

Date of Hearing: March 14, 2023

ASSEMBLY COMMITTEE ON JUDICIARY
Brian Maienschein, Chair
AB 554 (Gabriel) – As Introduced February 8, 2023

PROPOSED CONSENT (As Proposed to be Amended)

SUBJECT: CORPORATIONS FOR THE PREVENTION OF CRUELTY TO ANIMALS:
ENFORCEMENT OF LAWS

KEY ISSUE: SHOULD THE EXISTING LAW REGARDING THE ABILITY OF A
NONPROFIT CORPORATION ESTABLISHED FOR THE PREVENTION OF CRUELTY TO
ANIMALS TO BRING A CIVIL ACTION FOR INJUNCTIVE RELIEF TO ENFORCE
ANIMAL WELFARE LAWS BE CLARIFIED?

SYNOPSIS

This non-controversial and straightforward measure codifies recent case law to clarify the 118-year statutory language authorizing nonprofit corporations established for the prevention of cruelty to animals to file civil actions to stop conduct that violates California’s animal welfare laws. Originally adopted in 1905, California law permits animal welfare nonprofits to “proffer a complaint against any person, before any court or magistrate having jurisdiction, for the violation of any law relating to or affecting animals.” Given that this statute indeed reads like a 118-year old law, in recent years nonprofits established for the prevention of the cruelty to animals have been forced to repeatedly litigate their ability to file civil law suits. Meanwhile, defendants seek to use the oddly worded statute to evade responsibility for violating animal cruelty laws. This measure simply codifies a 2022 appellate court opinion to make it clear that nonprofit corporations established for the prevention of cruelty to animals have standing to file civil actions to seek an injunction to prevent ongoing abuse to animals.

This bill is supported by Animal Legal Defense Fund and Social Compassion in Legislation. Both organizations note that clarifying the law regarding standing to enforce animal cruelty laws will cut down on needless litigation and ensure that legal actions to protect animals can proceed in a more expedient manner, thereby more quickly removing animals from harm. As proposed to be amended, this bill has no known opposition. Should this bill be approved by this Committee, it will subsequently be referred to the Committee on Banking and Finance.

SUMMARY: Clarifies that nonprofit corporations established for the prevention of cruelty to animals may file specified civil actions to enjoin behavior affecting animals. Specifically, **this bill:**

- 1) Provides that a nonprofit corporation established for the prevention of cruelty, or humane officer thereof may bring it as a civil action for specific or injunctive relief, including to enjoin possession, to enforce any law relating to or affecting animals that would be a basis for a complaint under existing animal welfare laws.
- 2) Makes various findings and declarations about the need to clarify existing law to ensure the protection of animals from unlawful abuse.

EXISTING LAW:

- 1) Establishes the Nonprofit Public Benefit Corporation Law and provides for the rules and regulations of corporations established for a public or charitable purpose. (Corporations Code Section 5110 *et seq.*)
- 2) Provides that corporations for the prevention of cruelty to animals may be formed under the Nonprofit Public Benefit Corporation Law by groups of 20 or more persons who are residents of the State of California. (Corporations Code Section 10400.)
- 3) Requires all magistrates, sheriffs, and officers of police, as may be required, to assist a public benefit corporation established for the prevention of cruelty to animals, as well as its officers, members, and agents, in the enforcement of all laws relating to or affecting animals. (Corporations Code Section 10405.)
- 4) Authorizes a public benefit corporation established for the prevention of cruelty to animals to proffer a complaint against any person, before any court or magistrate having jurisdiction, for the violation of any law relating to or affecting animals and may aid in the prosecution of the offender before the court or magistrate. (Corporations Code Section 10404.)
- 5) Provides that every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, other than species designated for protection by the Fish and Game Code, is guilty of a crime punishable as a felony by imprisonment 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. (Penal Code Section 597 (a).)
- 6) Provides that every person is liable to punishment by the laws of this State, for a public offense committed by them therein, except where it is by law cognizable exclusively in the courts of the United States; and except as otherwise provided by law the jurisdiction of every public offense is in any competent court within the jurisdictional territory of which it is committed. (Penal Code Section 777.)
- 7) Provides that preventive relief is granted by injunction, provisional or final. (Civil Code Section 3420.)
- 8) Provides that upon notice and motion, the court may modify or dissolve a final injunction upon a showing that there has been a material change in the facts upon which the injunction was granted, that the law upon which the injunction was granted has changed, or that the ends of justice would be served by the modification or dissolution of the injunction. (Civil Code Section 3424 (a).)
- 9) Requires every civil action to be prosecuted in the name of the real party in interest, except as otherwise provided by statute. (Code of Civil Procedure Section 367.)
- 10) Provides that the following persons may sue, in a civil action, without joining as parties the persons for whose benefit the action is prosecuted:
 - a) A personal representative, as specified;

