

Date of Hearing: April 26, 2022

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Marc Berman, Chair

AB 1881 Santiago – As Amended April 18, 2022

SUBJECT: Animal welfare: Dog and Cat Bill of Rights.

SUMMARY: Requires every public animal control agency, shelter, or rescue group to conspicuously post or provide a copy of a Dog and Cat Bill of Rights, as provided.

EXISTING LAW:

- 1) Governs the operation of animal shelters by, among other things, setting a minimum holding period for stray dogs, cats, and other animals, and requiring animal shelters to ensure that those animals, if adopted, are spayed or neutered and, with exceptions, microchipped. (Food and Agriculture Code §§ 30501 *et seq.*; § 31108.3; §§ 31751 *et seq.*; §§ 32000 *et seq.*)
- 2) Prohibits a pet store operator from selling a live dog, cat, or rabbit in a pet store unless the animal was obtained from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group that is in a cooperative agreement with at least one private or public shelter, as specified. (Health and Safety Code § 122354.5)
- 3) 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 (PEN.) § 597(a))
- 4) Provides that very 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 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 crime. (PEN. § 597(b))
- 5) Requires that any person who impounds, or causes to be impounded in any animal shelter, any domestic animal, must supply it during confinement with a sufficient quantity of good and wholesome food and water. (PEN. § 597e)
- 6) Requires every person who keeps an animal confined in an enclosed area to provide it with an adequate exercise area. (PEN. § 597t)
- 7) Defines the words “torment,” “torture,” and “cruelty” as including every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted against an animal. (PEN. § 599b)
- 8) Requires any peace officer, humane society officer, or animal control officer to convey all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer to be a veterinarian who ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely euthanized or shall be hospitalized under proper care and given emergency treatment. (PEN. 597.1)

THIS BILL:

- 1) Requires each public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group to provide a copy of a Dog and Cat Bill of Rights to new owners, or to post a copy of the rights in a conspicuous place accessible to public view.
- 2) Provides that the Dog and Cat Bill of Rights shall read as follows:

“Dogs and cats have the right to be free from exploitation, cruelty, neglect, and abuse.

Dogs and cats have the right to a life of comfort, free of fear and anxiety.

Dogs and cats have the right to daily mental stimulation and appropriate exercise considering the age and energy level of the dog or cat.

Dogs and cats have the right to nutritious food, sanitary water, and shelter in an appropriate and safe environment.

Dogs and cats have the right to regular and appropriate veterinary care.

Dogs and cats have the right to be properly identified through tags, microchips, or other humane means.

Dogs and cats have the right to be spayed and neutered to prevent unwanted litters.”

- 3) Subjects each subsequent violation of the above requirement after sixty days of a first offense to a fine not exceeding \$250.
- 4) States that the bill does not create a private right of action for a violation of its requirements and that it is the intent of the Legislature that the Dog and Cat Bill of Rights is solely to inform potential owners of the standards for basic physical care and emotional well-being of dogs and cats, and clarifies that the bill does not create a crime or a penalty other than the penalty provided regarding posting requirements for educational purposes.
- 5) Makes various additional findings and declarations in support of the bill.

FISCAL EFFECT: Unknown; this bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by **Social Compassion in Legislation**. According to the author:

“One in five American households adopted a dog or a cat since the start of the COVID-19 pandemic, in part because of the social and emotional companionship dogs and cats can provide. Now that the state is relaxing some of its COVID-19 restrictions and owners are returning to normal life, we must ensure that our dogs and cats are still receiving the love and attention they need. That’s why AB 1881 will inform potential adopters of the rights of dogs and cats that go beyond just food, water, and shelter, so that all of our dogs and cats may live long, healthy lives after all pandemic restrictions have lifted.”

Background.

