

*Model Legislation to Improve the Performance  
& Life-Saving of Animal Shelters*



The  
Companion  
Animal  
Protection Act

A PUBLICATION OF THE NO KILL ADVOCACY CENTER

# Stopping a Preventable TRAGEDY



## *Why Shelter Reform Legislation Is Needed*

Nearly three million animals are killed in U.S. shelters every year. In fact, shelter killing is the leading cause of death for healthy dogs and cats in the United States. For far too long, we have been led to believe there is no other way. But there is hope. In the last several years, shelters in numerous communities have comprehensively implemented a bold series of programs and services to reduce birthrates, increase adoptions and redemptions, and keep animals with their responsible caretakers. As a result, they are achieving unprecedented results, saving upwards of 99 percent of all impounded animals in open admission animal control facilities, reserving “euthanasia” for hopelessly ill or injured and irremediably suffering animals, and truly vicious dogs with a poor prognosis for rehabilitation. Not only are they saving lives, but they are saving taxpayer money as well.

Many of the programs identified as key components of saving lives are more cost-effective than impounding, warehousing, and then killing animals. Some rely on private philanthropy, as in the use of rescue groups, which shifts costs of care from public taxpayers to private individuals and groups. Others, such as the use of volunteers, augment paid human resources. Still others, such as adoptions, bring in revenue. And some, such as neutering rather than killing, are simply less expensive, with exponential savings in terms of reducing births.

A national study found no correlation between per capita funding for animal control and save rates. One shelter saved 90 percent of

## The Companion Animal Protection Act:

Saves Lives

Saves Taxpayer Money

Improves Public Health  
and Safety

Improves Public  
Satisfaction with  
Government

**According to the Delaware Office of Animal Welfare, the passage of CAPA has “improved the quality of care animals receive and has saved thousands of animals that would otherwise have been [killed] due to outdated policies and practices.”**

the animals. Another saved only 40 percent despite spending four times per capita on animal control. One community has seen killing rates increase over 30 percent despite one of the best funded shelter systems in the nation. Another has caused death rates to drop by 50 percent despite cutting costs. There was, in other words, no correlation between success/failure and per capita spending on animal control. What *did* make a difference was leadership: the commitment of shelter managers to implement a key series of necessary programs and services to modernize shelter operations.

Unfortunately, many shelter directors remain steadfast in their refusal to embrace lifesaving initiatives. But it makes no sense to kill animals in the face of cost-effective alternatives, nor does it make sense that taxpayers are spending money to kill animals, when non-profit organizations are willing and able to save them at private expense.

Today, Americans of all walks of life want to build a better world for animals. There are now 95 million cats and 70 million dogs in American homes. We spend \$60 billion on their care, an amount which is growing every year even as other economic sectors decline. And giving to animal related charities is the fastest growing segment in American philanthropy. This embrace of animals cuts across all political, economic, and social demographics. Saving lives is not only good public policy, it is also good bipartisan politics.\* That is why states like California and Delaware, and municipalities across the country such as Austin, Texas, have legislated shelter reform.

The Companion Animal Protection Act (CAPA) was written as “model” legislation by legislators, shelter directors, animal lawyers, and shelter veterinarians to provide animals with maximum opportunities for lifesaving. No law can anticipate every contingency and CAPA is no exception. It is not intended to be complete or eliminate the need for other animal protection laws. Nor is it intended to reduce stronger protections that animals may have in a particular jurisdiction. The legislation can and should be modified in such circumstances.

But because too many shelters are not voluntarily implementing the programs and services and culture of lifesaving that makes No Kill possible, animals are being needlessly killed. And because animals are being needlessly killed, taxpayer money is being needlessly wasted. And the shelters which are supposed to reflect the

## THE DELAWARE COMPANION ANIMAL PROTECTION ACT

In 2010, the State of Delaware passed a version of the CAPA which has since reduced killing in that state by over 80%.



