
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: SB 1200 **Hearing Date:** April 12, 2016
Author: Jackson
Version: April 4, 2016
Urgency: No **Fiscal:** Yes
Consultant: JRD

Subject: *Peace Officer Standards and Training: Domestic Violence: Animal Cruelty*

HISTORY

Source: Author

Prior Legislation: None known

Support: American Society for the Prevention of Cruelty to Animals; Animal Legal Defense Fund; Animal Welfare Institute; Association of Prosecuting Attorneys; The Humane Society of the United States; LIUNA Locals 777 and 792; Marin Humane Society; Office of District Attorney, County of Santa Barbara; San Diego Humane Society & SPCA; San Francisco SPCA; Social Compassion in Legislation; one individual

Opposition: None known

PURPOSE

The purpose of this legislation is to require: (1) the Board of State and Community Corrections (BSCC) to include a requirement for the training of probation officers on domestic violence that includes, but not be limited to, training on the nexus between animal cruelty and violence against persons; and, (2) that the annual report published by the Department of Justice (DOJ) include information concerning arrests for violations of Penal Code section 597.

Existing law states that, for the purpose of raising the level of competence of local corrections and probation officers and other correctional personnel, the BSCC must adopt, and may from time to time amend, rules establishing minimum standards for the selection and training of these personnel employed by any city, county, or city and county who provide for the custody, supervision, treatment, or rehabilitation of persons accused of, or adjudged responsible for, criminal or delinquent conduct who are currently under local jurisdiction. (Penal Code § 6035(a).)

Existing law provides that any city, county, or city and county may adhere to the standards for selection and training established by BSCC. Minimum training standards may include, but are not limited to, basic, entry, continuation, supervisory, management, and specialized assignments. (Penal Code § 6035(b).)

Existing law provides that, except as otherwise provided, the following crimes are punishable 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:

- Every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal
- Every person who 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.
- Every person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish. And, each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature, described therein, is a separate offense.

(Penal Code § 597.)

Existing law requires DOJ:

- To collect data necessary for the work of the department from all persons and agencies specified and from any other appropriate source.
- To prepare and distribute to all those persons and agencies, cards, forms, or electronic means used in reporting data to the department. The cards, forms, or electronic means may, in addition to other items, include items of information needed by federal bureaus or departments engaged in the development of national and uniform criminal statistics.
- To recommend the form and content of records which must be kept by those persons and agencies in order to ensure the correct reporting of data to the department.
- To instruct those persons and agencies in the installation, maintenance, and use of those records and in the reporting of data therefrom to the department.
- To process, tabulate, analyze and interpret the data collected from those persons and agencies.
- To supply, at their request, to federal bureaus or departments engaged in the collection of national criminal statistics data they need from this state.
- To present to the Governor, on or before July 1st, an annual report containing the criminal statistics of the preceding calendar year and to present at other times as the

Attorney General may approve reports on special aspects of criminal statistics. A sufficient number of copies of all reports shall be prepared to enable the Attorney General to send a copy to all public officials in the state dealing with criminals and to distribute them generally in channels where they will add to the public enlightenment.

This bill provides that as part of the minimum standards for training, the BSCC must include a requirement for the training of probation officers on domestic violence that includes, but not be limited to, training on the nexus between animal cruelty and violence against persons.

This bill requires that the annual report published by DOJ include information concerning arrests for violations of section 597.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past several years this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In December of 2015 the administration reported that as "of December 9, 2015, 112,510 inmates were housed in the State's 34 adult institutions, which amounts to 136.0% of design bed capacity, and 5,264 inmates were housed in out-of-state facilities. The current population is 1,212 inmates below the final court-ordered population benchmark of 137.5% of design bed capacity, and has been under that benchmark since February 2015." (Defendants' December 2015 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).) One year ago, 115,826 inmates were housed in the State's 34 adult institutions, which amounted to 140.0% of design bed capacity, and 8,864 inmates were housed in out-of-state facilities. (Defendants' December 2014 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).)

While significant gains have been made in reducing the prison population, the state must stabilize these advances and demonstrate to the federal court that California has in place the "durable solution" to prison overcrowding "consistently demanded" by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee's consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;

- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Need for This Legislation

According to the author:

In 2014 a man was arrested and later pleaded guilty to four felony counts and one misdemeanor count, which included: two felony charges of animal cruelty, felony assault by force likely to produce great bodily injury, witness dissuasion and violating a court order. The case involved a man abusing his girlfriend and her five month old puppy. The man broke several of the puppy's bones, sexually mutilated and used a utility lighter to inflict burns on 80 percent of its body, for which the puppy was later euthanized due to its injuries. The maximum sentence for the crime was seven years and six months in state prison. The judge sentenced him to a year in county jail and five years on probation based on probation officers' recommendations.