Animal Welfare Laws. In 1966, the United States Congress enacted the Animal Welfare Act (AWA) to provide standards on the humane handling, care, and treatment of animals. Enforced by the United States Department of Agriculture (USDA), the AWA regulates animal rights in various settings, including scientific research, public exhibitions, or transportation. California is home to a number of additional animal protection laws intended to safeguard the wellbeing and life of animals in various settings. These include the Polanco-Lockyer Pet Breeder Warranty Act, which outlines requirements for dog breeders to raise dogs and puppies in humane conditions, and provides purchasers with refund or reimbursement remedies should an animal be sick or ill due to improper breeding practices. Similarly, laws like the Lockyer-Polanco-Farr Pet Protection Act establishes animal welfare and consumer protection requirements on pet dealers and the animals they sell.

In terms of laws intended to protect animals from being harmed or discomforted by their owners, only certain categories of severe neglect or mistreatment are expressly unlawful. The malicious and intentional maiming, mutilation, torture, or wounding of any living animal is a crime under the Penal Code. Similarly, anyone who overdrives, overloads, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal is guilty of a crime. There are also provisions in the Penal Code that provide punishment for those who severely neglect an animal and allows those animals to be seized and treated.

However, there are not many other requirements for what type of care pet owners provide to their dogs and cats beyond the criminalization of serious abuse or exploitation. This is in part because pets are legally considered property of their owners. While cruelty or extreme neglect are not permitted, owners are otherwise generally free to treat their pets in whatever manner they desire.

The author and sponsor of this bill are concerned that many new owners of dogs and cats will adopt those animals without fully appreciating the amount of care and attention that is required to provide a loving, comfortable home to an animal. In particular, the author cites the ongoing COVID-19 pandemic as potentially having resulted in a rush to adopt animal companions that will stop receiving as much attention as restrictions are lifted. The author intends for this bill to be “educational,” essentially confronting potential adopters with a list of expectations for the quality of life the dog or cat they are bringing home deserves.

While this bill refers to these expectations as a “bill of rights,” it does not actually intend for any of those rights to be legally enforceable. Instead, pet shelters and other adoption sites would be required to simply post or provide the language to potential new owners. The language of the bill expressly clarifies that no other crime or penalty would be created by the bill besides the fine that could be assessed for violations of that requirement.

Current Related Legislation. AB 1781 (Blanca Rubio) would set standards for the safe transportation of dogs and cats. *This bill is pending in this committee.*

AB 1606 (Carrillo) would ban the practice of cat declawing. *This bill is pending in this committee.*

AB 1901 (Nazarian) would require dog trainers to provide certain disclosures to their customers. *This bill is pending in the Assembly Committee on Judiciary.*

AB 2723 (Holden) would establish additional requirements on various types of public animal shelters related to microchip registration and the release of dogs and cats. *This bill is pending in the Assembly Committee on Appropriations.*

Prior Related Legislation. AB 702 (Santiago) of 2021 as amended was substantially similar to this bill. *This bill died in this committee.*

ARGUMENTS IN SUPPORT:

This bill is sponsored by **Social Compassion in Legislation** (SCIL). SCIL writes: “Animal companionship was very appealing during the isolation of the pandemic. With the state potentially re-opening, some adopters are returning their pets because they cannot care for them as they could during the height of the pandemic. Animal shelters and adoption agencies are not currently required to inform the potential adopter of the standards of care dogs and cats deserve. To ensure dogs and cats are treated appropriately, potential owners must understand that dogs and cats deserve certain standards of treatment prior to making a commitment to adoption.”

ARGUMENTS IN OPPOSITION:

The **California Animal Welfare Association** (CalAnimals) opposes this bill. According to CalAnimals: “Generally speaking, aspirational language should be presented as such and not presented as rights. The language provided in this bill is both subjective and nebulous and will result in confusion for the public as to what can and will be enforced, saddling our animal services agencies with unrealistic expectations. For example, how will a California resident interpret their dog or cat’s right to be fear free or free of exploitation? If a pet owner cannot afford a \$3,000 treatment for cancer for their pet, are they violating that animal’s rights? Should they not be allowed to own a pet? As an organization that values inclusivity and equity and works diligently to preserve the human-animal bond, we are very careful to evaluate potential legislation through this lens to ensure we are not penalizing those with fewer resources or different cultural values.”

