

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 793 (Schultz)
Version: June 10, 2025
Hearing Date: July 15, 2025
Fiscal: No
Urgency: No
AM

SUBJECT

Potentially dangerous and vicious dogs: designation and disposition: burden of proof

DIGEST

This bill revises the existing statutes regulating potentially dangerous or vicious dogs by, among other things, defining new terms, requiring determinations about whether a dog is vicious to be made by a clear and convincing evidence standard, requiring explicit findings on certain criteria, and establishing new statutory provisions for the regulation of provoked dogs.

EXECUTIVE SUMMARY

Existing law provides a statutory scheme to determine if a dog is dangerous or vicious, as defined, by a preponderance of the evidence. A finding that a dog is vicious can lead to the dog being euthanized if it is determined that the release of the dog would create a significant threat to public health, safety, and welfare. However, beyond establishing provisions requiring a hearing by a court or administrative hearing entity and the evidentiary standard in the hearing, existing law largely defers to the rules and regulations for the care and ownership of dogs adopted by local jurisdictions, often by the local animal control departments.

The author and sponsors of the bill claim that the existing system leads to inconsistent decisions regarding the fate of dogs alleged to be dangerous or vicious. This bill seeks to establish heightened requirements for the hearings and determinations of these cases. The bill creates several new definitions in state law, applies those definitions to local animal control department's hearing process, and increases the burden of proof for deeming a dog vicious to clear and convincing evidence. The bill also establishes a new framework for regulating provoked dogs. The bill is sponsored by Democrats for the Protection of Animals and Social Compassion in Legislation. The bill is supported by numerous animal rescue groups and approximately 650 individuals. The bill is opposed by CalAnimals and numerous animal shelters throughout the state and some local

jurisdictions. Should this bill pass out of this Committee, it will next be heard in the Senate Appropriations Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Finds and declares that potentially dangerous and vicious dogs have become a serious and widespread threat to the safety and welfare of citizens of this state. In recent years, they have assaulted without provocation and seriously injured numerous individuals, particularly children, and have killed numerous dogs. (Food & Ag. Code § 31601(a).)¹
- 2) Defines a “potentially dangerous dog” as any of the following:
 - a) Any dog which, when unprovoked, on two separate occasions within the prior 36-month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or keeper of the dog;
 - b) Any dog which, when unprovoked, bites a person causing a less severe injury than provided in 4), below; or
 - c) Any dog which, when unprovoked, on two separate occasions within the prior 36-month period, has killed, seriously bitten, inflicted injury, or otherwise caused injury attacking a domestic animal off the property of the owner or keeper of the dog. (§ 31602.)
- 3) Defines “vicious dog” as either:
 - a) Any dog that, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being; or
 - b) Any dog previously determined to be and currently listed as a potentially dangerous dog that, after its owner or keeper has been notified of this determination, continues the behavior described in 2). (§ 31603.)
- 4) Defines “severe injury” as any physical injury to a human being that results in muscle tears or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery. (§ 31604.)
- 5) Requires that, if an animal control officer or a law enforcement officer has investigated and determined that there exists probable cause to believe that a dog is potentially dangerous or vicious, the chief officer of the public animal shelter or animal control department, or the chief officer’s immediate supervisor, or the head of the local law enforcement agency, or the agency head’s designee, is to petition the superior court of the county in which the dog is owned or kept for a hearing for the

¹ All further references are to the Food and Agriculture Code unless specified otherwise.

purpose of determining whether or not the dog should be declared potentially dangerous or vicious. (§ 31621.)

- 6) Provides that a hearing to make the determination required by 5), above, may be filed in limited civil court or may be held through an administrative hearing process established by a city or county. (*Ibid.*)
- 7) Provides that a hearing conducted pursuant to 6), above, must be open to the public, accept all relevant evidence, and that the ultimate decision regarding a dog's status as a potentially dangerous or vicious dog is to be determined by a preponderance of the evidence. (*Ibid.*)
- 8) Provides that any appeal of the determination made in a hearing conducted pursuant to 6), above, is to be conducted de novo and a judge must make their own determination as to the potential danger and viciousness and make other orders, as specified. (§ 31622(b).)
- 9) Provides that, if a dog is determined to be a vicious dog, the dog may be destroyed by the animal control department when it is found, in the proceeding conducted pursuant to 6), above, that the release of the dog would create a significant threat to the public health, safety, and welfare. (§ 31645(a).)
- 10) Provides that, if a vicious dog is not ordered to be destroyed, then the officer conducting the hearing pursuant to 6), above, must impose conditions upon the ownership of the dog that protect the public health, safety, and welfare. (§ 31645(b).)

