

Date of Hearing: August 5, 2020  
Counsel: David Billingsley

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Reginald Byron Jones-Sawyer, Sr., Chair

SB 580 (Wilk) – As Amended May 22, 2019

**As Proposed to be Amended in Committee**

**SUMMARY:** Requires a court to consider ordering a defendant that has been granted probation after conviction of specified animal abuse crimes to undergo a mental health evaluation. Specifies that if the evaluating mental health professional deems it necessary, the defendant shall complete mandatory counseling as directed by the court. Specifically, **this bill:**

- 1) Deletes the requirement that if a defendant is granted probation for a conviction animal cruelty, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders.
- 2) Requires the court to consider for every defendant who is granted probation for specified animal abuse offenses, whether to order that the person undergo a mental health evaluation by an evaluator chosen by the court.
- 3) Specifies if the evaluating mental health professional deems it necessary, the defendant shall complete mandatory counseling as directed by the court.
- 4) States that mental health evaluations and any subsequent treatment shall be paid for by the defendant, but 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.
- 5) States that 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. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity, as specified.
- 6) Provides that the counseling specified in this bill shall be in addition to any other terms and conditions of probation, including any term of imprisonment and fine.
- 7) States that finding that the defendant suffers from a mental disorder, and any progress reports concerning the defendant's treatment, or any other records created pursuant to the provisions of this bill, shall be confidential and shall not be released or used in connection with any civil proceeding without the defendant's consent.

**EXISTING LAW:**

- 1) Specifies the actions of a person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal as a

criminal offense. (Pen. Code, § 597.)

- 2) Specifies when a person overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as an owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor as a criminal offense. (Pen. Code, § 597, subd. (b).)
- 3) Specifies the actions of a person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish, as specified as a criminal offense. (Pen. Code, § 597, subd. (c).)
- 4) States that a violation of animal cruelty may be punished as a felony by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail for not more than one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment. (Pen. Code, § 597, subd. (d).)
- 5) Specifies that upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as specified, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as specified, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition. (Pen. Code, § 597, subd. (g).)
- 6) States that if a defendant is granted probation for a conviction animal cruelty, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. (Pen. Code, § 597, subd. (h).)
- 7) States that 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.
- 8) Specifies that the counseling shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. (Pen. Code, § 597, subd. (h).)
- 9) States that the court may also order, as a condition of probation, that the convicted person be prohibited from owning, possessing, caring for, or residing with, animals of any kind, and require the convicted person to immediately deliver all animals in his or her possession to a designated public entity for adoption or other lawful disposition or provide proof to the court

that the person no longer has possession, care, or control of any animals. (Pen. Code, § 597.1, subd. (l))

- 10) States that any person who has been convicted of a misdemeanor violation of animal cruelty, as specified, and who, within five years after the conviction, owns, possesses, maintains, has custody of, resides with, or cares for any animal is guilty of a crime, punishable by a fine of one thousand dollars (\$1,000). (Pen. Code, § 597.9, subd. (a).)
- 11) States that any person who has been convicted of a felony violation of animal cruelty, as specified, and who, within 10 years after the conviction, owns, possesses, maintains, has custody of, resides with, or cares for any animal is guilty of a public offense, punishable by a fine of one thousand dollars (\$1,000). (Pen. Code, § 597.9, subd. (a).)
- 12) Allows a defendant to petition the court to reduce the duration of the mandatory ownership prohibition. Upon receipt of a petition from the defendant, the court shall set a hearing to be conducted within 30 days after the filing of the petition. At the hearing, the petitioner shall have the burden of establishing by a preponderance of the evidence all of the following: (Pen. Code, § 597.9, subd. (d)(1)(a)-(c).)
  - a) He or she does not present a danger to animals;
  - b) He or she has the ability to properly care for all animals in his or her possession; and,
  - c) He or she has successfully completed all classes or counseling ordered by the court.
- 13) Specifies that if the petitioner has met his or her burden, the court may reduce the mandatory ownership prohibition and may order that the defendant comply with reasonable and unannounced inspections by animal control agencies or law enforcement. (Pen. Code, § 597.9, subd. (d)(2).)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Author's Statement:** According to the author, "There is an undeniable link between animal abuse and more serious violence toward humans. More often than not, those who abuse animals at one point in their lives will go on to commit much more appalling crimes including domestic violence, rape and murder – in fact, nearly half of school shooters and serial killers have serious histories of animal abuse.