- b) A trustee of an express trust;
- c) A person with whom, or in whose name, a contract is made for the benefit of another, except as specified; and
- d) Any other person expressly authorized by statute. (Code of Civil Procedure Section 369 (a).)

FISCAL EFFECT: As currently in print this bill is keyed non-fiscal.

COMMENTS: Since the 1900s, nonprofit corporations established for the prevention of cruelty towards animals have been authorized to assist law enforcement and prosecutors in stopping animal abuse by filing civil actions to stop conduct that is harmful to animals. However, the statutes authorizing such conduct are drafted in an arcane and confusing manner, thus requiring the nonprofits to regularly litigate their standing in cases seeking to stop animal abuse. This bill simply clarifies that nonprofit corporations have standing to file civil actions seeking injunctive relief to stop a person from committing animal abuse. In support of the measure, the author states:

AB 554 would strengthen California's animal protection laws by clarifying that Societies for the Protection of Cruelty to Animals (SPCAs) can seek injunctive relief to enforce civil protection laws. This bill would clarify the existing path for private enforcement of animal protection laws while conserving judicial resources. California enacted its animal cruelty laws in 1872 and has enacted many other important and groundbreaking animal protection laws in recent years. However, civil enforcement of these laws is often necessary to ensure the desired effect. Statutory clarification that incorporated SPCAs have standing to civilly enforce animal protection laws would ensure a consistent statewide standard, while saving the courts' time and resources adjudicating standing and related procedural issues.

Longstanding existing law permits Societies for the Protection of Cruelty to Animals to assist law enforcement through the civil justice system. In 1905, the Legislature authorized the creation of nonprofit corporations for the prevention of cruelty to animals. (AB 481 (Drew) Chap. 434, Stats. 1905.) As a part of that initial authorization these corporations were authorized to “proffer a complaint against any person, before any court or magistrate having jurisdiction, for the violation of any law relating to or affecting animals and may aid in the prosecution of the offender before the court or magistrate.” Ostensibly, this language was designed to permit these nonprofit corporations to assist local law enforcement agencies to enforce laws against animal cruelty. Although there is no readily available analysis of a 118 year-old bill, one can surmise that this assistance was necessary in 1905 because California undoubtedly lacked the existing animal welfare services, including shelters and code enforcement officers, that serve to protect animals in the present day.

Ambiguities in existing law are forcing Societies for the Protection of Cruelty to Animals to repeatedly litigate their standing in matters seeking to enjoin practices constituting animal abuse. Although the authority for nonprofit corporations for the prevention of cruelty to animals to assist in the enforcement of animal welfare is over 100 years old, the nature of the drafting of this old statute has resulted in ambiguity as to what powers these nonprofits actually have. Indeed, the “proffer” language has led some private citizens to seek to file their own lawsuits to enforce animal laws, a move courts have held to be invalid. Furthermore, this vague language has required nonprofits to continuously relitigate their standing to file these cases in recent years.

