

Date of Hearing: March 3, 2015

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Medina, Chair

AB 147 (Dababneh) – As Introduced January 15, 2015

**SUBJECT:** Postsecondary education: animal research

**SUMMARY:** Requires any public postsecondary educational institution, or independent institution of higher education as defined, that confines dogs or cats for science or research purposes and intends to destroy the dog or cat used for those purposes, to first offer the dog or cat to an animal adoption or rescue organization, as defined. Specifically, **this bill:**

- 1) Requires any public postsecondary educational institution or independent institution of higher education, or employee or student thereof, that confines dogs or cats for the purposes of research (as defined in the Health and Safety Code Section 1650), to offer the dogs or cats to an animal adoption organization or animal rescue organization for adoption prior to euthanizing those animals, after the completion of any testing or research where the animal's destruction is not required and the animal is no longer needed.
- 2) Specifies that a public or independent institution of higher education that is required to offer dogs or cats to an animal adoption organization or animal rescue organization may enter into an agreement with said entities.
- 3) Defines the following terms:
  - a) "Animal adoption organization" or "animal rescue organization" to mean a not-for-profit entity that is exempt from taxation pursuant to the Internal Revenue Code Section 501(c)(3), or a collaboration of individuals with at least one of its purposes being the sale or placement of animals that have been removed from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, or humane shelter, or that have been previously owned by any person;
  - b) "Independent institution of higher education" to mean a nonpublic educational institution as defined; and,
  - c) "Public postsecondary educational institution" to mean any campus of the University of California (UC), the California State University (CSU), or the California Community Colleges (CCC).
- 4) Specifies that animals that are irremediably suffering from a serious illness or severe injury shall not be held for owner redemption or adoption and that newborn animals that need maternal care and have been impounded without their mothers may be euthanized without being held for owner redemption or adoption.

**EXISTING LAW:**

- 1) Specifies that public health and welfare depend on the humane use of animals for scientific advancement in the diagnosis and treatment of human and animal diseases, for education, for

research in the advancement of veterinary, dental, medical and biologic sciences, for research in animal and human nutrition, and improvement and standardization of laboratory procedures of biologic products, pharmaceuticals, and drugs (Health and Safety Code Section 1650).

- 2) Declares the following policies of the state:
  - a) No adoptable animal should be euthanized if it can be adopted into a suitable home. Adoptable animals include only those animals eight weeks of age or older that, at or subsequent to the time the animal is impounded or otherwise taken into possession, have manifested no sign of a behavioral or temperamental defect that could pose a health or safety risk or otherwise make the animal unsuitable for placement as a pet, and have manifested no sign of disease, injury, or congenital or hereditary condition that adversely affects the health of the animal or that is likely to adversely affect the animal's health in the future; and,
  - b) No treatable animal should be euthanized. A treatable animal shall include any animal that is not adoptable but that could become adoptable with reasonable efforts (Civil Code Section 1834.4 and Food and Agricultural Code (FAC) Section 17005).
- 3) Specifies that animals that are irremediably suffering from a serious illness or severe injury shall not be held for owner redemption or adoption (FAC § 17006).

**FISCAL EFFECT:** Unknown

**COMMENTS:** *Background.* The Animal Welfare Act (AWA; 7 U.S.C. 2131 et seq.) is intended to ensure the humane treatment of animals that are intended for research, bred for commercial sale, exhibited to the public, or commercially transported. Under the AWA, businesses and others with animals covered by the law must be licensed or registered, and they must adhere to minimum standards of care. The U.S. Department of Agriculture's (USDA's) Animal and Plant Health Inspection Service (APHIS) administers the AWA.

The Act applies to any live or dead dog, cat, nonhuman primate, guinea pig, hamster, rabbit, or other warm-blooded animal determined by the Secretary of Agriculture to be for research or exhibition, or used as a pet. Additionally, the AWA mandates that all research facilities must be registered with the USDA's APHIS. To note, research facilities include state and local government-run research institutions, drug firms, universities, diagnostic laboratories, and facilities that study marine mammals. Lastly, all research universities in the state, (public and private), are accredited by the Association for Assessment and Accreditation of Laboratory Animal Care International (AAALAC) and are subject to additional standards that go above the regulatory requirements.

*Purpose of this bill.* According to the author, this measure seeks to provide an opportunity for Californians to adopt dogs and cats from tax-payer funded research, teaching, and veterinary research laboratories in California's postsecondary institutions of higher learning. The author contends that, "Current federal, state, and most educational-institutional policies and regulations covering animals in research provide for every aspect of the animals life from bedding, water access, enrichment, food, pain management, and method of euthanasia, but there exists no guidelines on what to do with the animals once the research has ended. When the research test,

procedure, or teaching exercise is over it is up to the discretion of the individual laboratory as to whether they will attempt to place the animal up for public adoption. Current law provides for no standard in identifying opportunities to provide for a humane post-research life and the mechanism to do so."

*Research institutions' adoption policies. UC.* On August 21, 2014, the UC issued systemwide guidance on the adoption of research dogs and cats that each UC campus has adopted as their individual campus policy for animal adoption. The UC Guidance Memo, found here, <http://www.ucop.edu/raohome/cgmemos/14-06.pdf> specifies, among others, that each UC campus should adopt locally appropriate procedures under which research dogs and cats that are property of the UC Regents may be transferred from the campus to individuals or organizations for non-research purposes.

*CSU.* To note, the CSU does not currently have any research activities involving dogs and cats on any of its campuses, but several of its campuses have adoption policies in place.

*CCC.* Most of the 112 CCCs that have animals on its campuses are used for teaching, not researching purposes and have adoption policies in place. The few CCCs that are involved in animal research also have adoption policies in place and adhere to the strict USDA guidelines.

