

Date of Hearing: April 19, 2016
Chief Counsel: Gregory Pagan

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Reginald Byron Jones-Sawyer, Sr., Chair

AB 1951 (Salas) – As Amended April 13, 2016

SUMMARY: Requires a court upon conviction of a person for committing specified crimes relating to animal abuse to order a psychiatric examination, and requires psychiatric counseling as a condition of probation for any person granted probation for these offenses. Specifically, **this bill:**

- 1) Requires any person convicted of dog fighting, assaulting a police dog or horse in a manner likely to cause injury, or intentionally causing injury or death to any guide dog or service dog to undergo mandatory psychiatric counseling as a condition of any grant of probation.
- 2) States that any person convicted of animal abuse, transporting an animal in a cruel or inhumane manner, cockfighting, fastening an animal to a device in order to be chased by dogs, possessing a bird or animal with the intent they engage in fighting, abandoning an animal, or failing to care for an animal shall be required, prior to sentencing, to submit to a psychiatric or psychological examination and the court shall consider the results of the examination in determining the sentence.
- 3) Provides that any person that intentionally causes injury to or the death of any guide, signal or service dog, as defined, while the dog is in the discharge of its duties, is guilty of a felony punishable by imprisonment in a county jail for 16 months, two, or three years, or by a fine not to exceed \$20,000, or by both a fine and imprisonment.

EXISTING LAW:

- 1) Provides that every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal is guilty of a criminal offense and as a felony is punishable by imprisonment in a county jail for 16 months, two, or three years, or by a fine up to \$20,000, or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail, or by a fine up to \$20,000, or by both that fine and imprisonment. (Pen. Code, § 597, subd, (a).)
- 2) States that 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 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 is guilty of a criminal offense and as a felony is punishable by imprisonment in a county jail for 16 months, two, or three years, or by a fine up to \$20,000, or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail, or by a fine up to \$20,000, or by both that fine and imprisonment. (Pen. Code, § 597, subd. (b).)

- 3) Specifies that a person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish, is a criminal offense and as a felony is punishable by imprisonment in a county jail for 16 months, two, or three years, or by a fine up to \$20,000, or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail, or by a fine up to \$20,000, or by both that fine and imprisonment. (Pen. Code, § 597, subd. (c).)
- 4) Provides that any person that does any of the following is guilty of a felony and is punishable by imprisonment in a county jail for 16 months, 2 or 3 years, or by a fine not to exceed \$50,000, or by both imprisonment and a fine:
 - a) Owns, possesses, keeps, or trains any dog, with the intent that the dog shall be engaged in an exhibition of fighting with another dog;
 - b) For amusement or gain, causes any dog to fight with another dog, or causes any dogs to injure each other; and,
 - c) Permits any of the above acts to be done on any premises under his or her control, or aid or abets that act. (Pen. Code, § 597.5, subd. (a).)
- 5) States that any person that intentionally causes injury to or the death of any guide, signal or service dog, as defined, while the dog is in the discharge of its duties, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not exceeding 10,000, or by both a fine and imprisonment. (Pen. Code § 600.2.)
- 6) Provides that any person who maliciously strikes, beats, kicks, stabs, shoots, or throws, hurls, or projects any rock or object at any horse being used by a peace officer, or any dog being supervised by a peace officer in the performance of his or her duties is a public offense. If the injury inflicted is a serious injury, as specified, the person shall be punished as a felony by imprisonment in a county jail for 16 months, two or three years, and as a misdemeanor by imprisonment in a county jail for a term not exceeding one year, or by a fine not exceeding two thousand dollars, or by both a fine and imprisonment. If the injury inflicted is not a serious injury, the person shall be punished by imprisonment in the county jail for not exceeding one year, or by a fine not exceeding one thousand dollars, or by both a fine and imprisonment. (Pen. Code, § 600, subd. (a).)
- 7) Requires that if a defendant is granted probation for a conviction of 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. 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. This does not apply to cases involving police dogs or horses as described in Section 600. (Pen. Code, § 597, subd. (h).)

- 8) Provides that any person who causes any animal, not including a dog, to fight with another animal, or permits the same to be done on any property under his or her control, or aids or abets the fighting of any animal is guilty of a misdemeanor, punishable by up to one year in the county jail or by a fine not to exceed \$10,000, or both imprisonment and a fine. (Pen. Code § 597b, subd. (a).)
- 9) Provides that any person who causes a cock to fight with another cock, or permits the same to be done on any property under his or her control, and any person who aid or abets the fighting of any cock or is present as a spectator is guilty of a misdemeanor, punishable by imprisonment in the county jail not to exceed one year, or by a fine not to exceed \$10,000, or by both imprisonment and a fine. (Pen. Code, § 597b, subd. (b).)
- 10) Provides that any person who owns, possesses, keeps or trains any bird or other animal with the intent that that it be used an exhibition of fighting is guilty of a misdemeanor, punishable by imprisonment in the county jail not to exceed one year; by a fine not to exceed \$10,000, or by both imprisonment and a fine. (Penal Code Section 597j.)
- 11) States that it is misdemeanor for any person to tie or attach or fasten any live animal to any machine or device propelled by any power for the purpose of causing such animal to be pursued by a dog or dogs and the offense is punishable by up to one year in a county jail, by a fine not to exceed \$2,500, or by both imprisonment and a fine. (Pen. Code, § 597h.)
- 12) Directs that any person who owns, possesses, or trains any bird or animal with the intent that the cock or other bird shall be engaged in an exhibition of fighting by his or her vendee or any other person is guilty of a misdemeanor, punishable by imprisonment in the county jail not exceed one year, by a fine not to exceed \$10,000; or by both imprisonment and a fine. (Pen. Code, § 597j.),
- 13) States that ever person who willfully abandons any animal is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed six months, by a fine not to exceed \$1,000, or by both a fine and imprisonment (Penal Code Section 597s.)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, "AB 2052 mandates psychological evaluations for individuals convicted of animal cruelty or facilitating animal fights. When a criminal defendant is found guilty, a psychological evaluation may be needed as part of the court's pre-sentence investigation to assist in determining the specific type or length of sentence, or to identify the most suitable facility where the sentence should be served. Appropriate sentencing determinations often hinge on the court's solid understanding of the psychological functioning of a defendant. When there is compelling evidence of chronic or severe psychological disturbance the court must also identify that individual's need for mental health treatment. In other instances, a psychological evaluation may be needed to assess the potential for future acts of violence or criminal conduct and hopefully end the

cycle of violence and reduce recidivism.

2) Prior Legislation:

- a) AB 794 (Linder), Chapter 201, Statutes of 2015, expanded criminal acts against law enforcement animals to include animals used by volunteers acting under the direct supervision of a peace officer.
- b) AB 2281 (Nava) of the 2007-2008 Legislative Session made it a felony punishable by 16 months, 2 or 3 years in the state prison for any person convicted of being knowingly present as a spectator at any place, building, or tenement where preparations are being made for an exhibition of the fighting of dogs with the intent to be present at that exhibition. AB 2281 was held on the Appropriations Committee suspense file.

REGISTERED SUPPORT / OPPOSITION:

Support

Alpha Canine Sanctuary
Independent Living Center of Kern County
KC ALIVE
Kern County Commission on Aging
Kern County Network for Children
The Cat House on the Kings
Three Private Citizens
Women's Center-High Desert Inc.

Opposition

American Civil Liberties Union
California Attorneys for Criminal Justice
California Public Defenders Association

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