

CONCURRENCE IN SENATE AMENDMENTS

AB 829 (Waldron)

As Amended September 8, 2023

2/3 vote

SUMMARY

Requires a court to consider ordering a defendant who has been granted probation after conviction of specified animal abuse crimes to undergo a mental health evaluation, and requires the defendant to complete mandatory counseling as directed by the court, if the evaluator deems it necessary.

Senate Amendments

Provide that neither a finding that the defendant suffers from a mental disorder, nor the progress reports and records from treatment, can be released or used without the consent of the defendant in any criminal or civil proceedings, rather than just in civil proceedings.

COMMENTS

As Passed by the Assembly: This bill required a court to consider ordering a defendant who has been granted probation after conviction of specified animal abuse crimes to undergo a mental health evaluation, and requires the defendant to complete mandatory counseling as directed by the court, if the evaluator deems it necessary.

Major Provisions

- 1) Required the court to consider for every defendant who is granted probation for specified animal abuse offenses, whether to order that the person undergo a mental health evaluation by an evaluator chosen by the court. These offenses include:
 - a) Sexual contact with an animal;
 - b) Willful poisoning of an animal;
 - c) Animal cruelty;
 - d) Keeping an animal in specified places without proper care; and,
 - e) Intentionally causing injury or death to a guide or service dog.
- 2) Specified that if the mental health evaluator deems a higher level of treatment than general counseling is necessary, the defendant shall complete such treatment as directed by the court.
- 3) Required the defendant to pay for both any mental health evaluations and any subsequent treatment, but if the court determines that the defendant is unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay.
- 4) Provided that a person who is receiving specified public benefits or whose monthly income is 200% or less of the current federal poverty guidelines shall not be responsible for any costs.

- 5) Specified that the required counseling is in addition to any other terms and conditions of probation, including any term of imprisonment and fine.
- 6) Made confidential the finding that the defendant suffers from a mental disorder, as well as any progress reports concerning the defendant's treatment, or any other records created pursuant to these provisions, and prohibits their release or use in connection with any civil proceeding without the defendant's consent.

According to the Author

"Over the past 30 years, researchers and professionals in a variety of human services and animal welfare disciplines have established significant correlations between animal abuse and violence toward humans. Despite the recognition of this correlation, current sentencing options for animal abuse crimes are largely punitive measures that do little to help end the cycle of violence or rehabilitate offenders. Appropriate mental health counseling and education are important tools that can benefit public safety as well as reduce offender recidivism rates."

Arguments in Support

According to *Social Compassion in Legislation*, the sponsor of this bill, "Over the past 30 years, researchers and professionals in a variety of human services and animal welfare disciplines have established significant correlations between animal abuse and violence toward humans. Despite the recognition of this correlation, current sentencing options for animal abuse crimes are largely punitive measures that do little to help end the cycle of violence or rehabilitate offenders. Fines, jail time, probation, and forced animal surrender are the primarily utilized options, but may not be enough to address the underlying issues leading to animal abuse. Appropriate mental health counseling and education are important tools that can benefit public safety as well as reduce offender recidivism rates."

"Thankfully, animal cruelty is a growing issue of concern for law enforcement as well as mental health professionals. In fact, currently more than half of all states now have provisions that allow for courts to order psychiatric evaluation and/or counseling as part of an animal abuser's sentence. Such laws recognize that animal abuse can be a symptom of underlying mental health issues. Offenders who display violence towards animals often subsequently commit violent acts towards humans whether it be child abuse, domestic violence, or, as we saw tragically in Parkland, Florida, mass shootings."

"Mental health evaluations for animal abusers is an important tool that should be available to courts. They are crucial for rehabilitation of animal abusers and will have a significant impact on the reduction of recidivism rates among animal abusers as well on preventing these abusers from escalating to human victims. It is long overdue that our laws, law enforcement, and correctional system recognize that animal abuse and its probable escalation to further violence is a significant issue, and we must take steps as early as possible to prevent more victims."

Arguments in Opposition

According to the *California Public Defenders Association*, "While we greatly appreciate the amendments as proposed, AB 829 falls short in protecting the confidentiality of mental health treatment. The bill only provides for confidentiality of the mandatory treatment as it relates to civil proceedings. The bill should be amended to assure that any mandatory mental health treatment is confidential and not discoverable in any civil or criminal proceeding. The need for free exchange in the rare case of the need of mental health evaluation and treatment is paramount

in ensuring community trust in health care privacy as well as protecting youth and young people from the lifelong stigma of being diagnosed with a ‘conduct disorder.’”

FISCAL COMMENTS

According to the Senate Appropriations Committee, unknown, potentially reimbursable costs to the courts and county mental health departments to cover the costs of evaluations and mental health treatment for indigent defendants convicted of specified animal abuse offenses (local funds, General Fund). Costs will depend on how many defendants receive mental health evaluations and treatment and are unable to pay; General Fund costs will depend on whether AB 829 imposes a reimbursable state mandate, as determined by the Commission on State Mandates.

VOTES:

ASM PUBLIC SAFETY: 7-0-1

YES: Jones-Sawyer, Alanis, Bryan, Lackey, Ortega, Santiago, Zbur

ABS, ABST OR NV: Bonta

ASM APPROPRIATIONS: 15-0-1

YES: Holden, Megan Dahle, Bryan, Calderon, Wendy Carrillo, Dixon, Mike Fong, Hart, Lowenthal, Mathis, Papan, Pellerin, Sanchez, Weber, Ortega

ABS, ABST OR NV: Robert Rivas

ASSEMBLY FLOOR: 80-0-0

YES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

UPDATED

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