This has occurred despite prior holdings that the power of a nonprofit to civilly enforce animal welfare laws is part of an, “explicit and comprehensive legislative scheme for enforcement of anticruelty laws.” (*Animal Legal Defense Fund v. California Exposition & State Fairs* (2008) 239 Cal. App. 4th 1286, 1297.) Indeed, the proponents of this measure note that, as recently as last year, the standing of nonprofit corporations seeking to enforce animal welfare laws was still the subject of appellate litigation. (*Caru Society for Prevention of Cruelty to Animals v. Anthony*, (Cal. Ct. App. Jun. 7, 2022) No. A160487.)

This bill. Seeking to provide greater clarity surrounding standing of nonprofit corporations for the prevention of cruelty to animals, this measure seeks to codify the ruling in an unpublished First District Court of Appeal case that upheld the right of these nonprofit corporations to file civil actions to stop animal abuse. The bill clarifies that, as they have for the past 118 years, nonprofit corporations for the prevention of cruelty to animals may file civil actions to stop animal abuse that is prohibited in the Penal Code. Additionally, this measure clarifies that, upon showing that animal abuse is occurring in violation of the Penal Code, a court order enjoining the unlawful conduct is the appropriate civil remedy. It should be noted that, much like the existing law, the provisions of this bill are civilly enforced and do not affect, preclude, or supersede any criminal enforcement brought by a district attorney.

Author’s amendments better align this bill to existing case law. As noted, this bill simply clarifies the court’s holding in *Caru Society for Prevention of Cruelty to Animals v. Anthony*. Some animal stakeholders note that in that decision the court ordered injunctive relief. The bill, as currently in print, provides for “preventive relief.” Although the existing Civil Code Section 3420 essentially defines “preventative relief” to mean injunctive relief, some stakeholders worried this language may introduce ambiguity into a bill designed to clarify a presently ambiguous statute, and permit enforcement actions to be filed before any action violating the Penal Code actually occurred. Given that this was not the intent of this bill, and to fully align this bill with the decision in the *Caru Society for Prevention of Cruelty to Animals v. Anthony*, the author is proposing the following amendment to subdivision (b) of Corporations Code Section 10404 to read:

(b) Any such corporation, or humane officer thereof, proffering a complaint under subdivision (a), may bring it as a civil action for specific or ***injunctive*** ~~preventive~~ relief, including to enjoin possession, to enforce any law relating to or affecting animals that would be a basis for a complaint under subdivision (a).

ARGUMENTS IN SUPPORT: This measure is supported by the Animal Legal Defense Fund Social Compassion in Legislation, an advocacy organization for animal welfare. They highlight the need to avoid unnecessary litigation over settled, but unclear, existing laws. The Animal Legal Defense Fund writes:

Under current law, California Corporations Code §10404, SPCAs, formed under California Corporations Code section 10400, are authorized to “proffer a complaint against any person, before any court or magistrate having jurisdiction, for the violation of any law relating to or affecting animals and may aid in the prosecution of the offender before the court or magistrate.”

While the intent of the legislation authorizes SPCAs to file complaints seeking a wide range of remedies such as injunctive relief (i.e. a court order requiring a person to do or cease doing a specific action instead of monetary damages) to prevent animal cruelty, this has not always

been the case in practice due to a lack of clarity in the original language. The authority to "proffer a complaint" is not explicitly defined, and the remedy for injunctive relief is not as clear as it could be. Defendants frequently take advantage of this ambiguity, wasting court resources and creating additional legal hurdles for those seeking to protect animals.

California enacted its animal cruelty law in 1872 and has enacted many other important and groundbreaking animal protection laws in recent years. Civil enforcement of these laws is often necessary to ensure desired effect. Statutory clarification that incorporated SPCAs have standing to civilly enforce animal protection laws would ensure a consistent statewide standard while saving the courts time and resources dealing with standing and related procedural issues.

SPCAs will more effectively be able to privately enforce animal protection laws, which is especially important when government agencies do not have resources to do so. Providing a clear path for private enforcement through injunctive relief (i.e. specific or preventive relief instead of monetary damages) takes pressure off the justice system to be the sole avenue for enforcement of animal cruelty.

REGISTERED SUPPORT / OPPOSITION:

Support

Animal Legal Defense Fund
Social Compassion in Legislation

Opposition

None on file

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