
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: SB 922 **Hearing Date:** April 2, 2024
Author: Roth
Version: January 11, 2024
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Animal cruelty*

HISTORY

Source: Riverside District Attorney's Office

Prior Legislation: AB 829(Waldron) Chapter 546, Stats. 2023
SB 580 (Wilk) Held Assembly Approps. 2020
AB 611 (Nazarian), Chapter 613, Stats. 2019
SB 1024 (Wilk) Held Assembly Approps. 2018
AB 3040 (Nazarian) Held Senate Approps. 2018

Support: Animal Legal Defense Fund; California District Attorneys Assoc.; California Police Chiefs Assoc.; Corona Police Officers Association; Murrieta Police Officers' Association; Riverside County District Attorney; Riverside Police Officers Association; Riverside Sheriffs' Association

Opposition: California Public Defenders Association (unless amended)

PURPOSE

The purpose of this bill is to increase the fines for leaving an animal in a vehicle and to require a person convicted of such an offense to complete counseling or education.

Existing law provides that any person who sexually assaults any animal for the reason of arousing or gratifying the sexual desire of a person is guilty of a misdemeanor punishable by up to 6 months in jail and/or a fine of \$1,000 plus approximately 310% penalty assessments for a total fine of \$4,100. (Penal Code § 286.5)

Existing law provides that every person who, without the consent of the owner, willfully administers poison to any animal, the property of another, or exposes any poisonous substance, with the intent that the same shall be taken or swallowed by any such animal is guilty of a misdemeanor punishable by up to 6 months in jail/and or fine of \$1,000 (\$4,100 with penalty assessments). (Penal Code § 596)

Existing law provides that every owner, driver, or keeper of any animal who permits the animal to be in any building, enclosure, lane, street etc. without proper care and attention is guilty of a misdemeanor punishable by up to 6 months in jail/and or fine of \$1,000 (\$4,100 with penalty assessments). (Penal Code § 597.1)

Existing law provides that every owner, driver, or possessor of any animal who permits the animal to be in any building, enclosure, lane, street, square, or lot of any city, county etc. without proper care and attention shall be guilty of a misdemeanor punishable by up to 6 months in jail/and or fine of \$1,000 (\$4,100 with penalty assessments). (Penal Code § 597e)

Existing law provides that any person who injures a police dog or horse is guilty of a misdemeanor or, if the injury is serious, a wobbler. The penalty for the misdemeanors are punishable by up to 6 months in jail/and or fine of \$1,000 (\$4,100 with penalty assessments). (Penal Code § 600)

Existing law provides that if a person is granted probation for specified animal abuse related offenses, he or she shall order the defendant to complete counseling designed to evaluate and treat behavior or conduct disorders. (Penal Code § 600.8)

Existing law provides that a person shall not leave or confine an animal in any unattended vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably cause suffering, disability, or death to an animal. (Penal Code § 597.7 (a))

Existing law provides that unless the animal suffers great bodily injury, a first conviction for violation of this section is an infraction punishable by a fine not exceeding \$100 (\$410 with penalty assessments) per animal. If the animal suffers great bodily injury, a violation of this section is a misdemeanor punishable by a fine not exceeding \$500 (\$2,050 with penalty assessments) and/or imprisonment in the county jail not exceeding six months. Subsequent violations of this section, whether or not there is injury, is a misdemeanor punishable by a fine not exceeding \$500 (\$2,050 with penalty assessments) and or imprisonment in the county jail not exceeding 6 months. (Penal Code § 597.7(c))

This bill would increase the fines to \$500 (\$2,050 with penalty assessments) for a first offense and \$2,000 (\$8,200 with penalty assessments) when an injury occurs or for a repeat offense.

This bill provides that in addition to any other provision of law, the court shall order a defendant convicted of leaving an animal in a vehicle to successfully complete, as determined by the court, counseling to evaluate and treat behavior or conduct disorders, an education program on the dangers of leaving an animal inside an unattended motor vehicle, or both counseling and the education program.