This bill:

- 1) Defines "provoke" to mean for a human or animal to behave intentionally or unintentionally in a way that a reasonable person would conclude is likely to harm, torment, agitate, scare, or confuse a dog such that the dog could or does bite, injure, or attack a human or animal, including a human trying to help the dog.
- 2) Defines "provocation" to include any of the following circumstances:
 - a) The dog was protecting or defending a person within the immediate vicinity of the dog from an attack or assault.
 - b) The dog was responding to pain or injury.
 - c) The dog was protecting itself, its owner or family member, its custodian, its offspring, its kennels, or its home.
 - d) The person was committing a crime or offense upon the property of the owner, or custodian, of the dog.
 - e) The person had a history of harming, agitating, scaring, tormenting, or confusing the dog.

- 3) Defines “public health, safety, and welfare” to include the health, safety, and welfare of both humans and animals.
- 4) Defines “unprovoked” to mean that a dog was not provoked when it engaged in any of the conduct or circumstances described in Sections 31602 and 31603, or described in 1) and 2), above.
- 5) Requires a clear and convincing evidence standard to be used when making a finding that a dog is vicious and makes conforming changes.
- 6) Requires the appropriate burden of proof to be used when making a determination under these provisions and requires explicit findings to support the conclusion that each requirement for placement in that category has been met, including findings specific to whether the dog engaged in unprovoked conduct in an initial determination and upon appeal.
- 7) Requires any order to end a dog’s life for reasons of public health, safety, and welfare to be supported by clear and convincing evidence that the jurisdiction’s requirements for the order are met, and include explicit findings regarding all of the following:
 - a) That the dog was not provoked.
 - b) That reasonable, humane terms and conditions would not adequately protect public health, safety, and welfare.
 - c) That the release of the dog would create a significant threat to the public health, safety, and welfare.
 - d) That the dog cannot be safely maintained inside or outside the jurisdiction.
- 8) Provides that a dog’s life may not be ended for the reason of public health, safety, and welfare before the exhaustion of all appeals or the time allowed for those appeals has elapsed.
- 9) Establishes regulations of provoked dogs, as provided.
- 10) Requires provocation to be a factor when considering whether and how a dog can be regulated to mitigate risk to public health, safety, and welfare.
- 11) Provides that, depending on the nature of the provocation, reasonableness of the dog’s response, and reasonable prediction of the degree of risk to public health, safety, and welfare the dog poses, options are to include any of the following:
 - a) Dismissal of the complaint without further action.
 - b) Imposition of reasonable, humane conditions of ownership when doing so is necessary to mitigate risk of further incidents.

- c) Humanely ending the dog's life by the local governmental agency or by the owner's veterinarian if it is determined by clear and convincing evidence, and reported in explicit findings, that all of the following are satisfied:
 - i. The provoked dog, in an aggressive manner, inflicted severe injury, as defined in Section 31604, which was significantly disproportionate to the provocative stimulus.
 - ii. Release of the dog would create a significant threat to the public health, safety, and welfare.
 - iii. The risk to public health, safety, and welfare cannot be addressed adequately by an order of reasonable, humane terms and conditions of ownership imposed on an owner.
 - iv. A feasible alternative does not exist for the dog to live safely inside or outside the jurisdiction.
- 12) Provides that severity of an injury is not determinative of whether a dog was provoked or whether the release of the dog would create a significant threat to public health, safety, and welfare.
- 13) Provides that testimony of a certified applied behaviorist, board-certified veterinary behaviorist, or other recognized expert is relevant to a determination whether a dog's behavior was provoked and the scope of regulating the dog, if regulation is considered. That testimony must still meet other standards for admission, such as credibility and authenticity.
- 14) Provides that any program by a city or county adopted to impose more restrictive control must comply with certain requirements including:
 - a) not be specific as to breed, except as provided in Section 122331 of the Health and Safety Code; and
 - b) apply clear and convincing evidence and require explicit findings in any administrative hearing or limited civil case conducted to determine whether a dog poses a degree of risk to public health, safety, and welfare such that it should be placed in a category that could or will result in an order of death.
- 15) Provides that the Legislature finds and declares that ensuring dogs are designated in a uniform manner as posing or potentially posing a significant threat to human and animal safety and are destroyed only after adequate due process is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution.
- 16) Makes various findings and declarations of the Legislature.

COMMENTS

1. Stated need for the bill

The author writes:

California's current approach to potentially dangerous dog proceedings often leads to irreversible and life-altering decisions, such as ending a dog's life, without the confidence of thorough and equitable processes. By introducing a "clear and convincing evidence" standard, recommended by the American Veterinary Medical Association, this bill ensures that decisions are made with greater care and accountability. This higher standard allows us to better protect families, communities, and the wellbeing of animals while ensuring that public safety remains a top priority.

Additionally, AB 793 brings much-needed consistency to these proceedings by defining key terms like "provocation" and requiring explicit findings before a dog can be classified as dangerous or euthanized. These provisions guarantee that dog owners receive fair treatment and provide critical clarity for appeals. AB 793 reflects a thoughtful, balanced approach—one that prioritizes humane outcomes while addressing public safety concerns with precision and respect for due process.

