AB 793 (Schultz) - Potentially dangerous and vicious dogs: designation and disposition: burden of proof

Version: July 17, 2025	**Policy Vote:** JUD. 9 - 0
Urgency: No	**Mandate:** No
Hearing Date: August 18, 2025	**Consultant:** Liah Burnley

Bill Summary: AB 793 raises the burden of proof for determinations about whether a dog is vicious from a preponderance of the evidence standard to a clear and convincing evidence standard.

Fiscal Impact: Unknown, potentially significant costs to the state funded trial court system (Trial Court Trust Fund, General Fund) to adjudicate civil actions. By raising the evidentiary standard for finding a dog vicious, this may lead to additional civil case filings challenging local hearing decisions, that otherwise would not have been commenced, which could lead to lengthier and more complex court proceedings with attendant workload and resource costs to the court. The fiscal impact of this bill to the courts will depend on many unknowns, including the number of cases filed and the factors unique to each case. An eight-hour court day costs approximately $10,500 in staff in workload. If court days exceed 10, costs to the trial courts could reach hundreds of thousands of dollars. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources and to increase the amount appropriated to backfill for trial court operations.

Background: Following a series of high profile incidents of dogs attacking humans, in 1989, the Legislature adopted the existing framework for evaluating whether or not a dog is vicious and for handling of the outcome of such decisions. SB 428 (Torres) Chapter 761, Statutes of 1989.

California's existing law for regulating potentially dangerous or vicious dogs provides a basic legal framework that outlines the hearing process and burden of proof, but most of the decision making regarding a dog's fate is made by local agencies.

Existing law provides that when an animal control or humane office possess probable cause to believe that a dog is potentially dangerous or vicious, the animal control officer must petition either local authorities or the superior court for a determination whether the dog is dangerous or vicious. In the event a dog is suspected of being potentially dangerous or vicious, the dog's owner is notified in writing and permitted to contest the determination at a hearing. A hearing officer must then determine, by a preponderance of the evidence whether or not the dog is dangerous or vicious. If a dog is determined to be vicious, it is likely to be euthanized by the local animal control agency. The owners of dogs deemed potentially dangerous, but not vicious, are frequently given plans for controlling the dog and securing their property that must be followed as a condition of recovering possession of the dog. Existing law allows a city or county to adopt and enforce its own program for the control of potentially dangerous or vicious dogs.

Proposed Law:

- Defines "provoke" to mean for a human or animal to behave intentionally or unintentionally in a way that a reasonable person would conclude is likely to harm, torment, agitate, scare, or confuse a dog such that the dog could or does bite, injure, or attack a human or animal, including a human trying to help the dog.

- Defines "provocation" to include any of the following circumstances:

  o The dog was protecting or defending a person within the immediate vicinity of the dog from an attack or assault;

  o The dog was responding to pain or injury;

  o The dog was protecting itself, its owner or family member, its custodian, its offspring, its kennels, or its home;

  o The person was committing a crime or offense upon the property of the owner, or custodian, of the dog; and,

  o The person had a history of harming, agitating, scaring, tormenting, or confusing the dog.

- Defines "public health, safety, and welfare" to include the health, safety, and welfare of both humans and animals.

- Defines "unprovoked" to mean that a dog was not provoked when it engaged in specified conduct.

- Requires a clear and convincing evidence standard to be used when making a finding that a dog is vicious and makes conforming changes.

- Requires the appropriate burden of proof to be used when making a determination under these provisions and requires explicit findings to support the conclusion that each requirement for placement in that category has been met, including findings specific to whether the dog engaged in unprovoked conduct in an initial determination and upon appeal.

- Requires any order to end a dog's life for reasons of public health, safety, and welfare to be supported by clear and convincing evidence that the jurisdiction's requirements for the order are met, and include explicit findings regarding all of the following:

  o That the dog was not provoked;

  o That reasonable, humane terms and conditions would not adequately protect public health, safety, and welfare;

- o That the release of the dog would create a significant threat to the public health, safety, and welfare; and,

- o That the dog cannot be safely maintained inside or outside the jurisdiction.

- Provides that a dog's life may not be ended for the reason of public health, safety, and welfare before the exhaustion of all appeals or the time allowed for those appeals has elapsed.

- Establishes regulations of provoked dogs, as provided.

- Requires provocation to be a factor when considering whether and how a dog can be regulated to mitigate risk to public health, safety, and welfare.

- Provides that, depending on the nature of the provocation, reasonableness of the dog's response, and reasonable prediction of the degree of risk to public health, safety, and welfare the dog poses, options are to include any of the following:

  - o Dismissal of the complaint without further action;

  - o Imposition of reasonable, humane conditions of ownership when doing so is necessary to mitigate risk of further incidents;

  - o Humanely ending the dog's life by the local governmental agency or by the owner's veterinarian if it is determined by clear and convincing evidence, and reported in explicit findings, that all of the following are satisfied:

    - ▪ The provoked dog, in an aggressive manner, inflicted severe injury, as defined in Section 31604, which was significantly disproportionate to the provocative stimulus;

    - ▪ Release of the dog would create a significant threat to the public health, safety, and welfare;

    - ▪ The risk to public health, safety, and welfare cannot be addressed adequately by an order of reasonable, humane terms and conditions of ownership imposed on an owner; and,

    - ▪ A feasible alternative does not exist for the dog to live safely inside or outside the jurisdiction.

- Provides that severity of an injury is not determinative of whether a dog was provoked or whether the release of the dog would create a significant threat to public health, safety, and welfare.

- Provides that testimony of a certified applied behaviorist, board-certified veterinary behaviorist, or other recognized expert is relevant to a determination whether a dog's behavior was provoked and the scope of regulating the dog, if regulation is

considered. That testimony must still meet other standards for admission, such as credibility and authenticity.

- Provides that any program by a city or county adopted to impose more restrictive control must comply with certain requirements including:

  o Not be specific as to breed, except as provided in Section 122331 of the Health and Safety Code; and

  o Apply clear and convincing evidence and require explicit findings in any administrative hearing or limited civil case conducted to determine whether a dog poses a degree of risk to public health, safety, and welfare such that it should be placed in a category that could or will result in an order of death.

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