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\* In California, shelter reform passed the legislature by a vote of 96 to 12. In Delaware, it passed both houses of the legislature unanimously. And Austin’s City Council embraced it 7-0. Both Democratic and Republican legislators, governors, and constituents favor shelter reform by wide margins.

values of animal loving Americans are instead undermining them. To combat this, CAPA mandates the programs and services which have proven so successful at lifesaving in shelters and communities which have implemented them; follows the only model that has actually ended the killing of healthy and treatable animals; and,

focuses its effort on the very shelters that are doing the killing.

CAPA saves lives, saves taxpayer money, is consistent with public health and safety, and improves public satisfaction with the job government is doing.

## CAPA HIGHLIGHTS

- ✓ Establishes that saving lives and public safety are compatible;
- ✓ Protects all species of shelter animals;
- ✓ Makes it illegal for a shelter to kill an animal if a rescue group or No Kill shelter is willing to save that animal;
- ✓ Requires shelters to provide animals with fresh food, fresh water, environmental enrichment, regular exercise, veterinary care, and cleanliness;
- ✓ Requires shelters to have fully functioning adoption programs including offsite adoptions, use of the internet to promote their animals, and ample adoption hours when the public is available,
- ✓ Prohibits shelters from killing animals based on arbitrary criteria when alternatives to killing exist;
- ✓ Requires animal control to allow volunteers to help with fostering, socializing, and assisting with adoptions; and
- ✓ Requires shelters to be truthful about how many animals they kill and adopt by making their statistics public.

### CAPA saves the lives of animals

A statewide survey of rescue groups in New York State found that 71% of non-profit animal welfare groups have had at least one NYS shelter refuse to work collaboratively and then turn around and kill the very animals they were willing to save. This is inhumane and bad policy. CAPA would make it illegal for a shelter to kill an animal when a qualified non-profit organization that specializes in adoptions is willing to save that animal. This maximizes the number of animals who are saved, while reducing the numbers killed.

### CAPA saves taxpayers money

CAPA is modeled after a similar law which has been in effect in California since 1998. An analysis of that law found that sending animals to non-profit animal rescue organizations saved the City and County of San Francisco \$486,480 annually in publicly funded animal control costs. CAPA saves taxpayer money by mandating public-private partnerships that not only reduce expenses associated with having to care for, then kill and dispose of an animal, but which transfers expenses from taxpayers to private philanthropy. Under CAPA, shelters can also charge the cost of an adoption to those groups, thereby bringing in needed revenues and defraying any costs associated with implementation.

## CAPA provides whistleblower protections

A statewide survey of rescue groups in New York State found that 43% of groups have been the subject of retaliation by shelters after they expressed concerns about inhumane conditions which they have witnessed in shelters, while over half (52%) who have witnessed such conditions did not express concerns—and simply looked the other way—because they were afraid if they did complain, they would no longer be allowed to rescue, thus allowing those inhumane conditions to continue. By giving non-profit organizations the legal right to save animals scheduled to be killed, CAPA removes the power to condition lifesaving on silence as to inhumane conditions, and sometimes criminal behavior, witnessed by rescuers.

## CAPA stops discrimination

All non-profit organizations have identical rights and responsibilities before the law. CAPA seeks to protect those rights by leveling the playing field between the large non-profits which have all the power and the small non-profits which are prevented from fulfilling their lifesaving mission when these larger organizations refuse to collaborate with them in order to save more lives.

## CAPA improves staff well-being

Studies show that staff members responsible for killing animals in shelters are vulnerable to emotional trauma, exhaustion, and burnout. CAPA would spare staff from killing animals when those animals have readily available lifesaving options.

## CAPA protects public health and safety

CAPA specifically excludes dangerous dogs, animals who have rabies, and animals who are irretrievably suffering. It also requires shelter to implement best practices that reduce disease, ensure animals are behaviorally evaluated and medically screened, thus

protecting both employee and public welfare. Moreover, because CAPA requires rescue organizations to be incorporated as non-profit public corporations under Internal Revenue Code Section 501(c)(3), CAPA would also improve oversight of groups which perform rescue: a statewide survey in New York State revealed that 70% of organizations performing animal rescue which are not incorporated would do so if CAPA becomes law. This would require them to file articles of incorporation, to recruit a Board of Trustees, and to subject themselves to both state and federal mandates, while placing them under the supervision of the state Attorney General's Office.

