Senate Judiciary Committee

Pete Mulvey 271-4063

SB 290-FN, relative to the definition of "torture" in animal abuse cases.

Hearing Date: February 18, 2025

Time Opened: 1:30 p.m. **Time Closed**: 2:30 p.m.

Members of the Committee Present: Senators Gannon, Abbas, Altschiller and Reardon

Members of the Committee Absent : Senator Carson

Bill Analysis: This bill defines torture within the animal cruelty statute.

Sponsors:

Sen. Watters	Sen. Long	Sen. Birdsell
Sen. Altschiller	Sen. Innis	Sen. Rosenwald
Sen. Perkins Kwoka	Sen. Prentiss	Rep. J. MacDonald

Who supports the bill: 18 signed in support of the bill. Contact Pete Mulvey for further details (peter.mulvey@gc.nh.gov).

Who opposes the bill: 75 signed in opposition to the bill. Contact Pete Mulvey for further details (peter.mulvey@gc.nh.gov).

Who is neutral on the bill: N/A

Summary of testimony:

Senator David Watters

Senate District 4

- SB 290 defined torture relative to instances of animal abuse as any negligent or purposeful act that caused harm.
- Most states had a similar definition of torture in their cruelty statutes.
- The three largest agricultural states with the most livestock had versions of the statute proposed.
- SB 290 contained language that was tried and tested elsewhere.
- The Governor's Commission on the Prevention of Cruelty Toward Animals had contemplated RSA 644:8 for a while and found that it was cobbled together over years.

- The Chair went to Governor Sununu and asked to develop a new definition of torture.
- Language was meant to accommodate those who did not endeavor or purposely cause harm
- Sen. Watters emphasized RSA 644:8 as the citation, clarifying that it was not applicable to vets or other kinds of practice.
- RSA 626:2 defined 'purposely'
- The language was chosen carefully to ensure that clearly harmful and intended behavior was targeted.
- Senator Watters provided a letter from Jerilee Zezula.
- SB 290 would protect people as a clearer definition would prevent individuals from being falsely charged or having their charges escalated.
- SB 290 ensured proper guardrails for vet practices were present. Pain in terms of treatment was not unjustifiable. Sen. Watters was amenable to new language if necessary.
- Sen. Abbas said torture was an intentional act and was unsure of the element of negligence, which entailed ignorance, which is the opposite of intention. Sen. Abbas
  asked if there should be a distinction between negligible or intentional acts.
    - Senator Watters said that insufficient nutrition or shelter was considered negligent. The term purposeful was included as well to specifically target those who were knowingly engaging in abusive behaviors.
- Senator Abbas said leaving a dog out in the cold was purposeful and asked if such would be captured by SB 290.
    - Senator Watters said if intended to instill suffering, then it would be applicable.
    - Sen. Watters added that negligence encompassed things that a reasonable person could expect as an outcome under the present conditions. Purpose, and negligence fell to different standards which was why both terms were included. Lawyers would determine which ones were appropriate to charge. Options were better than no definitions in statute.
- Sen. Altschiller asked if a person with a wounded animal, untended, would fall under negligence.
    - Sen. Watters was unsure, and believed that circumstance was covered elsewhere
- Sen. Altschiller asked if Sen. Watters was aware that a Strafford resident had hunting dogs, who were left outside in an ice storm. Law enforcement and animal organizations subsequently realized that the owner sincerely believed

his animals were bred to survive the elements. Sen. Altschiller asked how such would be dealt with.

- Senator Watters pointed to RSA 644:8 regarding necessary shelter. The conduct was actionable if it caused intense or prolonged pain or suffering or caused the death of an animal.

Senator Howard Pearl

Senate District 7

- Opposed to SB 290.
- Concerned on the unintended consequences
- The bill was good in theory but concerning in practice.
- Normal practices were swept into the definitions contemplated.
- Sen. Pearl believed that the current statute has plenty in it already and was sufficient.

Stacy Ober

New England Government Relations Manager, American Kennel Club

- The American Kennel Club funded more than $68m in k9 health research.
- Ms. Ober said the definition of the term torture being considered was novel, and differed from how the existing term had been used.
- Acts motivated by an intent to cause harm or acts that have a reckless disregard for harmful consequence were considered torturous.
- Ms. Ober and the American Kennel Club were opposed to SB 290, as it would result in inappropriate legal action.
- The law may have a chilling effect on legally standard activities.
- In Rhode Island, a vet had mistakenly left a hemostat in a St. Bernards abdomen.
- Although the individual would be disciplined under a board, SB 290 would enable them to be criminally charged with torture.
- Breeding, training, conditioning, etc. could be considered torture.
- A horse being euthanized following a leg fracture mid race could be legally dubious under SB 290.
- Destruction of animals via court order was not addressed by SB 290 and would inadvertently be considered torture.
- The proposal was novel, and expansive compared to other state's laws.
- Senator Altschiller asked what was currently happening that could be misconstrued as torture
    - Ms. Ober said rodeos, exhibitions, lawful activities where injury may be possible, but out of your control perhaps. If you go out hunting with your

dogs, and another hunter shot them, the owner may be held liable for neglect, and therefore there would be a chilling effect on lawful activities.