2. This bill seeks to establish enhanced requirements for the regulation of potentially vicious or dangerous dogs

The existing statutory framework regulating potentially dangerous or vicious dogs requires an animal control officer to petition either local authorities or the superior court for a determination whether the dog is dangerous or vicious when an animal control or humane office possesses probable cause to believe that a dog is potentially dangerous or vicious. This is generally based on public complaints made to local animal control agencies. Existing law authorizes a city or county to establish an administrative hearing procedure to hear and dispose of these petitions. The dog's owner is required to be notified of the hearing in writing and is authorized to contest the determination at a hearing. A hearing officer must then determine, by a preponderance of the evidence, whether or not the dog is dangerous or vicious. If a dog is determined to be vicious, it is likely to be euthanized by the local animal control agency. The owners of dogs deemed potentially dangerous, but not vicious, are frequently given plans for controlling the dog and securing their property that must be followed as a condition of recovering possession of the dog. Section 31683 provides that these provisions are not to be "construed to prevent a city or county from adopting or enforcing its own program for the control of potentially dangerous or vicious dogs that may incorporate all, part, or none of this chapter, or that may punish a violation of this chapter as a misdemeanor or may impose a more restrictive program to control potentially dangerous or vicious dogs."

The sponsors of the bill highlight a specific situation for the need or impetus of the bill. Social Compassion in Legislation, one of the sponsors of the bill, writes:

The need for AB 793 was illustrated by the case of Conan, a family dog who bit a neighbor in the City of Burbank. Burbank had adopted state law and found that Conan was “vicious,” saying that the injury associated with the single bite indicated to them that Conan was unprovoked when he bit the neighbor. The City reached this decision without a definition of “provocation,” and accordingly, without sufficient guidance for determining whether Conan was provoked by the neighbor. The City also lacked guidance for determining whether Conan could be safely maintained under terms and conditions of ownership and ordered that Conan be humanely destroyed.

Conan was known to be quite friendly, and perhaps because of his popularity on social media, his family was able to collect financial support with which to appeal the order in superior court. The court identified questions about the issue of provocation and found that Conan’s risk to public safety could be sufficiently mitigated through specified training and other terms and conditions applied to his family.

The proponents of the bill have also provided other examples to Committee staff of situations where, in their assessment, a higher standard of evidence, definitions for “provocation” and “provoked,” and explicit findings would have led to better outcomes for the dogs and owners involved and where the initial determination was challenged.

The bill does several things to provide more clarity and guidance under the existing framework. First, the bill raises the standard of proof that has to be met when making a determination that a dog is vicious and a determination that a vicious dog should be euthanized to clear and convincing evidence. The opposition to this bill does not have any concerns with this provision.

Second, the bill establishes definitions to guide those making determinations under existing law. The bill defines “provoke” to mean for a human or animal to behave intentionally or unintentionally in a way that a reasonable person would conclude is likely to harm, torment, agitate, scare, or confuse a dog such that the dog could or does bite, injure, or attack a human or animal, including a human trying to help the dog. Next, the bill specifies circumstances that include “provocation,” such as a person had a history of harming, agitating, scaring, tormenting, or confusing the dog. The bill provides “unprovoked” to mean a dog that is not provoked when engaged in circumstances provided under the definition of provocation.

In regards to the definitions described above, the opposition writes:

The bill's treatment of "provocation" is similarly problematic. It creates a statutory definition that is internally inconsistent, legally vague, and duplicative of existing factors already considered in animal control determinations. Most concerning, the bill is unclear as to the legal consequences of a finding of provocation, while requiring that it be addressed in findings regardless. This risks prolonging hearings and creating conflicts between state and local interpretations without offering any new protections or clarity.

Next, the bill provides that explicit findings are required for any decision that results in dog a dog being euthanized. The determination is required to include explicit findings regarding all of the following:

- that the dog was not provoked;
- that reasonable, humane terms and conditions would not adequately protect public health, safety, and welfare;
- that the release of the dog would create a significant threat to the public health, safety, and welfare; and
- that the dog cannot be safely maintained inside or outside the jurisdiction.

In regards to this provision of the bill, the opposition writes:

AB 793 also mandates "explicit findings" for each element of designation. This level of specificity may sound beneficial in theory, but in practice it will increase litigation, create appealable technicalities, and burden administrative hearing officers beyond what is typical even in civil court. Hearing officers, many of whom are not attorneys, will face unreasonable legal drafting requirements that increase cost and delay without enhancing justice. [...]

The bill specifies that a dog's life may not be ended for the reason of public health, safety, and welfare before the exhaustion of all appeals or the time allowed for those appeals has elapsed. The opposition notes that delaying "until all possible appeals, including those outside the statutory process, are exhausted, could stretch cases over years and result in prolonged kennel stays with adverse welfare impacts on the animals involved."