## CAPA improves shelter operations

CAPA will reduce the number of animals shelters kill. It reduces costs for killing. It brings in revenue through adoption fees. And it transfers costs from taxpayers to private organizations, funded through philanthropic dollars.

## CAPA is good bipartisan policy popular with voters

CAPA is based on a similar law in California which was passed in 1998 with overwhelming bipartisan support—96 to 12. It made no sense to California legislators that taxpayers were spending money on killing animals when non-profit organizations were willing to spend their own money to save them. Legislators also found that public shelters that killed animals when those animals have a place to go did not reflect the humane values of their constituents. In addition, the State of Delaware recently passed similar legislation. The bill, mandating collaboration between shelters and rescue organizations, passed both houses of the Delaware Legislature unanimously.



# THE COMPANION ANIMAL PROTECTION ACT

## SEC. 1 Definitions

(1) ANIMAL SHELTER.—The term ‘animal shelter’ means a public or private facility that—

(a) Has a physical structure that provides temporary or permanent shelter to stray, abandoned, abused, or owner-surrendered animals; and,

(b) Is operated, owned, or maintained by a society for the prevention of cruelty to animals, humane society, non-profit organization, pound, dog control officer, government entity, or contractor for a government entity.

(2) LICENSED VETERINARIAN.—The term ‘licensed veterinarian’ means a veterinarian licensed to practice veterinary medicine in this State.

(3) RESCUE ORGANIZATION.—The term ‘rescue organization’ means an organization that is—

(a) An organization described in section 501(c)(3) of the Internal Revenue Code and exempt from taxation under 501(a) of that Code; and,

(b) An animal rescue organization, animal adoption organization, or organization formed for the prevention of cruelty to animals.

(4) IRREMIEDIABLE PHYSICAL SUFFERING.—The term ‘irremediable physical suffering’ means an animal who has a poor or grave prognosis for being able to live without severe, unremitting pain even with comprehensive, prompt, and necessary veterinary care, as certified in writing by a licensed veterinarian.

SEC. 2(a) No animal shall be euthanized at an animal shelter prior to the expiration of seven full business days from impoundment of the animal, not including the date of impoundment, except as follows:

(1) Subsection (a) does not apply to an animal who is irremediably physically suffering.

(b) An animal impounded as a stray with identification or whose owner has been identified shall be made available for owner reclamation for a period of four business days, not including the date of impoundment.

(c) An animal impounded as a stray without identification and whose owner has not been identified shall be made available for owner reclamation for a period of three business days, not including the date of impoundment.

(d) At any time, an animal impounded as a stray may be placed in foster care or transferred to an animal rescue or-

ganization or other shelter, subject to the following:

(1) An animal transferred under this subsection remains subject to reclamation by its owner pursuant to Subsection (b) and (c).

(2) Documentation of an animal transferred under this subsection, including a photograph of the animal and relevant information pertaining to the animal’s impoundment and transfer, shall be maintained in physical or electronic form, reviewable by the public, at the animal shelter that originally impounded the animal or on their website during the time period relevant under Subsection (b) and (c).

(3) An owner that satisfies an animal shelter’s reclaim requirements during the time period relevant under Subsection (b) and (c) is entitled to reclaim the animal even if the animal has been transferred pursuant to Subsection (d) and is no longer physically in the animal shelter’s custody. At the owner’s discretion, the owner has the right to physically redeem the animal at the animal shelter that originally impounded the animal.

(e) An animal who is impounded upon being surrendered by the animal’s owner shall be subject to reclaim by that person, upon having a change of heart, for a period of three business days, not including the date of impoundment, so long as the animal has not been adopted or transferred.

(f) The holding periods mandated by this Section do not apply to an animal who is impounded solely for the purpose of sterilization.