“We know that this link exists, but we have failed to properly address it. SB 580 will help rethink the way we deal with animal abuse in the courts. The most serious crimes will call for a mental health evaluation and, if the court sees fit, treatment according to professional opinion. This ensures early intervention for those who need it most, and begins to move away from a more outdated system that fails to address the underlying problems facing animal abuse defendants.”

- 2) **Current Law Requires A Defendant Granted Probation for an Animal Cruelty Conviction to Undergo Counseling as Directed by the Court:** Existing law states that if a

defendant is granted probation for a conviction animal cruelty, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. (Pen. Code, § 597, subd. (h).) 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. The counseling shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering custody. (Id.)

Cases involving animal cruelty can vary significantly in terms of their nature and severity. Some cases involve simple neglect where an animal isn't provided proper food or care. Other cases involve significant intentional acts of cruelty. Current law imposes a mandatory sentencing requirement of counseling. That mandatory sentencing requirement does not necessarily fit the needs or circumstances of all cases of animal cruelty.

"Society receives maximum protection when the penalty, treatment or disposition of the offender is tailored to the individual case. Only the trial judge has the knowledge, ability and tools at hand to properly individualize the treatment of the offender." (*People v. Williams* (1970) 30 Cal. 3d 470,482, citation and internal quotation marks omitted.) An effective sentencing framework seeks to avoid arbitrary or rigid sentencing procedures which lead to unjust results.

This bill would delete the requirement of mandatory counseling in every case of animal cruelty where the defendant is placed on probation, and instead would require the court to consider a mental health evaluation for a defendant who is granted probation for specified animal abuse offenses. This bill would not make the mental health evaluation mandatory. However, if a mental health evaluation is conducted and the evaluating mental health professional deems it necessary, the defendant must complete counseling as part of probation. This bill would also require the court to consider the mental health evaluation for a number of animal abuse crimes that do not currently require mandatory counseling.

### 3) Amendments Proposed to be Adopted in Committee:

- a) Remove the requirement that the court consider imposing an responsible animal owners education course when a defendant is granted probation for specified offenses involving animal abuse.
- b) Require a court to consider ordering a defendant that has been granted probation after conviction of specified animal abuse crimes to undergo a mental health evaluation, instead of making an evaluation mandatory in every case.

The proposed amendments make this bill consistent with SB 1024 (Wilk), of the 2017-2018 Legislative Session. SB 1024 was passed by the Assembly Public Safety Committee.

- 4) **Argument in Support:** According to *Animal Legal Defense Fund*, "There is no specialization required for treatment for animal abusers – underlying causes may differ, from conduct disorder to anger management and beyond – so there are many mental health providers that can be available to conduct evaluations and provide treatment. The Animals &

Society Institute is one example of an organization offering resources for mental health providers to treat animal abusers such as assessment tools and tailored treatment for multiple underlying conditions. SB 580 only *requires* a mental health evaluation and only for specified animal cruelty crimes for which there *may* be an underlying mental health issue. Such an evaluation will: 1) Ensure that those who have a mental illness have the opportunity to receive treatment; and 2) Ensure that those who are found to have an underlying mental health issue get a recommendation for *appropriate* treatment. Treating mental health issues – particularly as tied to animal abuse – is not a one-size-fits all approach and it is crucial that the criminal justice system strive to order full treatments only where appropriate, and to narrowly-tailor treatments for the most effective rehabilitation for an individual offender.