The bill establishes that provocation is required to be a factor when considering whether and how a dog can be regulated to mitigate risk to public health, safety, and welfare. Depending on the nature of the provocation, reasonableness of the dog's response, and reasonable prediction of the degree of risk to public health, safety, and welfare the dog poses, options to regulate a dog include all of the following:

- dismissal of the complaint without further action;
- imposition of reasonable, humane conditions of ownership when doing so is necessary to mitigate risk of further incidents; and

- humanely ending the dog's life by the local governmental agency or by the owner's veterinarian if certain specified criteria are determined by clear and convincing evidence and reported in explicit findings.

The specified criteria to be determined by clear and convincing evidence and reported in explicit findings are that:

- the provoked dog, in an aggressive manner, inflicted severe injury, as defined, which was significantly disproportionate to the provocative stimulus;
- release of the dog would create a significant threat to the public health, safety, and welfare;
- the risk to public health, safety, and welfare cannot be addressed adequately by an order of reasonable, humane terms and conditions of ownership imposed on an owner; and
- a feasible alternative does not exist for the dog to live safely inside or outside the jurisdiction.

The opposition writes that "requiring jurisdictions to assess whether a dog can be 'safely maintained inside or outside the jurisdiction' is both impractical and unenforceable. Local agencies cannot reasonably investigate or opine on conditions in other counties or states, and such language creates a loophole that could encourage 'jurisdiction shopping' by dangerous dog owners."

3. Amendments

In light of the various concerns raised above by the opposition, the author has agreed to make several amendments to address the concerns raised. A mock-up of these amendments can be found at the end of this analysis.

4. Statements in support

Social Compassion in Legislation, one of the sponsors of the bill, writes in support stating:

AB 793 will require the use of the "clear and convincing evidence" standard of proof when deciding if a dog should be classified in a way that could lead to euthanasia or be euthanized because the dog cannot be reasonably and safely maintained through other means. The bill also establishes clear definitions, such as "provoked" and "irremediable threat to public safety," to ensure consistent and fair outcomes across the state in the application of these concepts in dangerous dog determinations.

Jurisdictions are responsible for assessing the extent of risk individual dogs pose to public safety, while also assessing the degree to which owners can and will safely maintain their dogs through responsible pet ownership practices. Among the tools jurisdictions use to address public safety risk are orders of humane euthanasia.

Accurate and fair euthanasia decisions are essential to ensure actual benefit to the community and to protect families from unnecessarily losing dogs they consider family members, especially when terms and conditions would have provided sufficient public safety.

California would not be the first state to require the “clear and convincing evidence” standard. At least six other states use a higher standard than “preponderance of the evidence” in these situations. Additionally, the American Veterinary Medical Association recommends use of the “clear and convincing evidence” standard. AB 793 adopts this standard and language from the AVMA’s model dog legislation.

Dogs are our families. A [2023 Pew Research Center survey](#) showed that 97% of Americans believe their pet is a part of their family, with over half saying they are as much a member as a human member. These figures are even higher among women and lower income communities. If a government authority is going to order a family dog to be euthanized, we believe all Californians would want the evidence supporting that decision to be clear and convincing – not merely a tad better than a flip of a coin, which is what the current “by a preponderance of the evidence” standard requires.[...]

Conan’s case attracted considerable attention and brought to light that ambiguity and lack of definitions in the Food and Agricultural code, as well as in many municipal codes, has resulted in similar cases throughout the State. These cases, where families often do not have legal representation and the proceedings occur quickly, call for an update to the law to ensure a more deliberative process in reaching decisions about whether humane euthanasia is necessary or if terms and conditions of ownership would be a reasonable and adequate protection of public safety.

5. Statements in opposition

CalAnimals and a coalition of hundreds of shelters and animal control agencies write in opposition unless amended. They note that they do not oppose raising the burden of proof under the bill to clear and convincing evidence, but have many issues and concerns with other provisions of the bill.

They write:

[...] While we support efforts to enhance clarity, consistency, and due process in these cases, AB 793 introduces unnecessary confusion, procedural instability, and operational burdens that will undermine effective enforcement and public safety.

We want to emphasize that we do not oppose raising the burden of proof to “clear and convincing evidence” for designations that may result in the euthanasia of a

dog. However, the approach taken in this bill, requiring hearing officers to select a standard of proof on the record without clarity as to when each standard applies, creates legal uncertainty and invites appeals based solely on procedural missteps. This will complicate hearings, delay resolutions, and increase the potential for technical reversals, without improving fairness or safety.

Additionally, the bill introduces ambiguous, ideologically driven language, such as replacing “euthanize” with euphemisms like “end a dog’s life” which obscures statutory intent and is inappropriate for legal code. This language invites misinterpretation by the public, courts, and agencies, while undermining the seriousness of proceedings that often involve traumatic incidents and community risk.

