and would additionally be required to develop a system for making certain offender information from the central registry available to the public on the Internet. The Attorney General would be responsible both for ensuring that the Internet registry contains appropriate warnings and notifications, and for maintaining the accuracy of, and for timely updating the information contained therein. An Animal cruelty offender Internet Registry Advisory Council would be established to consult with and make recommendations to the Attorney General concerning the publication of registration records on the Internet.

All records maintained pursuant to the bill would be open to any law enforcement agency in the State, any other state, or the United States government, and would be able to be released to the Office of Animal Welfare in the Department of Health, or to the Division of Child Behavioral Health Services, the Division of Prevention and Community Partnerships, or the Division of Youth and Family Services in the Department of Children and Families for use in carrying out the office's and the divisions' respective responsibilities under law. Any official would be immune from civil liability for damages for any discretionary decision to release relevant records unless it is shown that the official acted with gross negligence or in bad faith.

Upon receipt of an offender's registration or notification of an offender's change in address, and pursuant to the procedures outlined in the bill's provisions, the chief law enforcement officer of the municipality (or county) wherein the offender's primary residence and secondary residence, if any, is located, or wherein the offender is generally present if a non-resident or a homeless resident of the State, would be required to provide notification to the community of the offender's presence therein, in accordance with guidelines to be established by the Attorney General relating to the offender's risk of re-offense.

The bill would establish a temporary advisory council to assist the Attorney General in establishing these guidelines and procedures for risk assessment and community notification. The bill would require the Attorney General to consider various factors relevant to an offender's risk of re-offense, and would require the regulations adopted by the Attorney General to provide for two tiers of community notification based on whether the offender is determined to have a low risk of re-offense, or whether the offender is determined to have a moderate or high risk of re-offense.

The bill would require the regulations adopted by the Attorney General to prohibit a "low risk" categorization in a case where the registered animal cruelty offender (1) has more than one prior conviction for an animal cruelty offense, as defined by the bill, (2) has one prior conviction for an animal cruelty offense in addition to

one or more convictions for a violent offense against a person, or (3) has been diagnosed with Conduct Disorder – a disorder characterized by a general and ongoing disregard for societal laws and the feelings of others, and for which animal abuse is a symptom.

In the case that an offender is determined to have a low risk of re-offense, notification of the offender's presence in the community would be provided only to law enforcement agencies likely to encounter the person, and the person's registration information would be prohibited from publication on the Internet unless such publication is ordered by a court of competent jurisdiction. In the case that an offender is determined to have a moderate or high risk of re-offense, notification of the offender's presence in the community would be provided to law enforcement agencies likely to encounter the offender, as well as to members of the public likely to encounter the offender, and to animal shelters, pet adoption societies, humane societies, veterinarian's offices, and other animal welfare or control groups in the offender's community. Furthermore, registration information for offenders having a moderate to high risk of re-offense would be made available for public viewing, without limitation, on the Internet registry.

The bill would require the Attorney General's regulations to ensure that an offender will be provided with notice of the results of the risk assessment and will be afforded an opportunity to have that determination reviewed prior to Internet publication or any notification of community members.

Because the courts have found that there may be some limited privacy interest in the disclosure of the offender's exact address, the bill would allow disclosure of the offender's exact address only to individuals and businesses in the offender's community having a particular need for the information, and would prohibit publication of this information on the Internet registry – providing, instead, for the Internet publication only of the general vicinity of the offender's address. Moreover, private citizens and businesses in the offender's community would be entitled to obtain the offender's exact address only after signing a receipt of notice form, prepared by the Attorney General, which explicitly prohibits the disclosure of the offender's exact address to persons who are not members of the household or employees of the business, as the case may be, and which provides express notice that any harassment or harming of the offender, the offender's family, or the offender's property is prohibited and punishable by law.

Any information disclosed pursuant to the bill's provisions could be used by any person in any manner to protect an animal at risk, or for any other lawful purpose consistent with the enhancement of public safety. Except in the case of willful or wanton misconduct, any person who provides or fails to provide information to the community, or who discloses or fails to disclose information on the

Internet registry in accordance with the bill's provisions, would be immune from civil or criminal action.

The bill would provide, however, that any person using the information disclosed pursuant thereto to commit a crime would be guilty of a crime of the third degree, and that any person using the information disclosed to commit a disorderly persons or petty disorderly persons offense would be guilty of a disorderly persons offense and subject to pay a fine of $500 to $1,000, in addition to any other penalty imposed. Evidence that a person obtained information about an offender from law enforcement or from the Internet registry within one year prior to committing a criminal offense against that offender would give rise to an inference that the person used information in violation of the bill's provisions.

The bill would also provide that any person who uses any information disclosed pursuant to the bill's provisions to encourage, solicit, or assist a registered animal cruelty offender or other person to engage in criminal activity or an animal cruelty offense would be guilty of a crime of the third degree and, in addition to any other penalties provided by law, subject to pay a fine of $2,500.

The bill would additionally prevent the use of information disclosed pursuant thereto for purposes of health or other insurance; loans; credit; education, scholarships, or fellowships; benefits, privileges, or services provided by a business establishment, unless consistent with enhancement of the public safety; or housing and accommodations. However, the bill would specifically allow a humane society, animal welfare organization, or other similar group to use the information disclosed pursuant to its provisions in order to screen applicants for employment or for pet adoption services. The use of any information disclosed pursuant to the bill's provisions for any of the specifically prohibited purposes would make the user of the information liable for actual damages, attorney's fees, and any amount that may be determined by a jury or a court sitting without a jury, which is not less than $250, and not more than three times the amount of actual damage, or for a civil penalty of not more than $25,000. Furthermore, the bill would authorize civil action for injunctive or other preventative relief in the case that there is reasonable cause to believe that any person or group is engaged in a pattern of misuse of information disclosed pursuant to the bill's provisions.

The bill would establish the "Animal Cruelty Offender Registration Fund," separate and distinct from the General Fund, in order to provide a dedicated source of moneys by which to finance the ongoing administrative and maintenance costs associated with the Animal Cruelty Offender Registry and the expenses associated with the community notifications required under the bill. The fund would be credited with:

(1) fifty percent of all civil and criminal fines collected by a court in relation to the animal cruelty offenses for which registration is required;

(2) any excess fines collected by a court as a result of an offender's failure to register, failure to notify authorities of a change in address, failure to timely verify the offender's address, or falsification of any information in the course of complying with the bill's requirements in this regard;

(3) any excess fines collected by a court from the unlawful use of information disclosed pursuant to the act's provisions to encourage, solicit, or assist a registered animal cruelty offender or other person to engage in criminal activity or commit an animal cruelty offense;

(4) any interest or other investment income accrued on moneys deposited in the account;

(5) any moneys gifted to the fund; and

(6) any other moneys appropriated by the Legislature and allocated to the fund for its purposes.

Finally, the bill would provide that a registered animal cruelty offender may make application to the Superior Court to terminate the obligation to register under this bill upon proof that the person has not committed an animal cruelty offense or an offense constituting violence against humans within 15 years following conviction or release from a correctional facility for any term of imprisonment imposed, whichever is later, and is not likely to pose a threat to the safety of others. A registered animal cruelty offender would also be able to make application to the Attorney General to terminate the obligation to register under this bill upon the submission of evidence, sufficient in the determination of the Attorney General, to establish that the offender no longer maintains primary residence or secondary residence in this State, and will not be present in the State for more than 14 consecutive days, or for an aggregate period of 30 days or more. However, such an offender would be required to re-register with the State in the event that he re-establishes primary residence or secondary residence in the State or re-establishes physical presence therein for the requisite period of time.