POLICY ISSUE(S) FOR CONSIDERATION:

Rights versus Aspirations. This bill would enact a new division within the Food and Agricultural Code titled “the Dog and Cat Bill of Rights.” The phraseology “bill of rights,” inspired by the title of the first ten amendments to the United States Constitution and predecessors like the Magna Carta, has been used prolifically in legislation enacted to establish new protections, obligations, and guarantees under the law. However, this bill does not actually purport to create any new requirements for pet owners that would be enforceable in any way.

Instead, “Dog and Cat Bill of Rights” is essentially the statutorily dictated title of a poster or flyer that would be provided to potential new pet owners. The text of that notice then also refers to a series of protections, comforts, luxuries, and freedoms that dogs and cats “have the right to.” However, neither the author nor the bill’s supporters have claimed that any of these provisions are, in fact, *legal* rights—instead, they are arguably *natural* rights, which animals may be considered morally entitled to as “sentient beings that experience complex feelings” (as described in the bill’s findings and declarations), but are not necessarily derived from any legally enforceable statute or regulation.

Some of the specified rights are at least partially enforceable through existing law. For example, the Penal Code does specifically criminalize forms of “exploitation, cruelty, neglect, and abuse”—the first of the enumerated rights. However, there is no similar citation available for the second right, which is “to a life of comfort, free of fear and anxiety.” (There is also no legally enforceable right under the law for human beings to experience such a life.) While various rights enumerated in the bill could be loosely corresponded to provisions of law, it is undeniable that the majority of the language in the list of rights is purely aspirational.

This is the author’s intent, and the author has made it clear that the goal is not to imply that there would be any direct repercussion to pet owners who fail to live up to the language in the bill. Instead, the goal is to “educate” potential dog and cat adopters about the standard they should hold themselves to when it comes to the quality of home they intend to provide. However, this could understandably still be very confusing for some members of the public. Language like the statement that “dogs and cats have the right to nutritious food” might appear to be tied to an actual enforceable law, and could potentially lead to fewer adoptions by potential owners concerned that they could be liable for failing to meet a vague requirement.

What the author essentially wants to do is make a declarative statement on behalf of the State of California regarding the quality of life that adopted dogs and cats deserve in a home. The author then wants that statement communicated to pet owners in a format that will remind them of their moral responsibilities without threatening them with any legal liability. The author may wish to reconsider whether the current language of the bill appropriately addresses that goal or if other means of conveying that message would be better suited to their intent.

AMENDMENTS:

To clarify that the notice required by the bill does not actually enumerate any enforceable rights or obligations, amend the proposed Section 31802 to replace each use of the phrase “*dogs and cats have the right to*” with “*dogs and cats deserve*,” and make corresponding changes.

REGISTERED SUPPORT:

Social Compassion in Legislation (*Sponsor*)

A Passion for Paws – Akita Rescue

Ashley and Hobie Animal Welfare Inc.

Castillo Animal Veterinary Corp.

Compassionate Bay

Direct Action Everywhere

Los Angeles Alliance for Animals

Our Honor

The Paw Project

Plant-based Advocates – Los Gatos

Poison Free Malibu

Project Counterglow

Recycled Love Dog Rescue

Starfish Animal Rescue

Start Rescue

Take Me Home

Women United for Animal Welfare

Numerous individuals

REGISTERED OPPOSITION:

Animal Health Institute
American Kennel Club
California Animal Welfare Association
California Veterinary Medical Association
Hangtown Kennel Club of Placerville, CA, Inc.
National Animal Interest Alliance
San Diego Humane Society and SPCA
Numerous individuals

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