(g) Not less than two business days before the euthanasia of any animal, the animal shelter shall:

(1) Notify or make a reasonable attempt to notify by verifiable written or electronic communication any rescue organization that has previously requested to be notified before animals are euthanized;

(2) Unless there is evidence of neglect or animal cruelty as certified in writing by a licensed veterinarian, notify or make a reasonable attempt to notify by telephone or verifiable written or electronic communication the owner who surrendered the animal and inform that person that the animal is scheduled to be killed;

(3) Notify or make a reasonable attempt to notify by telephone or verifiable written or electronic communication the finder who surrendered the stray animal and inform that person that the animal is scheduled to be killed;

(4) Give those notified under Subsections (g)(1), (2), and (3) possession of the animal to avoid the animal’s death if they request it.

(h) No animal shelter may euthanize any animal without making the notification required by Subsections (g)(1), (2),

and (3).

SEC. 3(a) An animal shelter shall provide all animals during the entirety of their shelter stay with fresh food; fresh water; environmental enrichment to promote their psychological well-being such as socialization, toys and treats, and exercise as needed, but not less than once daily; except as follows:

(1) Dogs exhibiting vicious behavior towards people or adjudged to be dangerous by a court of competent jurisdiction may but are not required to be exercised during the holding period.

(b) Notwithstanding Subsection (a), an animal shelter shall work with a licensed veterinarian to develop and follow a care protocol for animals with special needs such as, but not limited to, nursing mothers, unweaned animals, sick or injured animals, extremely frightened animals, geriatric animals, or animals needing therapeutic exercise.

(c) During the entirety of their shelter stay, animals shall be provided prompt and necessary cleaning of their cages, kennels, or other living environments no less than two times per day, to ensure environments that are welcoming to the public, hygienic for both the public and animals, and to prevent disease. This cleaning shall be conducted in accordance with a protocol developed in coordination with a licensed veterinarian, and shall require that animals be temporarily removed from their cages, kennels, or other living environments during the process of cleaning, to prevent them from being exposed to water from hoses or sprays, cleaning solutions, detergents, solvents, and/or chemicals.

(d) During the entirety of their shelter stay, all animals shall be provided with prompt and necessary veterinary care, sufficient to alleviate any pain caused by disease or injury, to prevent a condition from worsening, and to allow them to leave the shelter in reasonable condition including but not limited to preventative vaccinations, cage rest, fluid therapy, pain management, and/or antibiotics.

SEC. 4(a) Every animal shelter shall take appropriate action to ensure that all animals are checked as soon as possible, but no more than 24 hours, after impoundment for all currently available methods of identification, including microchips, identification tags, and licenses.

(b) Every animal shelter shall maintain continuously updated lists of animals reported lost and found, and shall regularly, but no less than once daily, check these lists and animals in the shelter for matches, and shall also post a photograph of and information on each stray animal impounded by the shelter on the internet with sufficient detail to allow the animal to be recognized and claimed by its owner.

(c) If a possible owner is identified, the animal shelter shall undertake due diligence to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal. These efforts shall include, but are not limited to, notifying the possible owner by telephone, mail, and personal service to the last known address.

(d) Every animal shelter shall post a photograph and information on each animal impounded by the shelter on the internet to facilitate adoptions.

(e) No animal shelter shall ban, bar, limit or otherwise obstruct the adoption or transfer of any animal based on the animal's breed, breed mix, species, age, color, appearance, or size.

SEC. 5(a) No animal shelter shall euthanize any animal simply because the holding periods required by Section 2 have expired. Before an animal is euthanized, all of the following conditions must be met:

(1) There are no empty cages, kennels, or other living environments in the shelter;

(2) There is no additional room to set up temporary cages, kennels, or living environments in the shelter;

(3) The animal cannot share a cage or kennel with another animal;

(4) The shelter has made a plea to foster homes and a foster home is not available;

(5) The notifications required in Section 2 have been made and neither a rescue group, the former owner, or the finder is willing to accept the animal;

(6) The animal cannot be transferred to another shelter with room to house the animal;

(7) The animal is not a healthy cat who can be sterilized and then released;

(8) All mandates, programs and services of this Act have been met; and,

(9) The director of the animal shelter certifies that he or she has no other alternative and the reasons no alternatives exist.

