

**TESTIMONY ON 19-H 5297
RELATING TO ANIMALS AND ANIMAL HUSBANDRY – ANIMAL CARE
FEBRUARY 27, 2019**

The ACLU appreciates the opportunity to provide testimony on H 5297, which regulates unlicensed animal care providers. We would like to address some specific concerns with the breadth of the language and provisions in the bill, and the underlying violations of criminal law the legislation contains.

The definition of “unlicensed animal care service provider” is uncomfortably broad and encompasses an incongruous group of jobs. The nature of many of the positions that are either specifically or presumably contained underneath this bill – for example, pet sitter or dog walker – is such that the care provided does not necessarily take place at a single place of business or for a protracted period of time. Yet, the same definition includes long-term and extensive care providers such as animal trainers or behaviorists. As worded, a ten-year-old who is paid \$20 to watch their neighbor’s dog for the weekend would be subjected to regulations that require maintaining both sufficient lighting in an animal’s quarters and a written sanitation log. This is unreasonable.

This problem is exacerbated by the powers the bill goes on to give the Department of Environmental Management and a private organization, the RISPCA. We do not believe the General Assembly can give the DEM, much less a private entity, the power to enter people’s homes based on a written complaint raising vague concerns about an animal’s “care” or “welfare.” As the bill is written, the complaint could even be anonymous. This legislation would additionally authorize the use of search warrants based on these complaints *and* subject individuals to civil penalties for exercising their constitutional rights not to refuse entry to a DEM or RISPCA “inspector.” We find these provisions constitutionally problematic. The Fourth Amendment simply does not allow such broad exercises of search power.

Further, the power given to DEM to initiate investigations, and the lack of protocol for any prior verification of complaints, raises logistical issues. Because many of these care providers do not operate out of a consistent location, it’s unclear where or how an investigation within the guidelines provided by the bill would take place. For example, many pet sitters care for the animal in the home of the pet owner. If a complaint is filed, conceivably the investigation would take place in the location of care, which could often mean a private residence unrelated to the subject of the complaint.

The lack of procedure for determining the validity of complaints adds to the problems with any implementation of this proposed legislation. If a pet sitter is spotted walking a dog with a visible wound, which the dog could have incurred before the pet sitter began providing care, and the pet sitter is reported, the bill gives the DEM the ability to not only investigate, but impose fines on, and potentially request a search warrant to investigate someone who bears no responsibility for the basis of the complaint.

While we understand that the intent of this legislation may be to prevent repeated incidents of animal mistreatment, the scope of its language could potentially lead to unfounded accusations and wrongly imply that the DEM and the RISPCA have powers which they inherently, and lawfully, do not have.

Thank you for your consideration.