This bill provides that the counseling and education program shall be paid for by the defendant. The court shall determine the defendant's ability to pay and may develop a sliding scale if it is determined the defendant doesn't have the ability to pay.

This bill provides that if a person is convicted of an infraction, the court shall impose the fine and order the defendant to file proof of completion of the counseling, the education program, or both the counseling and education program with the court within 18 months of conviction.

This bill provides that a person who is ordered to complete counseling or an education program and who willfully fails to comply with a court order to attend and successfully complete counseling, the education program, or both the counseling and the education program is guilty of a misdemeanor.

COMMENTS

1. Need for This Bill

According to the author:

Leaving an animal in a hot (or cold!) car can have lethal consequences. According to the American Veterinary Medical Association, hundreds of pets die from heat exhaustion or heat stroke each year after being left in hot cars.

With the vehicle windows left slightly open, an outside temperature of 85 degrees can cause a temperature of 102 degrees inside a vehicle within 10 minutes, and 120 degrees within half of an hour. As temperatures continue to rise, pets are in even more danger today than they were when California first banned leaving pets unattended in vehicles back in 2006.

Explanations commonly cited in police reports include “I didn’t realize that leaving my pet in the car for 10 minutes was so dangerous!” or “It’s not that big of a deal.” Unfortunately, it is that big of a deal. Those who are still unaware of the deadly consequences need an education component to ensure they do not become repeat offenders or kill their pets.

2. Increase in Fines

Existing law makes it an infraction to leave an animal in a vehicle. If the animal suffers great bodily injury then the penalty is misdemeanor. If there is a repeat offense the person is a subject to a misdemeanor. This bill increases the fines for those offenses.

The existing fine for the infraction is \$100 per animal, which is approximately \$410 with penalty assessments.¹ This bill would increase that fine to \$500 per animal, which is approximately \$2,050 with penalty assessments.

The existing fine for an injury or a repeat offense is \$500, \$2,050 with penalty assessments. This bill would make the fine \$2,000, \$8,200 with penalty assessments.

A person charged with an infraction does not have the right to an attorney. The usual fine for an infraction is not usually more than \$250. Is a \$500 fine appropriate for this infraction? After penalty assessments the fine is over \$2000, could this impact a person’s ability to keep their pet?

Most animal related misdemeanors have a fine of \$1,000. This bill increases the existing \$500 fine to \$2,000 which is more than \$8,000 with penalty assessments. In addition to the

¹ Until the budget year 2002-2003, there was 170% in penalty assessments applied to every fine, the current penalty assessments are approximately 310% plus a flat fee of \$79. (See Penal Code § 1464; Penal Code § 1465.7; Penal Code § 1465.8 Government Code § 70373; Government Code § 7600.5; Government Code § 76000 *et seq*; Government Code §76000.10 Government Code § 76104.6; Government Code §76104.7)

fine a person faces up to 6 months in jail time. Is it appropriate that this fine be greater than other fines related to animal abuse?

3. Counseling and Education

Existing law provides that when a person convicted of a specified animal related offenses the court shall order a defendant who is granted probation to successfully complete counseling designed to evaluate and treat behavior or conduct disorders, unless the defendant is ordered to undergo a mental health evaluation by an evaluator chosen by the court and the evaluator determines a higher level of treatment is necessary. (Penal Code Section 600.8)

This bill provides that in addition to the fine and jail time. a person convicted of leaving an animal in a vehicle to successfully complete, counseling to evaluate and treat behavior or conduct disorders, an education program on the dangers of leaving an animal inside of an unattended motor vehicle, or both counseling and the education program. Failure to comply with the counseling and education program is guilty of a misdemeanor.

This bill requires the counseling and education program to be paid for by the defendant. The court shall make a determination on the ability to pay and develop a sliding scale fee based on the ability to pay.

