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## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

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**Bill No:** SB 1024                      **Hearing Date:** April 24, 2018  
**Author:** Wilk  
**Version:** April 2, 2018  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** MK

**Subject:** *Animal Abuse: Responsible Animal Owner Course: Mandatory Counseling*

### HISTORY

Source: Author

Prior Legislation: None

Support: Alley Cat Rescue; Animal Friends of the Valleys; Animal Legal Defense Fund; Animals & Society Institute Colorado Voters for Animals; Humane Education Advocates Reaching Teachers (HEART); Humane Society of the United States; The Paw Project; Shelter Transport Animal Rescue Team (START); Social Compassion in Legislation

Opposition: American Civil Liberties Union of California

### PURPOSE

*The purpose of this bill is to require an animal owner education course for people convicted of specified offenses and in addition for some of the same offenses a mental health evaluation and possible counseling. In addition this bill raises the fine for specified animal abuse misdemeanors to \$2,000.*

*Existing law* provides that any person who sexually assaults any animal for the reason of arousing or gratifying the sexual desire of a person is guilty of a misdemeanor punishable by up to 6 months in jail and/or a fine of \$1,000 plus approximately 310% penalty assessments for a total fine of \$4,100. (Penal Code § 268.5)

*This bill* would instead provide that fine for the above violation would be up to \$2,000, with penalty assessments \$8,200.

*Existing law* provides that every person who, without the consent of the owner, willfully administers poison to any animal, the property of another, or exposes any poisonous substance, with the intent that the same shall be taken or swallowed by any such animal is guilty of a misdemeanor punishable by up to 6 months in jail/and or fine of \$1,000 (\$4,100 with penalty assessments). (Penal Code § 596)

*This bill* would instead provide that fine for the above violation would be up to \$2,000, with penalty assessments \$8,200.

*Existing law* provides that every owner, driver, or keeper of any animal who permits the animal to be in any building, enclosure, lane, street etc. without proper care and attention is guilty of a misdemeanor punishable by up to 6 months in jail/and or fine of \$1,000 (\$4,100 with penalty assessments). (Penal Code § 597.1)

*This bill* would instead provide that fine for the above violation would be up to \$2,000, with penalty assessments \$8,200.

*Existing law* provides that every owner, driver, or possessor of any animal who permits the animal to be in any building, enclosure, lane, street, square, or lot of any city, county etc. without proper care and attention shall be guilty of a misdemeanor punishable by up to 6 months in jail/and or fine of \$1,000 (\$4,100 with penalty assessments). (Penal Code § 597f)

*This bill* would instead provide that fine for the above violation would be up to \$2,000, with penalty assessments \$8,200.

*Existing law* provides that any person who injures a police dog or horse is guilty of a misdemeanor or, if the injury is serious, a wobbler. The penalty for the misdemeanors are punishable by up to 6 months in jail/and or fine of \$1,000 (\$4,100 with penalty assessments). (Penal Code § 600)

*This bill* would instead provide that fine for the above misdemeanor violations would be up to \$2,000, with penalty assessments \$8,200.

*Existing law* provides that if a person is granted probation for maliciously and intentionally maiming, mutilating, torturing, wounding or killing an animal, he or she shall order the defendant to complete counseling designed to evaluate and treat behavior or conduct disorders. (Penal Code § 597)

*This bill* deletes the counseling and treatment requirement.

*This bill* provides that every defendant who is convicted of one of specified offenses against animals shall be ordered to pay for and complete a responsible animal owner education course. If the defendant is unable to pay for the course the court may develop a sliding fee schedule based on a defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule but shall pay a nominal fee if the defendant has the ability to pay the nominal fee.

*This bill* provides that the responsible animal owner education course for persons shall consist of all of the following:

- A minimum of five instructional hours.
- Mechanisms to ensure the minimum hours of instruction have been completed by the participant.
- Attendance shall be verified. If the course is completed online, the course provider shall maintain a system to validate the identity of the person taking the course.
- The course provider shall incorporate a validation process that verifies participant comprehension of course material related to the educational objectives as follows:

- The course provider shall test the participant's mastery of the course content by asking at least two questions from each major unit or section. The questions shall be multiple choice.
- The questions shall be difficult enough that the answer may not be easily determined without having viewed the contents of the major or unit section.
- The educational objectives of the responsible animal owner course shall include, but not limited to, promotion of all of the following:
  - Responsible care concepts for animals, both livestock and non-livestock, including instruction on providing for the health, safety, and welfare of livestock and non-livestock animals and wildlife, including appropriate shelter and housing, the importance of spaying and neutering, and the proper tethering and transportation of animals.
  - Responsible pet ownership, including, but not limited to, ensuring the safety of both the community and the animal and bite prevention.
  - Respect and observance of federal and state laws that protect livestock and non-livestock animals and bite prevention.
  - Respect and observance of federal and state laws that protect livestock and non-livestock animals and wildlife.
  - An overview of state and federal laws related to cruelty to livestock and non-livestock animals and animal fighting.
  - Appropriate training and discipline tactics for livestock and non-livestock animals.
- All responsible owner education courses for persons convicted of an offense specified shall be reviewed and certified by the State Department of Health Services. Each applicant for course certification shall be accompanied by a course outline that identifies the educational objectives outlined and the amount of time allotted for each educational objective.

*This bill* provides that every defendant who is convicted of specified offenses shall be subject to a mandatory mental health evaluation.

*This bill* provides that upon the evaluation, if the evaluating mental health professional deems it necessary, the defendant shall complete mandatory counseling.

