

Q&A With Amy Paulin: A Primer for NY Advocates

What They Will Say, How to Respond

“A05449 is an attempt to fix existing deficiencies in New York law as it pertains to shelter animals.”

WRONG: The Quick Kill Bill does not strengthen protections for animals in NY law, it weakens them by eliminating holding periods for scared and shy animals, granting shelters the authority to kill such animals the moment they walk in the door. If shelter staff determines that an animal is in “psychological pain,” the animal can be killed immediately. Not only is killing an animal for being scared or shy cruel, and not only is killing an animal who is fearful of being harmed both paradoxical and absurd (a shelter is doing the very thing the animal is fearful will happen—harming him), but there is no definition in law as to what constitutes “psychological pain” and no standards as to how it is to be applied. If any two shelter employees—including the janitor, the receptionist, or a kennel attendant—believe that an animal is in “psychological pain,” that animal can be killed immediately. Even if an animal was in psychological pain, the way to eliminate it is to remove the factors causing it. For feral cats, that means get them out of the shelter through TNR. For traumatized dogs, that means put them in a foster home. Killing them (the ultimate harm) to prevent harm is not only ethically irreconcilable, it is the most extreme and violent of all possible responses.

The Kellner bill, by contrast, specifically defines "Irremediable Physical Suffering" as follows:

AN ANIMAL WHO IS EXPERIENCING IRREMEDIAL PHYSICAL SUFFERING WITH A PROGNOSIS FOR RECOVERY THAT IS POOR OR GRAVE EVEN WITH COMPREHENSIVE PROMPT AND NECESSARY VETERINARY CARE, AS CERTIFIED IN WRITING BY A VETERINARIAN LICENSED TO PRACTICE MEDICINE IN THIS STATE.

That is very protective of animals and would address any concerns about existing law being weak. By contrast, Paulin's bill allows every shelter to determine for themselves how to define suffering, on top of adding the “Psych Pain” element. You don't strengthen existing law by weakening it further.

Although Paulin has stated she was going to remove this provision from the bill, she has made those claims in the past, promising legislators to do so before the Agriculture Committee vote. When she learned she had the votes to pass the bill as is, she reneged on those promises. The only reason she is once again against talking about doing so is because she has no choice. The Chair of the Codes Committee has flatly refused to allow a vote on the bill with the provision intact. Moreover, that is not the only problem with the bill. Even if she were forced to remove it, the problems with the bill—and its deadly results—go well beyond this provision.

“A05449 gives rescue groups the right to rescue animals in shelters.”

WRONG: A0559 does NOT mandate rescue access. It merely suggests it, and then codifies in law a shelter's right not to work with rescue organizations. It states that shelters “may” give animals to rescue groups rather than kill them, instead of “shall” give the animals to them is required by CAARA, A07312, the bill supported by the New York rescue community and thousands of New York animal lovers. And in codifying a shelter's unlimited authority to determine whether a rescue group or particular animal qualifies, the law eviscerates whistleblower protection for rescuers who want to expose cruel and

abusive treatment of animals in the shelters they may visit but are now afraid to do so for fear of losing their rescue privileges.

In fact, the only reason A05449 was introduced is to thwart genuine rescue access legislation—legislation that the ASPCA worked to defeat in 2010 (Oreo’s Law), 2011 (CAARA), and is working to defeat again this year (A07312 by Assembly Member Micah Kellner). It gives the illusion of rescue access but in fact codifies the status quo that made real rescue access legislation necessary in the first place.

“Overall, A05449 is a strong bill which does a lot of good for animals.”

WRONG: In fact, A05449 requires nothing of shelters. Using cleverly crafted language, the bill suggests actions but never mandates them. For example, the parts of the bill that would be beneficial, such as posting animals on the internet or scanning for microchips, turn out to be suggestive, rather than mandatory. The Quick Kill bill only requires these things if they are “practicable,” and tragically, they never seem to be practicable or we would not need a law in the first place. When it comes to legislation, language is everything, and giving shelters the out if they determine doing so is not “practicable” renders the provisions paper tigers.

“The Kellner Bill cannot pass because it is an unfunded mandate. The legislature won’t pass bills that force expensive requirements on local entities.”