- Senator Altschiller reiterated that the preexisting statute had been changed through the years and asked if SB 290 is the next natural evolution for caring for animals.
    - Ms. Ober said that it was for the general court to decide. A court would interpret torture consistent with its ordinary meaning in the dictionary.
    - Ms. Ober said changing the common understanding of the word torture was not appropriate and suggested that if the general court wanted another verb for the statute they could do so.

Curt Ehrenburg

State Director, Humane Society

- From an animal's perspective, if you're being tortured, it doesn't matter if the person did it negligently or purposely.
- Mr. Ehrenburg maintained that the language was appropriate and belonged, as negligence was part of torturing an animal.
- Mr. Ehrenburg sat on the governor's commission.
- Governor Sununu and Governor Ayotte supported SB 290.
- Senator Abbas told Mr. Ehrenburg that if he were driving 35 mph in a 30, hit a domesticated animal, such conduct was considered torture under SB 290. Sen. Abbas emphasized that the definition proposed was concerning and not the concept.
    - Mr. Ehrenburg said you could get a defense lawyer and go to court if that were the case. Mr. Ehrenburg said the bill was concerned with charges and not allegations.
- Sen. Abbas emphasized that it's required to report hitting animals. Under the law, that could be considered an admission, and the conduct wouldn't be alleged. It would be an established fact which they could be prosecuted for.
    - Mr. Ehrenburg conceded that he would support the bill without the term negligently incorporated.
- Sen. Abbas said his concern was that the normal definition of torture was narrow, related to compelling behavior, and that SB 290 diverged.
    - Mr. Eheonburg said he liked the bill the way it was written although ultimately sought a definition in statute above all else.

Angela Ferrari

Dog Owners of the Granite State

- SB 290 criminalized already-illegal conduct while creating consequences for animal husbandry.

- Ms. Ferrari referred to conduct already considered torture to animals
- The bill would impact conservationists, veterinarians, livestock managers, and more.
- N.H law referred to torture many places without defining it, namely in RSAs relative to exposure to harmful materials, homicide, the criminal code for Child Abuse Images, etc.
- No federal animal cruelty law referenced torture.
- Courts had already effectively interpreted cruelty.
- There is no universal standard constituting intensive or prolonged in regard to suffering.
- Ms. Ferrari believed no definition was better than a poor one and asked that the bill be found inexpedient to legislate.
- Sen. Altschiller asked what animal husbandry could be limited.
    - Ms. Ferrari stated that bred dogs were usually born domestically and not at a vets office. Sometimes puppies got stuck, which required removal and human assistance to avoid loss of life. That could be painful and would fit under the definition of torture given it was intentional.
    - Under SB 290 the new standard would be to defer to the vet, prolonging pain, and potentially proliferating death.

Robert Johnson

NH Farm Bureau

- Mr. Johnson was opposed to SB 290
- Torture was understood to be intentional, requiring thought.
- SB 290 addressed actions which were already illegal while calling standard animal husbandry practices into question.
- Regarding cattle, dehorning, castration, and ear tagging could be captured. The terms intensive, pain, and suffering can describe castration.
- Different species had different tolerances between discomfort and pain.
- Sen. Altschiller said she was unfamiliar with castration and asked Mr. Johnson to elaborate if larger animals were given pain mitigating care or not.
    - Mr. Johnson said castration for larger livestock was done via banding, and whether painful or uncomfortable was subjective and varied among species and creatures.
- Sen. Altschiller asked if the farm bureau suggested that young creatures were more tolerable of pain.
    - Mr. Johnson dispelled any notion that younger animals could tolerate more pain.
- Sen. Gannon asked if household pets, livestock, and wild animals ought to be distinguished in section 2, and found it strange that they were all together.

- Mr. Johnson said he would have to follow up.

Susan Adams LeClaire

- Ms. LeClaire opposed SB 290.
- When legislation was created on top of legislation, it invited personal interpretations.
- Pet owners in grieving could very likely interpret the contemplated terms in a negative way.
- Common sense was relevant when considering torture and negligence. beating an animal was intentional, no ambiguity there.
- Slipping while walking your pet, injuring them, and waiting to treat to save money was considered duress, would be interpreted as intentional, and torture under SB 290.
- Plenty of people performed husbandry and breeding for passion, not profit.

Joan O'Brien

Board Member, N.H Animal Rights League

- In support of SB 290
- Law enforcement asked for a definition to help them determine what was torture and what wasn't
- The farmers' concerns implied that they didn't consider if what they were doing was harmful or torturous.
- Ms. O'Brien asked to include drowning as an unacceptable form of euthanasia.
- There were other ways to kill sick or dying animals besides drowning. Ms. O'Brien suggested that blunt force trauma was more standard.
- Drowning animals was aggravated animal cruelty in Massachusetts, a felony.
- Ms. O'Brien asked to move the effective date up, as it would benefit stakeholders more quickly.

Marla Fields

- Ms. Fields did not find a new definition for torture necessary.
- Most jurors would be able to understand drowning was cruel
- The definition of negligence being considered was too broad.
- Ms. Fields was a nominee for the governor's commission on cruelty for animals
- The Chiefs of Police and other nominees indicated that they could not support the torture definition given the inclusion of negligence as a standard.

PM
Date Hearing Report completed: February 27, 2025