*Association of Independent California Colleges and Universities (AICCU).* The independent California institutions of higher learning that have research dogs and cats (e. g. Loma Linda University and University of Southern California (USC), etc.) have individual adoption policies in place and have been successful in their adoptions of approved dogs and cats. To note, though Stanford University has no research projects that use cats, and over the last decade, has had very few dogs, it also has a very specific and followed adoption protocol.

*California statistics.* Based on 2014 data from the USDA's APHIS, presently, 97 percent of the dogs and 72 percent of the cats involved in medical research in California would be covered by this measure. According to the National Institutes of Health (NIH), in 2014, California received 7,731 grants, more grant funding from NIH (for animal research), than any other state. California was awarded grants totaling more than \$3.4 billion. To note, four of the top 15 U.S.-wide NIH awardees in 2014 were California universities: University of California, Stanford University, USC, and Cal Tech.

Only 1.5 percent of dogs and 7 percent of cats involved in medical research and teaching at California's institutions of higher learning were euthanized in 2013 and 2014, as required by the research protocol for scientific reasons.

According to the NIH, in 2014, 4,976 dogs and 1,946 cats were involved in medical research in California. 1,583 (or 32 percent) dogs and 590 (or 30 percent) cats were located at corporations, hospitals, and private research facilities and therefore not covered under this measure. However, 3,393 (or 68 percent) dogs and 1,356 (or 70 percent) cats would be covered under this measure.

To note, of the dogs and cats covered under this measure, 3,333 (or 98 percent) dogs and 1,071 (or 79 percent) cats were adopted out after involvement in a medical research program in 2014; 3,280 of the dogs and 1,059 of the cats were involved in active adoption programs by existing and on-going arrangements with local animal shelters. Additionally, 53 dogs and 12 cats were adopted out by universities after the conclusion of scientific protocols via their adoption

programs. Eighteen dogs and 219 cats remained at the research facility in on-going protocols, and were not eligible for adoption. Forty-five dogs and 64 cats were euthanized as a required and scientifically necessary part of the research protocol. A full tabulation of the 2014 numbers shows that of all the dogs and cats covered under this measure, one dog and four cats were euthanized after the conclusion of a research protocol whereby the research protocol did not require euthanasia. Said animals were euthanized because they were determined to be unadoptable for health and behavioral reasons by trained laboratory animal veterinarians.

*Efforts by other states.* House File 3172 (State of Minnesota) (Chapter 312, Statutes of 2014) is similar in nature to this measure. Additionally, the states of Nevada and Connecticut introduced legislation similar to this measure during their 2014 Legislative Sessions and the state of New York may potentially introduce similar legislation this year.

*Arguments in support.* According to the Beagle Freedom Project, "Giving dogs and cats, if healthy and no longer needed for research or post-research purposes, a chance at a family life, should not be discretionary for tax-payer funded institutions. The fact that some of these research facilities state that they have an internal policy in place does not negate the need for a unified, standard and permanent model."

According to the Sacramento SPCA, this measure demonstrates California's commitment to a high standard for the humane treatment of animals.

*Arguments in opposition.* According to the AICCU, the California Biomedical Research Association, Stanford University, and the USC, "The federal government has established an extensive regulatory framework, administered by the USDA that highly regulates the use and role of animals in research. Furthermore, all the institutions covered by this bill have policies and practices in place regarding animal care, research, euthanasia, and the adoption of healthy dogs and cats when appropriate and after an expert evaluation."

*Committee considerations. Who adopts?* According to many of the California universities that conduct research on dogs and cats, a standard process for faculty, staff, and students to adopt approved research dogs and cats exists; however, as drafted, it is unclear if this measure will prevent faculty, staff, and students from adopting these animals.

Should this measure pass out of this Committee, the author may wish to amend the bill to clarify that public postsecondary research educational institutions may allow for faculty, staff, and students to adopt approved research dogs and cats.

*Civil liability?* California universities that conduct research on dogs and cats have researchers and laboratory veterinarians that use their best judgment in determining if a dog or cat is adoptable. If the research universities are required to adopt research dogs and cats, that may take away the institutions' ability to use their best judgment, and, therefore create a liability risk for their researchers and universities.

Should this measure pass out of this Committee, staff recommends that the author consider amending the measure to address liability concerns. The author may wish to specify in the measure that a research university that is required to attempt to adopt out research dogs or cats to an animal adoption or rescue organization, shall be immune from any civil liability that otherwise might result from its actions, provided that the institution is acting in good faith.

*Previous legislation.* AB 2431 (Dababneh, 2014), which died in Assembly Appropriations Committee, was very similar to this measure.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

American Federation of State, County and Municipal Employees, AFL-CIO  
American Society for the Prevention of Cruelty to Animals  
Animal Humane Society of Minnesota  
Barks of Love Animal Rescue  
Beagle Freedom Bill  
Best Friends Animal Society  
Molly's Mutts & Meows  
Pasadena Humane Society & Society for the Prevention of Cruelty to Animals  
Pine Animal Hospital, Inc.  
Priceless Pets  
RedRover  
Sacramento Society for the Prevention of Cruelty to Animals  
San Francisco Society for the Prevention of Cruelty to Animals  
Sonoma Humane Society  
Tails of the City Animal Rescue  
The Amanda Foundation  
The Rescue Train  
7922 Individuals

**Opposition**

Association of Independent California Colleges and Universities  
California Biomedical Research Association  
Stanford University  
University of California  
University of Southern California

**Analysis Prepared by:** Jeanice Warden/HIGHER ED./(916) 319-3960