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TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER REGARDING:

House Bill No. 7194

ENTITLED, AN ACT RELATING CRIMINAL PROCEDURE—DOMESTIC VIOLENCE PREVENTION ACT

Chairwoman Hagan McEntee and Members of the House Judiciary Committee:

The Office of the Public Defender opposes House Bill 7194, which seeks to include certain animal cruelty charges within the definition of domestic violence crimes. We recognize that laws protecting the victims of both domestic violence and animal cruelty are extremely important, so our opposition is based on two specific concerns. Based on our experience representing clients on these matters, we fear that the bill could have certain unintended consequences.

The first concern involves a question of draftsmanship. Currently, the bill targets conduct towards animals “owned or cared for by a household member,” but the term “cared for” is never defined. This ambiguity raises significant due process concerns, as its subjectivity could lead to both notice problems and an inconsistent application. Not only does this lack of clarity jeopardize due process rights of the accused—who may not understand what it means to “care for” an animal under this section—but it also leaves the law vulnerable to constitutional attack on vagueness grounds.

The second concern is related to the lack of nexus between the alleged animal abuse and the domestic abuse. In order to achieve the goals of the Domestic Violence Prevention Act (“The Act”), it is essential that any charges under the Act be related to domestic violence. After all, the goals and penalties contained in the Act are targeted to address individuals who have engaged in such behavior. While anyone who commits animal abuse should certainly be subject to penalties, those penalties should be linked to the actual crime committed. In other words, if a person commits animal abuse on a household member’s pet but is not doing so with the intention of hurting the household member, that person might not need the domestic violence classes outlined in the Act. In that situation, both the humans and animals would be better served if the offender were to be required to take classes that address the *animal* abuse. As it is currently written, the bill does not recognize the difference between those two situations, which could lead to defendants being both over and under penalized.

The importance of this nexus has been recognized by the other states that have passed laws to include animal cruelty within their domestic violence statutes. For example Colorado, Massachusetts, New Jersey, and Vermont have all recently included the phrase “coercive control”

within their definition of abuse.¹ This makes it clear that only acts that directly related to harming a household member would fall under the Act's purview—and that acts that relate purely to the animal can be penalized with requirements more fitting to those crimes.

In summary, while the Office of the Public Defender opposes this bill, it is not doing so in an attempt to minimize the importance of animal cruelty or domestic violence concerns. Rather, we think the current bill would lead to unintended consequences and urge the House Judiciary Committee to consider the above concerns raised by HB7194.

Sincerely,



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¹ See C.R.S.A. §§ 18-6-800.3, 13-14-101, 103; M.G.L. c. 209 A § 1; N.J.S.A. 4:22-17 et seq.; 15 V.S. A. § 1101.