

HOUSE No. 2419

The Commonwealth of Massachusetts

PRESENTED BY:

Louis L. Kafka

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act protect animal welfare and safety in cities and towns.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Bradford R. Hill</i>	<i>4th Essex</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>
<i>Shawn Dooley</i>	<i>9th Norfolk</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>

<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>
<i>Paul Tucker</i>	<i>7th Essex</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>Natalie Higgins</i>	<i>4th Worcester</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>
<i>Diana DiZoglio</i>	<i>14th Essex</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>
<i>Edward F. Coppinger</i>	<i>10th Suffolk</i>
<i>Adrian Madaro</i>	<i>1st Suffolk</i>
<i>Jose F. Tosado</i>	<i>9th Hampden</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>David M. Nangle</i>	<i>17th Middlesex</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>
<i>Linda Dean Campbell</i>	<i>15th Essex</i>
<i>Theodore C. Speliotis</i>	<i>13th Essex</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>

<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>
<i>Aaron Michlewitz</i>	<i>3rd Suffolk</i>
<i>Kevin J. Kuros</i>	<i>8th Worcester</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Donald R. Berthiaume, Jr.</i>	<i>5th Worcester</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Shaunna L. O'Connell</i>	<i>3rd Bristol</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Brian Murray</i>	<i>10th Worcester</i>
<i>Leonard Mirra</i>	<i>2nd Essex</i>
<i>James M. Murphy</i>	<i>4th Norfolk</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>William Driscoll</i>	<i>7th Norfolk</i>

HOUSE No. 2419

By Mr. Kafka of Stoughton, a petition (accompanied by bill, House, No. 2419) of Louis L. Kafka and others relative to the treatment of animals and reporting of cruelty. Municipalities and Regional Government.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act protect animal welfare and safety in cities and towns.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1

2 Section 173A of chapter 140 of the General Laws, as appearing in the 2014 Official
3 Edition, is hereby amended by striking out, in lines 8-21, the second through seventh sentences,
4 inclusive, and replacing with the following sentences: -

5 The fine for the first offense committed by a person, shall be \$50. The fine for a second
6 offense shall be \$100. The fine for a third offense shall be \$300. For a fourth or subsequent
7 offense the fine shall be \$500 and the municipality may order the animal spayed or neutered.
8 Payment shall be made only by postal note, money order or check. Notwithstanding the
9 foregoing procedure and schedule of fines, but subject to all other provisions of this section, a
10 city or town may, by ordinance or by-law, provide for an alternative procedure and a different
11 schedule of fines, provided that fines may not be lower than those stated in this section.

12 Notwithstanding this section, a municipality may seek a remedy under section 157 for a nuisance
13 dog.

14 SECTION 2

15 Section 141 of chapter 140 of the General Laws, as appearing in the 2014 Official
16 Edition, is hereby amended by striking out, in line 2, the word “\$50“ and inserting in place
17 thereof the following words:- \$500 for a first offense and a fine of not more than \$1,000 for a
18 second or subsequent offense.

19 SECTION 3

20 Section 15 of chapter 19A is of the General Laws, as appearing in the 2014 Official
21 Edition, is hereby amended by inserting after the word “technician,” in line 3, the following
22 words :- animal control officer

23 SECTION 4

24 Chapter 19A of the General Laws is hereby amended by inserting after section 41 the
25 following section:-

26 Section 42.

27 (a) Any employee of the department of elder affairs or person employed pursuant to a
28 contract with the department, when acting in his professional capacity or within the scope of his
29 or her employment, who has knowledge of or observes an animal whom he knows or reasonably
30 suspects has been the victim of animal cruelty, abuse or neglect, shall report the known or
31 suspected animal cruelty, abuse or neglect to a police officer or special state police officer
32 appointed under said section 57 of chapter 22C.

33 (b) The report shall be made within 2 working days of receiving the information
34 concerning the animal, by facsimile transmission or a written report or by telephone. In cases
35 where an immediate response may be necessary in order to protect the health and safety of the
36 animal, the report should be made as soon as possible.

37 (c) When 2 or more employees of the department are present and jointly have knowledge
38 of known or reasonably suspected animal cruelty, abuse or neglect, and where there is agreement
39 among them, a report may be made by 1 person by mutual agreement. Any reporter who has
40 knowledge that the person designated to report has failed to do so within the time frame
41 indicated in (b) of this section may thereafter make the report.

