

March 26, 2019

The Ohio House of Representatives  
Agriculture and Rural Justice Committee  
c/o Chairman J. Kyle Koehler

Re: Interested Party testimony to HB 24

Chairman Koehler, Vice Chair Smith, Ranking Member Brent and Honorable Members of the Agriculture and Rural Justice Committee, thank you for the opportunity to testify regarding House Bill 24 ("HB 24"). I have served as an appointed prosecutor for animal cruelty cases for six years. I have testified in opposition and as an interested party regarding this bill since its predecessor, House Bill 198, was introduced in 2015. I am appreciative of the modifications made to this bill since its inception. I am concerned, however, that HB 24 still creates inequity amongst criminal defendants and how their cases are handled in the legal system, as well as disparity in public record keeping.

Specifically, HB 24 requires that **only nonprosecution agreements where humane societies are the investigating agency be approved by the court**. Nonprosecution agreements (NPAs) are commonly used valid exercises of prosecutorial discretion in which amnesty is granted to a defendant in exchange for the defendant agreeing to fulfill certain requirements. Under an NPA, the state refrains from filing criminal charges to allow the defendant to demonstrate good conduct. NPAs generally require the defendant meet various conditions, such as paying a fine, waiving the statute of limitations, cooperating with the government, and entering into compliance/remediation commitments. NPAs are most often requested directly by defense attorneys as a benefit to their client. In the case of animal cruelty, NPAs allow law enforcement to resolve cases with education, in the least invasive manner, making every effort to keep animal owners out of criminal court, and avoid costs to the county.

The sponsor of this bill has voiced concerns with NPAs, but HB 24 only codifies a process of judicial approval for an extremely minute fraction of NPAs—only animal cruelty cases investigated by a humane society. It does not codify judicial approval of any other NPA for any other crime, or even for animal cruelty cases that are investigated by a county sheriff, dog warden, local police, or local animal control. If additional oversight of NPAs is the desired outcome, at the very least judicial approval of all NPAs involving animal cruelty or neglect should be codified—for all cases, all law enforcement agencies, and all prosecutors.

Thus, if HB 24 is to focus only on NPAs entered into for violations of animal cruelty offenses, we must be consistent and fair under the law and require judicial approval of all NPAs involving violations of Chapter 959. This would ensure:

- (1) consistency in public records for all violations of ORC 959. HB 24 in its current form would produce NPA records for cases investigated by humane societies at the courts and NPAs investigated by other agencies would be instead found at each agency; and
- (2) equality for defendants. It is not consistent or fair for offenders whose case is handled by a humane society to have their NPA on a court record, but not if the case is handled by the county sheriff, dog warden, local police, or local animal control.

I appreciate your consideration and attention to this matter.

Yours truly,  
DanaMarie K. Pannella, Esq.