[...] Finally, AB 793 undermines local authority by mandating statewide standards for hearings, findings, and terminology, even in jurisdictions with long-established programs tailored to local needs. While uniformity is a worthwhile goal in theory, this bill imposes a rigid and confusing framework that will disrupt effective local governance without meaningful benefit.

The designation of a dog as potentially dangerous or vicious is a critical tool for protecting public safety. These determinations allow animal control officers and courts to respond to serious threats posed by dogs that have demonstrated aggressive or violent behavior. When dogs that have caused significant injury or shown repeated aggression are returned to the community without appropriate safeguards, or worse, without designation at all, the risk to children, seniors, pets, and other vulnerable individuals increases significantly. The consequences of missteps in these cases are not theoretical; they can and have resulted in severe injury and even death.

A system that prioritizes procedural technicalities over effective, timely intervention undermines public trust and puts community members at unnecessary risk. It is essential that laws governing dangerous dog designations empower local agencies to act swiftly and decisively in the interest of public safety.

SUPPORT

Democrats for the Protection of Animals (sponsor)

Social Compassion in Legislation (sponsor)

Ace of Hearts Dog Rescue

Angel's Furry Friends

Angel's Furry Friends Rescue

Animal Protection and Rescue League

Animal Rescuers for Change

Animal Wellness Action

Berkeley Animal Rights Center

Better Together Forever
Born Again Animal Rescue and Adoption
Compassionate Bay
Concerned Citizens Animal Rescue
Decoding Dogs
Feline Lucky Adventures
Ghetto Rescue Foundation
GiantMecha Syndicate
Greater Los Angeles Animal Spay Neuter Collaborative
Hugs and Kisses Animal Fund
K9 Intuition LLC
Latino Alliance for Animal Care Coalition
Leaders for Ethics, Animals, and the Planet (LEAP)
Los Angeles Democrats for the Protection of Animals
Michelson Center for Public Policy
NorCal Bully Breed Rescue
NY 4 Whales
Paw Project, the
Pibbles N Kibbles Animal Rescue
Plant-based Advocates
Project Minnie
Real Good Rescue
Seeds 4 Change Now Animal Rescue
Seniors Citizens for Humane Education and Legislation
Southern California Pit Bull Rescue
Start Rescue
Students Against Animal Cruelty Club - Hueneme High School
The Animal Rescue Mission
The Canine Condition
The Pet Loss Support Group
The Spayce Project
Topline K9 Services
Underdog Heroes
Virginia Alliance for Animal Shelters
Women United for Animal Welfare
World Animal Protection
Over 600 individuals

OPPOSITION

ASAP CATS
Bakersfield SPCA
Barstow Humane Society
Butte Humane Society
Calaveras Humane Society

California Animal Welfare Association
California State Association of Counties
California Teamsters Public Affairs Council
Central California SPCA
City of Carpinteria
City of Elk Grove
City of Grand Terrace
City of Shasta Lake Animal Control
City of Stockton Animal Services
County Health Executives Association of California
County of Fresno
County of Los Angeles
County of San Luis Obispo, Division of Animal Services
County of Siskiyou
Front Street Animal Shelter - City of Sacramento
Haven Humane Society
Hayward Animal Services Bureau
Hesperia Animal Control
Humane Society of the Sierra Foothills
Humane Society of Truckee-Tahoe
Inland Valley Humane Society & SPCA
Joybound People & Pets
Lake County Animal Care and Control
Living Free Animal Sanctuary
Long Beach Animal Care Services
Los Angeles County Department of Animal Care and Control
Marin Humane Society
National Animal Care & Control Association
Oxnard Police Animal Safety
Paws for Life K9 Rescue
Peninsula Humane Society & SPCA
Pets in Need
Placer SPCA
Rural County Representatives of California
Sammie's Friends
San Diego County Department of Animal Services
San Diego Humane Society
San Diego Humane Society and SPCS
San Francisco SPCA
Santa Barbara Humane Society
Santa Cruz County Animal Shelter
Siskiyou County Department of Animal Control
Sonoma County Animal Services
Southeast Area Animal Control Authority

SPCS Monterey County

SPCALA

Stray Cat Alliance

Town of Apple Valley Animal Services

Town of Paradise Animal Control and Shelter

Turlock Police Animal Services

Turlock Police Department

Urban Counties of California

Ventura County Animal Services

Woods Humane Society

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation: None known.

PRIOR VOTES

Assembly Floor (Ayes 68, Noes 0)

Assembly Judiciary Committee (Ayes 12, Noes 0)

MOCK-UP OF AMENDMENTS REFERENCED IN COMMENT 3), ABOVE

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 31601 of the Food and Agricultural Code is amended to read:

31601. (a) The Legislature finds and declares all of the following:

(1) Potentially dangerous and vicious dogs can pose a serious threat to the safety and welfare of residents of this state. The necessity for the regulation and control of vicious and potentially dangerous dogs is a statewide problem that requires statewide regulation.