42 (d) No person making such report shall be liable in any civil or criminal action by reason
43 of such report if it was made in good faith. Any privilege established by sections 135A and 135B
44 of chapter 112 or by section 20B of chapter 233, relating to confidential communications, shall
45 not prohibit the filing of a report pursuant to this section.

46 (e) Any privilege established by sections 135A and one hundred and 135B of chapter
47 112 or section 20B of chapter 233 relating to the exclusion of confidential communications shall
48 not prohibit the filing of a report pursuant to the provisions of subsection (a), (b) or (c).

49 (f) Nothing in this section shall impose a duty on the department to investigate known or
50 reasonably suspected animal cruelty, abuse or neglect.

51 (g) Nothing in this section shall prevent the department, area office or subdivision from
52 entering into an agreement, contract or memorandum of understanding with the entities that
53 investigate reports of animal cruelty, abuse or neglect as described in section 57 of chapter 22C,

54 to require such reports or to engage in training in identification and reporting of animal abuse,
55 cruelty and neglect.

56 SECTION 5

57 Section 1 of chapter 19C of the General Laws, as appearing in the 2014 Official Edition,
58 is hereby amended by inserting, after the word “police officer”, in line 28, the following words:-
59 , animal control officer,

60 SECTION 6

61 Chapter 19C of the General Laws is hereby amended by inserting after section 13 the
62 following section:-

63 Section 14. (a) Any employee of the disabled persons protection commission or person
64 employed pursuant to a contract with the department, when acting in his professional capacity or
65 within the scope of his or her employment, who has knowledge of or observes an animal whom
66 he knows or reasonably suspects has been the victim of animal cruelty, abuse or neglect, shall
67 report the known or suspected animal cruelty, abuse or neglect to a police officer or special state
68 police officer appointed under said section 57 of chapter 22C.

69 (b) The report shall be made within 2 working days of receiving the information
70 concerning the animal, by facsimile transmission or a written report or by telephone. In cases
71 where an immediate response may be necessary in order to protect the health and safety of the
72 animal, the report should be made as soon as possible.

73 (c) When 2 or more employees of the department are present and jointly have
74 knowledge of known or reasonably suspected animal cruelty, abuse or neglect, and where there

75 is agreement among them, a report may be made by 1 person by mutual agreement. Any reporter
76 who has knowledge that the person designated to report has failed to do so may thereafter make
77 the report.

78 (d) No person making such report shall be liable in any civil or criminal action by
79 reason of such report if it was made in good faith. Any privilege established by sections 135A
80 and 135B of chapter 112 or by section 20B of chapter 233, relating to confidential
81 communications, shall not prohibit the filing of a report pursuant to this section.

82 (e) Any privilege established by sections 135A and 135B of chapter 112 or section 20B
83 of chapter 233 relating to the exclusion of confidential communications shall not prohibit the
84 filing of a report pursuant to the provisions of subsection (a), (b) or (c).

85 (f) Nothing in this section shall impose a duty on the department to investigate known or
86 reasonably suspected animal cruelty, abuse or neglect.

87 (g) Nothing in this section shall prevent the department, area office or subdivision from
88 entering into an agreement, contract or memorandum of understanding with the entities that
89 investigate reports of animal cruelty, abuse or neglect as described in section 57 of chapter 22C,
90 to require such reports or to engage in training in identification and reporting of animal abuse,
91 cruelty and neglect.

92 SECTION 7

93 Section 85 of chapter 119 of the General Laws, as appearing in the 2014 Official Edition,
94 is hereby amended by striking out, in line 1, the words “During any investigation or evaluation
95 reported under section 51A, any” and inserting in place thereof the following word:- Any

96 SECTION 8

97 Section 85 of chapter 119, as so appearing, is hereby further amended by striking out, in
98 line 7, the word “may” and inserting in place thereof the following word:- shall

99 SECTION 9

100 Section 85 of chapter 119, as so appearing, is hereby further amended by striking out, in
101 lines 8-10, the words “to the entities that investigate reports of animal cruelty, abuse or neglect,
102 as describe in section 57 of chapter 22C or any local animal control authority.” and inserting in
103 place thereof the following words:- to a police officer or special state police officer appointed
104 under said section 57 of chapter 22C.

