
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: SB 580 **Hearing Date:** April 9, 2019
Author: Wilk
Version: February 22, 2019
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Animal Abuse: Probation: Treatment*

HISTORY

Source: Animal Legal Defense Fund

Prior Legislation: SB 1024 (Wilk) held Assembly Appropriations 2018

Support: Animals & Society Institute; California Police Chiefs Association; the Humane Society of the United States; Social Compassion in Legislation

Opposition: California Public Defenders Association; San Diego Humane Society

PURPOSE

The purpose of this bill is to require a mental health evaluation when a person receives probation for specified animal offenses and to have the court consider whether to order a responsible owner education course when a person receives probation for specified animal offenses.

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)

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)

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)

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)

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)

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 when a defendant is granted probation for: sexually assaulting an animal; poisoning an animal; improperly caring for an animal; injuring a police dog; maliciously and intentionally injuring an animal; or, overworking an animal, the court shall order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment, at the convicted person's expense, that the court determines to be appropriate after due consideration of the evaluation.

This bill provides that if the court finds that the defendant is financially unable to pay for counseling, the court may develop a sliding fee schedule.

This bill provides that an indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay a nominal fee.

This bill provides that county mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those person who meet the medical necessity criterion for mental health managed care.

This bill provides that when a defendant is granted probation for one of 32 animal related misdemeanors and felonies, the court shall consider whether to order that person to complete a responsible animal owner education course.

This bill provides that the responsible animal owner education course shall be one of the following:

- 1) An online course approved by the State Department of Education.
- 2) An online course approved for a similar purpose in another state.
- 3) A live course sponsored by a municipal animal shelter, human society, or society for the prevention of cruelty to animals.

COMMENTS

1. Need for This Bill

According to the author:

Animal abuse is among the most misunderstood and mishandled crimes by our criminal justice laws and by society as a whole. There is an established link between cruelty to animals and violence toward humans — regularly referred to as “The Link.” This link makes it critically important that cruelty toward animals be taken seriously by law enforcement, and by society at large.

Current sentencing options for animal abuse crimes are largely punitive measures that do little to help end the cycle of violence or rehabilitate offenders. Fines, jail time, and forced animal surrender are the primarily utilized options, which may not always be the most effective means to address the underlying issues leading to animal abuse as observed by law enforcement, mental health and animal welfare experts. Appropriate mental health counseling and education are important tools that can benefit public safety as well as reduce offender recidivism rates.

2. Mental health evaluation

Under existing law if a person is granted probation for animal cruelty the court shall order the person to complete counseling designed to evaluate and treat behavior or conduct disorders.

This bill would provide instead that if a person is granted probation or receives a suspended sentence for: animal cruelty; sex assault on an animal; willful poisoning of an animal; improper care of an animal; abandoning an animal; or, harming a police animal, in addition to any other terms of probation, that person shall be ordered to undergo a psychological or psychiatric evaluation and to undergo any treatment that the court determines to be appropriate based on the evaluation. The defendant will be required to pay for the treatment unless the court finds that the defendant is financially unable to pay. For people unable to pay the court may develop a sliding scale. An indigent defendant may negotiate a deferred payment schedule but shall pay a nominal fee if the defendant is able to do so. The bill provides that county mental health or Medi-Cal shall only be responsible for the payment for those eligible for those programs.

Is it appropriate to eliminate the mandatory counseling for animal cruelty and instead require a mental health evaluation for more offenses? Should all these offenders have a mental health evaluation? 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? Will a court have an understanding of what type of counseling is appropriate based on the mental health evaluation?

3. Animal owner education class

This bill provides that when a defendant is granted probation or a suspended sentence for one of the specified offenses to an animal, the court shall consider whether to order that person to complete a responsible animal owner education course. The owner education class shall be one of the following:

- An online course approved by the State Department of Education.
- An online course approved for a similar purpose in another state.
- A live course sponsored by a municipal animal shelter, human society or society for the prevention of cruelty to animals.

How much will these courses cost and should the court consider ability to pay when ordering the course? Is there evidence that these types of courses would reduce recidivism?

4. Argument in Support

The Humane Society of the United States supports this bill stating:

Through the HSUS' Pets for Life Campaign, we have seen that most people tend to treat their animals the way they saw their parents or neighbors treat animals. In many cases they aren't familiar with animal cruelty laws and have been surprised to learn there are felony penalties for animal cruelty crimes. Since neglect is the most common animal cruelty complaint made to most animal welfare agencies, teaching people how to properly care for their animals, and how the state expects them to treat animals, is vitally important to ending the cycle of neglect and the suffering it causes.

The importance of intervention and counseling is not limited to neglect, though. There is abundant evidence documenting the connection between animal cruelty and human violence. Many studies in psychology, sociology, and criminology in the past 25 years have demonstrated that violent offenders, including mass shooters, frequently have childhood and adolescent histories of serious and repeated animal cruelty. Other research has shown consistent patterns of animal cruelty among perpetrators of child abuse and spousal abuse. Animal sexual abuse has been identified as the number one indicator a person will sexually abuse a child and the offenders have more in common with pedophiles than animal abusers.

The reasons behind animal cruelty is varied. A person who viciously beats a dog may need anger management counseling, but a person who sexually assaults an animal needs treatment tailored to sex offenders. SB 580 allows for an evaluation of the offender so a qualified mental health professional can provide direction to the court on the best course of treatment. In some cases, that may be an education course and others may need structured psychiatric counseling.

5. Argument in Opposition

The San Diego Human Society is concerned about the elimination of the mandatory counseling:

While we understand what you are trying to achieve with SB 580, we cannot support the elimination of mandated counseling. There are too many incidents where a psychological evaluation may not identify a specific problem that counseling could address. For example a family having financial problems and an animal is injured because the person is striking out due to frustration and stress. An evaluation likely won't identify a psychological disorder, but mandated counseling could address the root cause of the outburst-the stress over financial mismanagement.

We propose maintaining the requirement for mandatory counseling for any defendant who is granted probation for an animal cruelty conviction unless the psychological or psychiatric evaluation results in the recommendation for a greater level of treatment, which they shall undergo.

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