(2) The number and severity of these attacks are attributable to the failure of owners to register, confine, and properly control vicious and potentially dangerous dogs. Regulating dog ownership is an important tool for improving public health, safety, and welfare.

~~(3) Although dogs are legally classified as the property of their owners, societal understanding of dog companionship and ownership has moved toward viewing them as members of families. Dog owners in this state agree their individual interests and rights in owning and managing their dogs greatly exceed measurement in monetary terms.~~

(4) ~~Dog owners~~Dogs in this state ~~also agree that dogs~~ subject to regulation and control should not unnecessarily lose their lives when they pose minimal or no threat to the public health, safety, and welfare, or when they can be safely maintained with terms and conditions of ownership.

(b) It is the intent of the Legislature to regulate dog ownership in a manner that reduces risk to the public health, safety, and welfare, while promoting responsible ~~ownership and without unnecessarily ending dogs' lives. As a matter of both protecting constitutional property rights and respecting the status of dogs as family members, government should use the least destructive means necessary to mitigate risk to public health, safety, and welfare.~~ *ownership.*

SEC. 2. Section 31601.5 is added to the Food and Agricultural Code, to read:

31601.5. Unless the context requires otherwise, the definitions in this article govern the construction of this chapter.

SEC. 3. Section 31601.11 is added to the Food and Agricultural Code, to read:

31601.11. ~~(a)~~ “Provoke” means for a human or animal to behave intentionally or unintentionally in a way that a reasonable person would conclude is likely to harm, torment, agitate, scare, or confuse a dog such that the dog could or does bite, injure, or attack a human or animal, including a human trying to help the dog.

~~(b) “Provocation” includes any of the following circumstances:~~

~~(1) The dog was protecting or defending a person within the immediate vicinity of the dog from an attack or assault.~~

~~(2) The dog was responding to pain or injury.~~

~~(3) The dog was protecting itself, its owner or family member, its custodian, its offspring, its kennels, or its home.~~

~~(4) The person was committing a crime or offense upon the property of the owner, or custodian, of the dog.~~

~~(5) The person had a history of harming, agitating, scaring, tormenting, or confusing the dog.~~

SEC. 4. Section 31601.13 is added to the Food and Agricultural Code, to read:

31601.13. ~~“Public health, safety, and welfare” includes the health, safety, and welfare of both humans and animals.~~

SEC. 5. Section 31601.15 is added to the Food and Agricultural Code, to read:

31601.15. ~~“Unprovoked” means that a dog was not provoked when it engaged in any of the conduct or circumstances described in Section 31602, 31603, or 31601.11.~~

SEC. 6. Section 31609 of the Food and Agricultural Code is amended to read:

31609. (a) This chapter does not apply to licensed kennels, humane society shelters, animal control facilities, or veterinarians.

(b) This chapter does not apply to dogs while utilized by any police department or any law enforcement officer in the performance of police work.

(c) This chapter shall apply only to a governmental or judicial proceeding to evaluate and address a risk to public health, safety, and welfare posed by an individual dog and does not apply to any civil action for remedies such as damages, injunctive relief, or restraining orders arising from an alleged injury to a human or animal or damage to property.

SEC. 7. Section 31621 of the Food and Agricultural Code is amended to read:

31621. If an animal control officer or a law enforcement officer has investigated and determined that there exists probable cause to believe that a dog is potentially dangerous or vicious, the chief officer of the public animal shelter or animal control department, or the chief officer's immediate supervisor, or the head of the local law enforcement agency, or the agency head's designee, shall petition the superior court of the county in which the dog is owned or kept for a hearing for the purpose of determining whether or not the dog should be declared potentially dangerous or vicious. A proceeding under this section is a limited civil case. A city or county may establish an administrative hearing procedure to hear and dispose of petitions filed pursuant to this chapter. Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis for the animal control officer or law enforcement officer to find probable cause shall be sworn to and verified by the complainant and shall be attached to the petition. The chief officer of the public animal shelter or animal control department or head of the local law enforcement agency shall notify the owner or keeper of the dog that a hearing will be held by the superior court or the hearing entity, as the case may be, at which time the owner or keeper of the dog may present evidence as to why the dog should not be declared potentially dangerous or vicious. The owner or keeper of the dog shall be served with notice of the hearing and a copy of the petition, either personally or by first-class mail with return receipt requested. The hearing shall be held promptly within no less than 5 working days nor more than 10 working days after service of notice upon the owner or keeper of the dog. The hearing shall be open to the public. The court or hearing entity may admit into evidence all relevant evidence, including incident reports and the affidavits of witnesses, limit the scope of discovery, and may shorten the time to produce records or witnesses. A jury shall not be available. The court or hearing entity may find, upon a preponderance of the evidence, that the dog is potentially dangerous, and shall apply the clear and convincing evidence standard of proof to find whether the dog is vicious. In making any finding on a potentially dangerous or vicious dog, the court or hearing entity shall apply the appropriate burden of proof and shall make ~~explicit~~ *factual* findings to support the conclusion that each requirement for placement in that category has been met, including findings specific to whether the dog ~~engaged in unprovoked conduct~~ *was provoked*. The court or hearing entity may make other orders authorized by this chapter. *A local jurisdiction may choose to use a higher evidentiary standard than the ones required under this section.*