There is overwhelming evidence that [animal abuse] is linked to crimes against people, including violent crimes and domestic violence.¹ In a 2014 study of men arrested for domestic assault, 41 percent had abused an animal at least once as an adult – compared with only 1.5 percent of men in the general population. A previous study showed that women residing in domestic violence shelters were nearly 11 times more likely to report their partner had hurt or killed a pet than women who had never experienced intimate partner violence. There is evidence that pet abuse is an indicator of heightened danger, and possibly a higher fatality rate, in intimate relationships plagued by violence. A dozen independent studies report that between 18 and 48 percent of battered women have either delayed leaving or returned to an abusive relationship in order to protect their pets.²

So evident is the correlation between animal abuse and violence to humans that in 2016 the FBI began collecting data on animal cruelty in the same way as homicide, arson, and assault via its National Incident-Based Reporting System (NIBRS).³

2. Recent Events

As discussed in the author's statement, there was an animal abuse incident in 2014 that precipitated this legislation:

On May 14, 2014, at 11:02 p.m., Santa Barbara Police officer Josh Morton responded to a local veterinary hospital to investigate a possible case of domestic violence.

¹ The Washington Post, *A big win for animals: The FBI now tracks animal abuse like it tracks homicides*, (January 2015), at https://www.washingtonpost.com/news/inspired-life/wp/2015/01/06/a-big-win-for-animals-the-fbi-now-tracks-animal-abuse-like-it-tracks-homicides/?wpmm=1&wpsc=nl_daily202

² California Health Report, *A perilous link: pet abuse and domestic violence*, (September 2015), at <http://www.calhealthreport.org/2015/09/27/18281-2/>

³ Federal Bureau of Investigations, *News Blog: Tracking Animal Cruelty*, (February 2016), at https://www.fbi.gov/news/news_blog/tracking-animal-cruelty

What he found would haunt the department, and community members, for months to come.

The Case

The victims were a 5-month-old miniature pinscher puppy named Davey and his owner.

Earlier that day, Duanying Chen, a Chinese immigrant who was taking classes at Santa Barbara City College on a student visa, agreed to watch Davey while his girlfriend was out for the day.

When Chen's girlfriend came home around 8 p.m., however, she found Davey hiding underneath a table, unable to walk, according to reports.

Chen reportedly tried to convince her that the dog was injured during a fall from the top of a ping pong table, but after taking Davey to the hospital, the clinic staff determined that the animal had multiple injuries — broken bones, lacerations and burns, neurological damage, and wounds to the rectum and genitals — consistent with having been abused.

Further, upon questioning Chen's girlfriend, they suspected that she was the victim of domestic violence. The Santa Barbara Police Department (SBPD) was subsequently notified, and Davey was euthanized a few weeks later due to the extreme level of abuse and the extent of his injuries.

“We don't often get these types of cases,” said Sgt. Riley Hardwood of the SBPD. “We deal with domestic violence all of the time, but this isn't the type of case that happens often.”

“The combination of two things (animal abuse and domestic violence) is pretty alarming, and a lot of people would say that's indication of violence in the future,” he continued.

On May 20, 2014, Chen was arrested for allegedly strangling his girlfriend during a fight and beating, torturing, sexually assaulting and burning Davey.

The Sentence

In Chen's case, many believe the punishment did not fit the crime.

On May 19, Chen pleaded guilty to four felony counts and one misdemeanor count, including two felony charges of animal cruelty, felony assault by force likely to produce great bodily injury, witness dissuasion and violating a court order, according to Santa Barbara County District Attorney Joyce Dudley.

Although the case prosecutor argued for the maximum sentence of seven years and six months in state prison, on June 30 Superior Court Judge Brian Hill ordered Chen to serve one year in county jail with five years of probation.

(Protestors to hold march for abused puppy at SB Courthouse, by Jamie Guista, Santra Maria Times, July 18, 2015; http://santamariatimes.com/news/protestors-to-hold-march-for-abused-puppy-at-sb-courthouse/article_5772b345-4bcc-5cf1-95da-83f96c29cd1e.html.)

3. Effect of This Legislation

This legislation seeks to educate probation officers and inform the public on the correlation between animal abuse and domestic violence. To this end, it would require the BSCC, when establishing minimum training standards for probation officers, to include training on domestic violence and the link between domestic violence and animal cruelty. This legislation would, additionally, require DOJ to include annual cruelty in their annual crime report.

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