

June 9, 2014

Isabelle Morin, MP
735 Notre-Dame Street
Suite 104
Lachine, Québec
H8S 2B5

Dear Ms. Morin:

Re: Bill C-592 An Act to Amend the *Criminal Code* (Cruelty to Animals)

Animal Justice Canada (“**Animal Justice**”) welcomes the opportunity to make written submissions regarding Bill C-592 *An Act to amend the Criminal Code (cruelty to animals)*, which, as you are aware, is currently scheduled for second reading on June 16, 2014.

Animal Justice is a registered Canadian charity dedicated to advancing public knowledge of animal practices and preventing the abuse and killing of animals through the enforcement of existing laws. Established in 2008 by a group of lawyers, law professors and law students, we seek to use the law and legal skills to advocate on behalf of animals.

In response to your request, Animal Justice provides the following comments with the hope that they will assist with the improvement of Bill C-592.

1. *Defining the Meaning of “Animal”*

Currently, the *Criminal Code*, RSC 1985, c C-46 (referred to herein as the “**Criminal Code**” or the “**Code**”) lacks a statutory definition of the term ‘animal’. We support Bill C-592’s defining of the term ‘animal’ in order to eliminate this ambiguity.

Placing a definition of ‘animal’ in the *Code* will serve to promote its consistent interpretation within the statute.¹ Without a provision defining ‘animal’, a purposive analysis must be used to interpret its meaning – a complex procedure that can be uncertain and inconsistent² making prosecutions more difficult.

2. *Introducing Provisions for Negligent Offences*

Under the current *Criminal Code*, offences must be *wilfully caused* or caused by “wilful neglect.” We do not support the use of these terms since they have permitted grave acts of animal cruelty to go un-penalized due to the evidentiary burden required to demonstrate intent. The application of wilful neglect, requiring evidence that a person has failed to exercise reasonable care thereby

¹ Halsbury’s Laws of Canada, “Legislation” at para HLG – 12.

² Halsbury’s Laws of Canada, “Legislation” at para HLG – 87.

causing harm,³ has produced unintended results, incongruous with the aim of the *Code's* animal cruelty provisions.

Animal Justice strongly supports the proposed amendment in s.182.3(1)(a) of Bill C-592, which states that, “every one commits an offence who negligently causes unnecessary pain, suffering or injury to an animal.” Negligence connotes conduct which falls below the standard required by society and thus, is consistent with public morals and values.

3. Recommendations

Animal Justice recommends the following revisions to Bill C-592:

- a. With the introduction of the definition of ‘animal,’ specific references to cattle, like in s. 444 of the *Code*, should be repealed as they will be redundant.
- b. The proposed s. 182.3 would make it an offence for an owner or “person having the custody or control of an animal” to cause harm to an animal through negligence. The proposed s. 182.2 would make it an offence for an owner to cause or permit harm through a wilful act or omission. Animal Justice recommends that any section covering offences related to animals apply to both owners and custodians or guardians.
- c. The proposed s. 182.2(1)(b) would make it an offence to kill an animal “brutally or viciously”. As this would be covered by “pain, suffering or injury” identified elsewhere, Animal Justice recommends that duplication be avoided.
- d. The proposed s. 182.2(1)(c) exempts the killing of an animal with lawful excuse. Animal Justice recommends that all exemptions be individually identified, and the legislation governing any exemption be identified.
- e. The proposed s. 182.2(2) exempts any wilful act or omission defined in the proposed s. 182.2(1) if done or omitted in the context of pest control, rodeo events, traditional or sport hunting or fishing and livestock raising or slaughter in an agricultural context. In effect, this would allow poisoning, brutally killing, or conducting animal fights if done in any of these contexts. Animal Justice recommends that any section providing an exemption specifically identify what acts or omissions it is designed to allow.
- f. Animal Justice also recommends that, in relation to the proposed s. 182.2(2), entertainment such as rodeos, circuses, sport hunting, etc. not be exempt from any section of the *Criminal Code* designed to protect animals.
- g. In relation to the proposed s. 182.2(2), it is further recommended that no form of animal control be exempt from prohibitions on the use of inhumane methods, that any exemption for traditional hunting or fishing be identified elsewhere in relation to existing aboriginal or

³ Halsbury’s Laws of Canada, “Wildlife, Livestock and Pets” at para HWL – 189.

treaty rights and that any exemption provided to agriculture be clearly defined with the legislation governing exempted practices identified.

- h.** The current *Criminal Code* sections 445.1(3) and 446(3) provide that in the absence of evidence to the contrary, evidence that a person fails to exercise reasonable care or supervision is proof that an act or omission was done wilfully or through wilful neglect. Animal Justice recommends that these sections be replaced with a more clearly defined test of reasonableness reflecting societal standards so that an act or omission resulting in harm to an animal may be evidence of an offence, whether committed wilfully or through negligence.

Thank you for your interest in our feedback. Should you wish to discuss this matter further please don't hesitate to contact us by any of the means listed below.

Yours Sincerely,

Nicholas dePencier Wright

Nicholas dePencier Wright, BA JD MBA - Executive Director