(b) The determination that all conditions of subsection (a) have been met shall be made in writing, signed by the director of the animal shelter, and be made available for free public inspection for no less than three years.

SEC. 7(a) Animals impounded by an animal shelter shall be killed, only when necessary and consistent with the requirements of this Act, by lethal intravenous injection of sodium pentobarbital, except as follows:

(1) Intraperitoneal injections may be used only under the direction of a licensed veterinarian, and only when intravenous injection is not possible for infant animals, companion animals other than cats and dogs, or in comatose animals with depressed vascular function.

(2) Intracardiac injections may be used only when intravenous injection is not possible for animals who are completely unconscious or comatose, and then only by a licensed veterinarian.

(b) No animal shall be allowed to witness any other animal being killed or being tranquilized or sedated for the purpose of being killed or to see the bodies of animals which have already been killed.

(c) Animals shall be sedated or tranquilized before being killed as necessary to minimize their stress or discomfort, or in the case of vicious animals, to ensure staff safety, except that neuromuscular blocking agents shall not be used.

(d) Following their lethal injection, animals shall be lowered to the surface on which they are being held and shall not be permitted to drop or otherwise collapse without support.

(e) An animal may not be left unattended between the time procedures to kill the animal are commenced and the time death occurs, nor may the animal's body be disposed of until death is verified.

(f) Verification of death shall be confirmed for each animal in all of the following ways:

- (1) By lack of heartbeat, verified by a stethoscope;
- (2) By lack of respiration, verified by observation;
- (3) By pale, bluish gums and tongue, verified by observation; and
- (4) By lack of eye response, verified if lid does not blink when eye is touched and pupil remains dilated when a light is shined on it.

(g) The room in which animals are killed shall be cleaned and regularly disinfected as necessary, but not less than once per day on days the room is used, except the specific area in the room where the procedure is performed shall be cleaned and disinfected between each procedure.

(h) The room in which animals are killed shall have adequate ventilation that prevents the accumulation of odors.

(i) No one other than a licensed veterinarian or a euthanasia technician certified by the state euthanasia certification program shall perform the procedures referenced in this section.

SEC. 8(a) Every animal shelter shall report to the Depart-

ment of Agriculture an annual summary which includes the following information by species-type:

- (1) The number of animals impounded during the previous calendar year;
- (2) The number of animals who were killed by the animal shelter, at the animal shelter's direction, with the animal shelter's permission, and/or by a representative of the animal shelter during the previous calendar year;
- (3) The number of animals who died, were lost, or were stolen while in the direct or constructive care during the previous calendar year;
- (4) The number of animals who were returned to their owners during the previous calendar year;
- (5) The number of animals who were adopted during the previous calendar year;
- (6) The number of animals who were transferred to other organizations during the previous calendar year;
- (7) The number of animals who were sterilized and then released during the previous calendar year;
- (8) The number of animals who were on hand at the start of the year;
- (9) The number of animals who were on hand at the end of the year.

(b) The annual summary required by Subsection (a) shall be completed and reported by February 1 of the current calendar year.

(c) By April 1 of the current calendar year, the Department of Agriculture shall make the information available on its website for public review. Such review will be searchable by individual shelter and in the aggregate for all shelters statewide.

(d) The animal shelter shall also make the information available for free public inspection upon request.

SEC. 9(a) An animal shall not be sold or transferred, with or without consideration, to any person, hospital, educational, private, or commercial institution, laboratory, or animal dealer, whether or not such dealer is licensed by the United States Department of Agriculture, for purposes of medical or biological teaching, research, study, or experimentation of any kind.

SEC. 10(a) Any person may compel an animal shelter to follow the mandates of this Act through a legal action for declaratory or injunctive relief, or any other appropriate remedy at law which will compel compliance.



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