105 SECTION 10

106 Section 85 of chapter 119, as so appearing, is hereby further amended by striking out, in
107 line 11, the word “may” and inserting in place thereof the following word:- shall

108 SECTION 11

109 Section 85 of Chapter 119, as so appearing, is hereby further amended by striking out, in
110 line 15, the words “by telephone”

111 SECTION 12

112 Section 21 of chapter 119 of the General Laws, as appearing in the 2014 Official Edition,
113 is hereby amended by inserting after the words “police officer;”, in line 64, the following words:-
114 , animal control officer;

115 SECTION 13

116 Section 19B of chapter 131 of the General Laws, as appearing in the 2014 Official
117 Edition, is hereby amended by inserting after the first paragraph the following paragraph:-

118 (b) No person authorized under this Chapter to take and possess birds, reptiles,
119 amphibians, or mammals, may put any animal to death by the use of drowning. Whoever puts
120 any animal to death by the use of drowning shall be punished by imprisonment in the state prison
121 for not more than 7 years in state prison or imprisonment in the house of correction for not more
122 than 2 ½ years or by a fine of not more than \$5,000 or by both fine and imprisonment; provided,
123 however, that a second or subsequent offense shall be punished by imprisonment in the state
124 prison for not more than 10 years or by a fine of not more than \$10,000 or by both such fine and
125 imprisonment.

126 SECTION 14

127 Section 79 of chapter 272 of the General Laws, as appearing in the 2014 Official Edition,
128 is hereby amended by striking the words “A corporation violating either of the two preceding
129 section” and inserting in place thereof the following words:-

130 A for-profit corporation, nonprofit corporation, business, professional corporation,
131 partnership, limited liability company, limited partnership, limited liability partnership, or any
132 other business entity violating sections 77, 77A, 77B, 78, 78A, 79A, 80 ½, 80A, 80B, 80C, 80D,
133 80F, 80G, 80H, 80I, 81, 85A, 85B, 87, 94, or 95 of this chapter or section 112 of chapter 266

134 SECTION 15

135 Section 80E of chapter 272 of the General Laws, as appearing in the 2014 Official
136 Edition, is hereby amended by inserting after the first paragraph the following paragraph:-

137 (b) Whoever puts any animal to death by the use of drowning shall be punished by
138 imprisonment in the state prison for not more than 7 years in state prison or imprisonment in the
139 house of correction for not more than 2 ½ years or by a fine of not more than \$5,000 or by both
140 fine and imprisonment; provided, however, that a second or subsequent offense shall be punished
141 by imprisonment in the state prison for not more than 10 years or by a fine of not more than
142 \$10,000 or by both such fine and imprisonment.

143 SECTION 16

144 Section 91 of Chapter 272 of the General Laws, as appearing in the 2014 Official Edition,
145 is hereby amended by striking out, in line 3, the words “district court” and inserting in place
146 thereof the following words:- court having jurisdiction over the offense

147 SECTION 17

148 Section 91 of said chapter, as so appearing, is hereby further amended by striking out, in
149 lines 10 to 17, the words “the court shall thereupon, unless an appeal is taken as provided in the
150 following section, issue an order for killing them. The order shall be directed to any officer
151 authorized to serve criminal process and the officer receiving such order shall cause the animals
152 to be killed within 24 hours thereafter. Animals or property seized as hereinbefore provided,
153 which are not adjudged forfeited, shall be delivered to the owner or person entitled to the
154 possession thereof” and inserting in place thereof the following words: - shall be individually
155 assessed by the organization to whom they are forfeited to determine suitability for adoption,
156 transfer to another organization, or other disposition

157 SECTION 18

158 Section 58A of Chapter 276 of the General Laws, as appearing in the 2014 Official
159 Edition, is hereby amended by inserting after the word “thereof”, on line 8, the following words:-
160 or charged with a violation of section 77 of chapter 272, or a violation of section 112 of chapter
161 266, or a violation of section 94 of chapter 272

162 SECTION 19

163 SECTION 1. Chapter 175 of the General Laws is hereby amended by inserting after
164 section 227 the following section:-

165 Section 228. No insurance company offering homeowners insurance coverage or renters
166 insurance coverage in Massachusetts issuing a policy or contract insuring against liability for
167 injury to any person or injury to or destruction of property arising out of ownership or lease of
168 residential property shall refuse to issue or renew, cancel or charge or impose an increased
169 premium or rate of such a policy or contract based in whole or in part, upon the harboring of any
170 specific breed or breeds of dog upon such real property.

171 If any such dog has been designated as a dangerous dog pursuant to current statutes, the
172 provisions in this section shall in no manner prohibit an insurer from refusing to issue or renew
173 or from canceling any such contact or policy, nor from imposing an increased premium or rate
174 for such a policy or contract.

