
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: SB 1395 **Hearing Date:** April 12, 2016
Author: Stone
Version: February 19, 2016
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Crimes: Animal Abuse*

HISTORY

Source: Author

Prior Legislation: SB 917 (Lieu) – Chapter 131, Stats 2011
AB 2012 (Lieu) – vetoed 2010
AB 1122 (Lieu) – vetoed 2009

Support: Several individuals

Opposition: American Civil Liberties Union; California Attorneys for Criminal Justice;
California Public Defenders Association; Legal Services for Prisoners with
Children

PURPOSE

The purpose of this bill is to increase the felony penalty for animal abuse.

Existing law 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 crime. (Penal Code § 597 (a).)

Existing law states that every person having charge or custody of an animal who overdrives; overloads; overworks; tortures; torments; deprives of necessary sustenance, drink, or shelter; cruelly beats, mutilates, or cruelly kills; 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 is guilty of a crime for every such offense. (Penal Code § 597 (b).)

Existing law provides that every person who maliciously and intentionally maims, mutilates, or tortures a mammal, bird, reptile, amphibian, or fish is guilty of a crime. (Penal Code § 597(c))

Existing law provides that the penalty for the above is a wobbler punishable as a jail felony punishable by 16 months, 2 or 3 years or by up to one year in county jail and/or by a fine of not more than \$20,000, plus penalty assessments.

This bill changes the felony penalty for the above to a jail felony for 3, 4 or 6 years and/or a fine of not more than \$40,000 plus penalty assessments. The misdemeanor penalty remains the same.

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 Bill

According to the author:

Protecting animals, including our pets, from abuse should be an important goal in California and across the nation. It has become such a problem in the U.S. that the FBI announced in 2014 that for the first time, they would begin to add cruelty to animals as a category in the agency's Uniform Crime Report. Whether it is because of the special bond between pets and humans, or because there is a need to protect those who can't speak for themselves, animal cruelty laws are a very important part of keeping our public safe.

Preventing animal cruelty is more than protecting our pets. There is a strong link between people who abuse animals and those who commit other violent crimes. According to the American Humane Society, in conjunction with the National Coalition Against Domestic Violence, there are some very sobering statistics. 70% of animal abusers also had records for other crimes. Domestic violence victims whose animals were abused saw the animal cruelty as one more violent episode in a long history of indiscriminate violence aimed at them and their vulnerability. 71% of pet-owning women entering women's shelters reported that their batterer had injured, maimed, killed or threatened family pets for revenge or to psychologically control victims. Even more troubling, abusers may kill, harm, or threaten a child's pets in order to coerce them into sexual abuse or to force them to remain silent about abuse.

For whatever the reason, abuse of our furry (or feathered) friends should carry a very strong penalty. Luckily, current law already makes animal torture or abuse a felony, and carries a penalty of 16 months, or 2 or 3 years in county jail, and/or a fine of \$20,000. Senator Stone does not believe that this penalty goes far enough. SB 1395 would double the fine to \$40,000, and would increase the sentence in county jail to 2, 3, or 4 years. Passage of this bill will signal that California will not tolerate those who abuse animals and deserve a harsher sentence for the crimes they have committed.

2. Increased Penalty for Animal Abuse

The current penalty for animal abuse is a wobbler with a jail felony and a fine of up \$20,000 plus penalty assessments. This bill would increase the penalty by increasing the felony portion of the wobbler to 3, 4 or 6 years in county jail and a fine of not more than \$40,000 plus penalty assessments.

Until budget year 2002-2003, there was 170% in penalty assessments applied to every fine. Current penalty assessments are approximately 310% plus \$79 in additional flat assessments. With penalty assessments the current \$20,000 fine in this bill is actually approximately \$82,000. Under this bill the \$40,000 fine would actually be approximately \$164,000, thus an increase of \$82,000 over the existing fine.

The behavior punished in the section covered by these penalties ranges from torture to failing to provide an animal with proper shelter. Is the increase in jail time and fine appropriate for all these offenses?

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