WRONG: Paulin herself has authored bills that imposed requirements on local governments without any funding attached. And admitting that their bill does not mandate anything while the Kellner Bill does proves that theirs is an impotent paper tiger. If their bill actually improved conditions in shelters by requiring them to do more than they already are, wouldn’t that also be an unfunded mandate?

But more importantly, the inability to pass rescue access legislation in the past is due to ASPCA’s opposition. Given how easily the ASPCA has defeated true rescue access laws in the past two years, and given how easily their Quick Kill bill passed the Agriculture Committee despite intense public opposition, how can they possibly claim that the Kellner bill would be defeated even if the ASPCA threw their weight behind it? And either way, they owe it to the 25,000 animals the law would save every year to try.

“The Kellner Bill will place animals in the hands of hoarders and dog fighters.”

WRONG: First off, this statement is an admission that their bill, A05449, really doesn’t require shelters to give animals to rescuers as they claim. If they oppose the Kellner bill because they don’t want rescue access for fear of hoarding, how can they simultaneously claim that their bill mandates it? Nonetheless, this is simple fear mongering—an attempt to thwart positive and necessary progress by making that change seem scarier than the status quo.

Despite similar fear mongering over a decade ago by HSUS when California was the first state in the nation to consider such legislation, rescue access has been an unqualified success, increasing the number of animals saved, without the downsides—including hoarding—which opponents claimed. Indeed, coupled with other modest shelter reforms, the number of dogs and cats killed in California shelters dropped from over 570,000 animals the year before the law was passed to roughly 328,000 the year after, a decline of almost 250,000 dogs and cats. And, the number of small animals saved, such as

rabbits, also spiked. In short, we have PROOF and experience that concerns about hoarding amount to nothing and that rescue access saves lives, facts which the ASPCA conveniently ignores.

The Kellner bill is about leveling the playing field between smaller non-profits and larger non-profits which hold animal control contracts and all of the power. It is about mandating life-saving collaboration between organizations founded for the same purpose. It has nothing whatsoever to do with hoarding. That some hoarders claim to be rescue groups when they are caught does not mean that they are—and the argument that not allowing responsible non-profit organizations to rescue animals from other non-profits or animal control shelters will prevent hoarding is a *non-sequitur*. Hoarding is the result of mental illness and is not as common as many animal protection organizations would have us believe.

Psychologists estimate that only 2% of the population suffers from hoarding, and of those, not all of them “collect” animals—many collect inanimate objects. By contrast, killing is endemic to animal shelters in the U.S. These are animals who have a 100% guarantee of being killed if rescue access isn’t mandated by law because rescue groups are only empowered to save those animals scheduled to be killed. Without the Kellner bill, there is a 100% chance an animal being killed that a rescue group wants but a shelter doesn’t want to give to them vs. the slimmest of possibilities that the animal will end up with a hoarder. Is it really a difficult decision? Moreover, despite the fact that the chances of hoarding are slim, the Kellner bill contains many protections, without giving shelters the continued ability to kill animals who have a place to go. The bill allows inspections when evidence exists, bans those with a history of neglect and cruelty, and requires oversight by several state and federal agencies.

Finally, logic and fairness—both to rescuers and the animals—demand that altruistic people who devote their time and energy to helping the animals who end up in our nation’s shelters stop being equated with mentally ill people who cause them harm. Animal rescuers seek to deliver animals from the type of cruelty and abuse that characterizes not only the care or lack thereof given to animals by hoarders, but, in reality, by many of our shelters as well

“The dispute over A05449 and the Kellner Bill is all just one big misunderstanding, a misunderstanding that we regret. We need to work together to come up with an accommodation that will save lives.”

WRONG: There is no misunderstanding and saying so is merely a tactic to make it look like the ASPCA is reasonable when, in fact, it is intractable. The Kellner bill is a strong, effective rescue access bill already filled with safeguards to address all of the ASPCA’s alleged concerns, and yet they refuse to support it, all the while arguing that we need to work together to come up with a bill that can pass, when, in truth they are the only thing standing in the way of a truly effective bill passing. If they were sincere, the choice would be easy. They would drop A05449, and support the Kellner bill, A07312.