175 SECTION 20

176 Chapter 186 of the General Laws is hereby amended by adding the following section:-

177 Section 30. Within 3 days after a lessor or property owner knew or should have known
178 that a property has been vacated through foreclosure, termination of tenancy, abandonment or

179 other removal or exclusion of a tenant from the premises under this chapter or chapter 186A, the
180 lessor, property owner or a designee shall inspect the property for the presence of abandoned
181 animals.

182 If the lessor, property owner or designee encounters an abandoned animal, the lessor,
183 property owner or designee shall immediately notify an animal control officer as defined in
184 chapter 140, a police officer or other authorized agent of the presence and condition of the
185 animal.

186 The lessor, property owner or designee who encounters an abandoned animal under this
187 section shall not be considered the owner, possessor or person having charge or custody of the
188 animal under section 77 of chapter 272.

189 For the purposes of this section, an animal shall be considered abandoned if it is found in
190 a property vacated through foreclosure, termination of tenancy, abandonment or other removal or
191 exclusion of a tenant from the premises under this chapter or said chapter 186A.

192 If the lessor, property owner or designee fails to comply with this section, the lessor or
193 property owner shall be subject to a civil fine of not more than \$500 for a first offense and not
194 more than \$1,000 for each subsequent offense. The money collected from this fine shall be
195 deposited into the Homeless Animal Prevention and Care Fund established in section 35WW of
196 chapter 10.

197 SECTION 21

198 Section 4 of Chapter 239 of the General Laws, as appearing in the 2014 Official Edition,
199 is hereby amended by inserting after the word “thereof”, in line 5, the following words:- ;

200 provided, however, that if an animal is found on the land or tenement, the officer shall
201 immediately notify an animal control officer as defined in chapter 140, a police officer or other
202 authorized agent of the presence and condition of the animal.

203 SECTION 22

204 Subsection (a) of said Section 4 of said Chapter 239, as so appearing, is hereby amended
205 by adding the following sentence:- This section shall not apply to an animal removed under
206 section 30 of chapter 186, section 41 of chapter 244 or section 14.

207 SECTION 23

208 Said chapter 239 is hereby further amended by adding the following section:-

209 Section 14. Within 3 days after the lessor or property owner knew or should have known
210 that a property has been vacated as a result of summary process, the lessor, property owner or a
211 designee shall inspect the property for the presence of abandoned animals.

212 If the lessor, property owner or designee encounters an abandoned animal under this
213 section or section 4, the lessor, property owner or designee shall immediately notify an animal
214 control officer as defined in chapter 140, a police officer or other authorized agent of the
215 presence and condition of the animal.

216 The lessor, property owner or designee who encounters an abandoned animal pursuant to
217 this section shall not be considered the owner, possessor or person having the charge or custody
218 of the animal under section 77 of chapter 272.

219 For the purposes of this section, an animal shall be considered abandoned if it is found in
220 a property vacated as a result of summary process.

221 If the lessor, property owner or designee fails to comply with this section, the lessor or
222 property owner shall be subject to a civil fine of not more than \$500 for a first offense and not
223 more than \$1,000 for each subsequent offense. The money collected from this fine shall be
224 deposited into the Homeless Animal Prevention and Care Fund established in section 35WW of
225 chapter 10.

226 SECTION 24

227 Chapter 244 of the General Laws is hereby amended by adding the following section:-

228 Section 41. Within 3 days after the lessor or property owner knew or should have known
229 that a property was vacated through a mortgage foreclosure, the mortgagee, property owner or a
230 designee shall inspect the property for the presence of abandoned animals. If the mortgagee,
231 property owner or designee encounters an abandoned animal under this section, the mortgagee,
232 property owner or designee shall immediately notify an animal control officer as defined in
233 chapter 140, a police officer or other authorized agent of the presence and condition of the
234 animal.

235 The mortgagee, property owner or designee who encounters an abandoned animal
236 pursuant to this section shall not be considered the owner, possessor or person having the charge
237 or custody of the animal under section 77 of chapter 272.

238 For the purposes of this section, an animal shall be considered abandoned if it is found in
239 a property vacated through mortgage foreclosure.

240 If the mortgagee, property owner or designee fails to comply with this section, the
241 mortgagee or property owner shall be subject to a civil fine of not more than \$500 for a first

242 offense and not more than \$1,000 for each subsequent offense. The money collected from this
243 fine shall be deposited into the Homeless Animal Prevention and Care Fund established in
244 section 35WW of chapter 10.