SEC. 8. Section 31622 of the Food and Agricultural Code is amended to read:

31622. (a) After the hearing conducted pursuant to Section 31621, the owner or keeper of the dog shall be notified in writing of the determination and orders issued, either personally or by first-class mail postage prepaid by the court or hearing entity. If a determination is made that the dog is potentially dangerous or vicious, the owner or keeper of the dog shall comply with Article 3 (commencing with Section 31641) in

accordance with a time schedule established by the chief officer of the public animal shelter or animal control department or the head of the local law enforcement agency, but in no case more than 30 days after the date of the determination or 35 days if notice of the determination is mailed to the owner or keeper of the dog. If the petitioner or the owner or keeper of the dog contests the determination, they may, within five days of the receipt of the notice of determination, appeal the decision of the court or hearing entity of original jurisdiction. The fee for filing an appeal, payable to the clerk of the court, is as provided in subdivision (b) of Section 70626 of the Government Code. If the original hearing held pursuant to Section 31621 was before a hearing entity other than a court of the jurisdiction, appeal shall be to the superior court. If the original hearing was held in the superior court, appeal shall be to the superior court before a judge other than the judge who originally heard the petition. The petitioner or the owner or keeper of the dog shall serve personally or by first-class mail, postage prepaid, notice of the appeal upon the other party.

(b) The court hearing the appeal shall conduct a hearing de novo, without a jury, and make its own determination as to potential danger and viciousness and make other orders authorized by this chapter, based upon the evidence presented. The hearing shall be conducted in the same manner and within the time periods set forth in Section 31621 and subdivision (a). The court may admit all relevant evidence, including incident reports and the affidavits of witnesses, limit the scope of discovery, and may shorten the time to produce records or witnesses. The issue shall be decided upon the preponderance of the evidence, except that any finding that a dog is vicious shall be decided by clear and convincing evidence. In making any finding on a potentially dangerous or vicious dog, the court shall apply the appropriate burden of proof and shall make ~~explicit~~ *factual* findings to support the conclusion that each requirement for placement in that category has been met, including findings specific to whether the dog ~~engaged in unprovoked conduct.~~ *was provoked*. If the court rules the dog to be potentially dangerous or vicious, the court may establish a time schedule to ensure compliance with this chapter, but in no case more than 30 days subsequent to the date of the court's determination or 35 days if the service of the judgment is by first-class mail.

SEC. 9. Section 31622.5 is added to the Food and Agricultural Code, to read:

31622.5. (a) Any order issued pursuant to this article to end a dog's life for reasons of public health, safety, and welfare shall be supported by clear and convincing evidence that the jurisdiction's requirements for the order are met, and shall include ~~explicit~~ *factual* findings regarding all of the following:

(1) That the dog was not provoked.

(2) That reasonable, humane terms and conditions would not adequately protect public health, safety, and welfare.

(3) That the release of the dog would create a significant threat to the public health, safety, and welfare.

~~(4) That the dog cannot be safely maintained inside or outside the jurisdiction.~~

(b) ~~A dog's life~~ *dog* may not be ~~ended~~ *ethanized* for the reason of public health, safety, and welfare before the exhaustion of all appeals or the time allowed for those appeals has elapsed.

SEC. 10. Section 31626 of the Food and Agricultural Code is amended to read:

31626. (a) No dog may be declared potentially dangerous or vicious if any injury or damage is sustained by a person who, at the time the injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing, provoking, or assaulting the dog, or was committing or attempting to commit a crime. No dog may be declared potentially dangerous or vicious if the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault. No dog may be declared potentially dangerous or vicious if an injury or damage was sustained by a domestic animal that at the time the injury or damage was sustained was teasing, tormenting, abusing, or assaulting the dog.

(b) No dog may be declared potentially dangerous or vicious if the injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.

SEC. 11. Section 31645 of the Food and Agricultural Code is amended to read:

31645. (a) ~~The life of a~~ *A* dog determined to be a vicious dog under this chapter, or subject to death in accordance with city or county law, may be ~~ended~~ *ethanized* by the animal control department only when it is found by clear and convincing evidence at proceedings conducted under Article 2 (commencing with Section 31621) that the requirements of Section 31622.5 are satisfied.

(b) If it is determined that the life of a dog found to be vicious shall not be ended, the judicial authority shall impose conditions upon the ownership of the dog that protect the public health, safety, and welfare.