The bill provides that if the person is convicted of the infraction, the court shall impose the fine the fine and order the defendant to file proof of completion of the counseling, the education program, or both the counseling and the educations program within 18 months of the conviction.

Unlike the other provision requiring counseling, the person having this imposed is not on probation, so the cost of the counseling and program is on top of any fine or jail time.

Are these type of programs available in every county? What in general do they cost? Are they readily available? How much counseling is required? Is a judge appropriate to impose counseling going to know how much is appropriate?

A person charged with an infraction does not usually go before a judge and instead pays the fine. How will the class or counseling be imposed in these circumstances? Will it be clear how a person can prove their counseling or class participation? They are not given an attorney so will they understand how to present it to the court?

Since failure to do the counseling or treatment is a misdemeanor, will this bill subject people to a misdemeanor or an offense where an animal was not actually injured?

4. Argument in Support

The sponsor of this bill the Riverside County District Attorney's office supports this bill stating:

Studies have shown the interior air temperature of a vehicle can increase rapidly, even on a cloudy day while the windows are cracked. In fact, even in only 70-degree weather, the temperature inside a car can increase by almost 20 degrees in

only 10 minutes. It only takes a short period of time for interior car conditions to be lethal to any animal left inside.

Currently, leaving one's pet in a hot car is only an infraction with a \$100 fine. A subsequent conviction or a first offense that results in great bodily injury is only a misdemeanor. While California has an animal cruelty statute that could apply if the animal suffers actual harm, the current statutory framework offers only a slap on the wrist for endangering animals.

When law enforcement responds to a call for service regarding an animal left unattended inside a vehicle, the owner often provides one of two responses: they were unaware that leaving their pet inside of their vehicle, even for a short time, was dangerous, or they do not believe that their potentially deadly behavior was a "big deal." The former demonstrates a genuine lack of understanding that can be addressed with education, while the latter, often accompanied by anger on the part of the owner, demonstrates a disregard for the welfare of animals. California's hot car statute does not currently have any provisions to address either problem. SB 922 creates a unique opportunity for those convicted of leaving their pets unattended in a vehicle to receive education on the dangers of hot cars, counseling, or both, to be determined by a judge on a case-by-case basis.

5. Argument in Opposition

The California Public Defenders Association has an oppose unless amended position on this bill stating:

SB 922 further criminalizes poverty. In many instances individuals who live with their pets in their cars do not have any choice about whether or not to leave their animals in their cars. Very few places provide animal care for individuals going to court, the grocery store, the hospital, school or work. People don't want to endanger their pets but often have no other choice.

Raising the fines four and fivefold is bad public policy. It is not consistent with this Legislature's efforts to ameliorate the impact of criminal justice fines and fees on individuals and our communities. As noted in the Federal Reserve's 2022 Economic Well-Being of U.S. Households survey "some 37% of Americans lack enough money to cover a \$400 emergency expense, up from 32% in 2021. That means nearly one in four consumers would have to use credit, turn to family, sell assets, or get a loan in order to cover any major unexpected cost. And when asked about non-emergency expenses, 18% of Americans said the largest expense they could cover using only their savings was under \$100."

(<https://www.federalreserve.gov/newsevents/pressreleases/files/other20230522a1.pdf> as reported in <https://fortune.com/2023/05/23/inflation-economy-consumer-finances-americans-cant-cover-emergency-expense-federal-reserve/>.)

Providing that failure to do counseling, an education program or both ordered upon conviction of an infraction is further criminalizing poverty and ensuring that an otherwise law abiding citizen will become mired in the criminal justice system. If the goal of SB 922 is to raise awareness of the dangers of leaving an animal unattended in a vehicle, it could be better accomplished by conducting a public

education campaign or providing “doggie daycare”. Instead, SB 922 will make it more difficult for individuals who have suffered a criminal conviction to care for their pets and their families, find adequate housing and obtain employment.

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