*This bill* provides that mental health evaluations and any subsequent treatment shall be paid for by the defendant. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. And indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee.

*This bill* provides that the mental health evaluation shall be completed within 90 days of the conviction or at the soonest time deemed appropriate by the court, unless the defendant is sentenced to imprisonment in which case the mental health evaluation shall be completed within 90 days of release or at the soonest time deemed appropriate by the court.

*This bill* provides that if the offender is referred to counseling, he or she shall begin counseling with 90 days or at the soonest time deemed appropriate by the court and shall submit proof of completion of the court.

*This bill* provides that failure to complete these requirements shall result in termination of any diversion program, probation, mandatory supervision, or postrelease community supervision.

## COMMENTS

### 1. Need for This Bill

According to the author:

Currently, sentencing option for animal abuse crimes are limited and judges are afforded little discretion in appropriate treatment or education for offenders. Fines, jail time, probation and forced animal surrender are the primarily utilized options. None of those are particularly well suited to addressing the underlying causes behind animal abuse as observed by law enforcement, mental health and animal welfare experts. The link between animal abuse and violence towards humans is well documented. Offenders who display violence towards animals often commit violent acts towards humans whether it be domestic violence, child abuse or as we saw tragically in Parkland FL this year mass shootings. Mental health intervention early is often the key to stopping this progression and escalation of violent behavior.

### 2. Animal Owner Education Course

This bill provides that a person convicted of one of 29 animal abuse related offenses will be required to take a responsible animal owner education course. The bill specifies the requirement of the course and states that the State Department of Health Care Services shall certify the courses.

#### a) Course required for all convictions

This bill requires anyone convicted of the listed offenses to take the course. Generally such courses are required as a condition of probation. How will it work if a person is sentenced to jail or prison and serves their entire sentence? The court will no longer have jurisdiction over the person to enforce the taking of the course. Should the course only be given as a condition of probation? In addition some of the violations have infractions. How will the education course be enforced for someone with an infraction?

#### b) Payment for the course

This bill specifically says that the if the court find the defendant is unable to pay the costs of the course the court may develop a sliding fee schedule based on the defendant's ability to pay or if the defendant is indigent may "negotiate a deferred payment schedule." What would a deferred payment schedule look like? If this course is a condition of probation would a person who is indigent not be able to have been deemed to have completed this condition of probation until full payment is made even if the course had been completed months before? Should it be clear that the inability to pay should not result in a person serving a longer probation period?

## c) Certification of courses

This bill outlines some of the basic requirements of the required course including a minimum of 5 instructional hours, ability to verify attendance and basic educational objectives. The bill provides that the State Department of Health Care Services should certify the courses that identify the educational objectives. Do these courses exist currently and if so how many different courses? Is the Department of Health Care Services the appropriate entity to certify the courses?

## d) Do education courses work?

Is there evidence that these types of courses would reduce recidivism? Would this help for all offenders or just those who committed an offense out of ignorance? Some people are banned from keeping animals as a result of their offense, are courses appropriate for these people?

**3. Mental health evaluation**

This bill would require people convicted of specified animal abuse offenses ranging from infractions to wobblers to receive a mental health evaluation and if deemed necessary complete mandatory counseling. Failure to complete the mandatory evaluation/counseling will result in termination of any diversion program, probation mandatory supervision or postrelease community supervision.

## a) Mental health evaluation for all convictions.

Anyone convicted of one of 8 animal abuse offenses will be required to have a mental health evaluation. This is required even if a person is sentenced to jail or prison and specifically states that if the person is incarcerated the evaluation shall be completed within 90 days after release "or the soonest time deemed appropriate by the court." Any counseling shall also begin within 90 days, it is unclear if that is 90 days from release or 90 days from the evaluation.

As with the education class, it is not clear how this will work with someone who is not on probation. How will the court enforce the mental health evaluation and treatment after a person has been released from custody? Should this requirement apply only to those who are sentenced to probation or some blended sentence?

In addition, Penal Code Section 600.2, one of the sections for which a mental health evaluation will be required, includes two infractions. How will the mental health evaluation requirement work with infractions?

## b) Who will provide the services?

Who will do the mental health evaluations? Does the author contemplate that it will be the county mental health that will do the evaluations? If so do they have the capacity? Or will people have to seek a private evaluation? If private mental health evaluators will be used and since the evaluation has to occur within 90 days will people be given a list of possible evaluators?

## c) Cost of evaluation.

As with the education course, the bill specifies that the person will be required to pay for the mental health evaluation. Those convicted of all of the offenses requiring the mental health evaluation also will be required to take the education course. The bill specifies that if the court finds the defendant is financially unable to pay for counseling the court may develop a sliding fee or deferred payment schedule. As with the education course, the deferred payment schedule may result in an indigent person remaining on probation for a longer period of time than those who are capable of paying. If private counseling is used, how will the court control the payment schedule? How often will a person just coming out of jail or prison not be indigent?

## d) Does counseling reduce recidivism?

Is there specific counseling that has been shown to reduce recidivism in these types of cases? If the animal abuse is a result of a mental illness, what types of counseling should a person have? Could a person go to any therapist who will see them or is a specific type of therapy going to be required?

**4. Increased Fine**

This bill increases the misdemeanor fine from \$1,000 to \$2,000 on a number of animal abuse related offenses. With the approximate 310% penalty assessments the current fine is currently approximately \$4,100 and the new fine will be approximately \$8,200. Someone convicted of one of these offenses will also be required to take the education course and have the mental health evaluation under this bill. Should the fine be increased along with the increased fees to be paid for the course and evaluation?

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