(c) Any enclosure that is required pursuant to subdivision (b) shall meet the requirements of Section 31605.

SEC. 12. Article 3.5 (commencing with Section 31650) is added to Chapter 9 of Division 14 of the Food and Agricultural Code, to read:

Article 3.5. Regulation of Provoked Dogs

31650. (a) Provocation shall be a factor when considering whether and how a dog can be regulated to mitigate risk to public health, safety, and welfare. Depending on the nature of the provocation, reasonableness of the dog's response, and reasonable prediction of the degree of risk to public health, safety, and welfare the dog poses, options shall include any of the following:

(1) Dismissal of the complaint without further action.

(2) Imposition of reasonable, humane conditions of ownership when doing so is necessary to mitigate risk of further incidents.

(3) ~~Humanely ending the dog's life~~ *Euthanizing the dog* by the local governmental agency or by the owner's veterinarian if it is determined by clear and convincing evidence, and reported in ~~explicit~~ *factual* findings, that all of the following are satisfied:

(A) The provoked dog, in an aggressive manner, inflicted severe injury, as defined in Section 31604, which was significantly disproportionate to the provocative stimulus.

(B) Release of the dog would create a significant threat to the public health, safety, and welfare.

(C) The risk to public health, safety, and welfare cannot be addressed adequately by an order of reasonable, humane terms and conditions of ownership imposed on an owner.

~~(D) A feasible alternative does not exist for the dog to live safely inside or outside the jurisdiction.~~

(b) Notwithstanding paragraphs (2) and (3) of subdivision (a), a dog may not be regulated with terms and conditions, and a dog's life may not be ended, if the dog is found to have engaged in any of the conduct under the circumstances described in Section 31626.

~~(c) Severity of an injury is not determinative of whether a dog was provoked or whether the release of the dog would create a significant threat to public health, safety, and welfare.~~

~~(d) Testimony of a certified applied behaviorist, board-certified veterinary behaviorist, or other recognized expert shall be relevant to a determination whether a dog's behavior was provoked and the scope of regulating the dog, if regulation is considered.~~

~~That testimony shall still meet other standards for admission, such as credibility and authenticity.~~

~~(e) The life of a~~ (c) A dog that was provoked may not be ~~ended~~ *euthanized* for the reason of public health, safety, and welfare before the exhaustion of all appeals or the time allowed for those appeals has elapsed.

SEC. 13. Section 31683 of the Food and Agricultural Code is amended to read:

31683. (a) Except as provided in subdivision (b), this chapter does not prevent a city or county from adopting or enforcing its own program for the control of potentially dangerous or vicious dogs that may incorporate all, part, or none of this chapter, or that may punish a violation of this chapter as a misdemeanor or may impose a more restrictive program to control potentially dangerous or vicious dogs.

(b) (1) (A) A program regulating any dog shall not be specific as to breed, except as provided in Section 122331 of the Health and Safety Code.

(B) In any administrative hearing or limited civil case conducted to determine whether a dog poses a degree of risk to public health, safety, and welfare such that it should be placed in a category that could or will result in an order of death to protect public health, safety, and welfare, a program described in subdivision (a) shall require at least all of the following:

(i) The application of the definition and provisions pertaining to provocation set forth in Section 31601.11 and Article 3.5 (commencing with Section 31650).

(ii) The application of the clear and convincing standard of proof.

(iii) ~~Explicit~~ *Factual* findings regarding each requirement for placement in that category showing that each of those requirements has been met, including findings specific to whether the dog ~~engaged in unprovoked conduct.~~ *was provoked.*

(C) A program described in subdivision (a) shall require the hearing entity to indicate, on the record, the jurisdiction's standard rule of evidentiary proof of either preponderance of the evidence or clear and convincing evidence it applies to find whether a dog may be placed in a category that could or will result in the imposition of terms and conditions of ownership of the dog but not in a category that could or will result in an order of death to protect public health, safety, and welfare.

(D) A program described in subdivision (a) shall require the same evidentiary burden of proof that was used in the hearing on original jurisdiction to be used for a hearing on appeal.

(E) A program described in subdivision (a) shall not authorize an order to be issued ~~for ending the life of~~ *to euthanize* a dog for public health, safety, and welfare reasons unless it is shown at any administrative hearing or any limited civil case that the requirements applicable to issuing an order pursuant to Section 31622.5 or the requirements of Article 3.5 (commencing with Section 31650), as applicable, are satisfied.

(F) A program described in subdivision (a) shall not authorize a dog's life to be ended for the reason of public health, safety, and welfare before the exhaustion of all appeals or the time allowed for those appeals has elapsed.

(2) The Legislature finds and declares that ensuring dogs are designated in a uniform manner as posing or potentially posing a significant threat to human and animal safety and are destroyed only after adequate due process is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. This subdivision applies to all counties and cities, including charter counties and charter cities.