“While not every animal abuser necessarily has an underlying mental health issue, nearly all offenders can benefit from humane education instruction. Offenders who commit domestic violence or child abuse are required to participate in batterer’s counseling and parenting courses, respectively. As animal abuse is linked to these other crimes, it is only reasonable that humane education/responsible pet ownership courses, be a tool that judges can utilize as part of sentencing for animal abusers. These courses encourage empathy and promote understanding of the need for compassion and respect for animals. Additionally, these courses teach proper care for animals. In cases of neglect, many individuals simply do not know proper animal care or recognize animals as sentient beings. These courses are instrumental in helping to reduce recidivism for low-level offenders. Moreover, most classes are relatively inexpensive, and per DDA Guthrie, offenders can pay over time or request a reduced rate, thus addressing any concern about payment being too burdensome for some offenders.

“Mental health evaluations for certain animal abusers, as well as humane education courses, are both important tools that should be available to courts. These are both crucial for rehabilitation of animal abusers and will have a significant impact on the reduction of recidivism rates among animal abusers as well on preventing these abusers from escalating to human victims. It is long overdue that our laws, law enforcement, and correctional system recognize that animal abuse and its probable escalation to further violence is a significant issue and we must take steps as early as possible to prevent more victims. We commend Senator Wilk for introducing a holistic approach toward educating and rehabilitating those that commit such offenses.”

- 5) **Argument in Opposition:** According to the *San Diego Humane Society*, ““Current law provides that the court is mandated to order counseling for any defendant who is granted probation upon convicted of a violation of Penal Code 597. SB 580 proposes to eliminate this mandate in lieu of psychiatric or psychological testing. While such testing may identify significant psychological disorders, it will likely miss other issues that were a result of short-lived anger management, alcohol abuse, or being linked to another crime (eg., spousal abuse that included animal cruelty). It’s uncertain whether a psychological evaluation would test for or discern those causes. Failure to identify those underlying issues would not give the court a clear understanding of the cause of abuse and could eliminate the opportunity for intervention.

“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.”

- 6) **Related Legislation:** AB 611 (Nazarian), would require a person convicted of a violation of sexual contact with an animal to participate counseling as directed by the court. AB 611 has been referred to the suspense file in the Senate Appropriations Committee.

7) **Prior Legislation:**

- a) SB 1024 (Wilk), of the 2017-2018 Legislative Session, was substantially similar to this bill. SB 1024 was held in the Assembly Appropriations Committee.
- b) AB 3040 (Nazarian), of the 2017-2018 Legislative Session, would have prohibited sexual contact, as defined, with any animal, and would require a person convicted of a violation of sexual contact with an animal to participate counseling as directed by the court. AB 3040 was held in the Senate Appropriations Committee.
- c) AB 628 (Chen), of the 2017-2018 Legislative Session, would have clarified procedures for notification of animal owners regarding hearings and payment of costs when an animal is seized or impounded. AB 628 was never heard in the Assembly Public Safety Committee.
- d) AB 2052 (Williams), of the 2015-2016 Legislative Session, would have required a person sentenced for two or more current convictions for specified animal abuse and animal cruelty offenses to be sentenced to consecutive terms of imprisonment. AB 2052 failed passage in the Assembly Appropriations Committee.
- e) AB 794 (Linder), Chapter 201, Statutes of 2015, expanded criminal acts against law enforcement animals to include offenses against animals used by volunteers acting under the direct supervision of a peace officer.
- f) AB 2278 (Levine), of the 2014-2015 Legislative Session, would have clarified procedures for notification of animal owners regarding hearings and payment of costs when an animal is seized or impounded. AB 2278 was held in the Senate Appropriations Committee.
- g) SB 1500 (Lieu), Chapter 598, Statutes of 2012, allows pre-conviction forfeiture of an individual's seized animals in animal abuse and neglect cases.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Animal Legal Defense Fund  
Animal Wellness Action  
Animal Wellness Foundation  
California Police Chiefs Association  
Humane Society of the United States

**Opposition**

San Diego Humane Society

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