

AMENDED IN ASSEMBLY MARCH 30, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1951

Introduced by Assembly Member Salas
(Coauthor: Assembly Member Brough)

February 12, 2016

An act to amend Sections 597, 597.5, 600, and 600.5 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1951, as amended, Salas. Crimes: animal cruelty.

Existing law makes it a crime to maliciously and intentionally maim, mutilate, torture, or wound a living animal, or maliciously and intentionally kill an animal. Existing law also makes it a crime to overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, drink, or shelter, cruelly beat, mutilate, or cruelly kill an animal. Existing law makes these crimes punishable as a felony by imprisonment in the county ~~jail~~, *jail for 16 months, 2, or 3 years*, or as a misdemeanor punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than \$20,000, or by both that fine and either imprisonment.

This bill would instead make the above crimes punishable as a felony by imprisonment in either the state prison *for 2, 3, or 4 years*, or a county ~~jail~~, *jail for 16 months, 2, or 3 years*, or as a misdemeanor *by imprisonment* in a county jail, or a fine of not more than \$20,000, or by both that fine and either the felony or misdemeanor terms of imprisonment.

Existing law makes it a crime to own, possess, keep, or train any dog with the intent that the dog shall be engaged in an exhibition of fighting with another dog. Existing law additionally makes it a crime to, for amusement or gain, cause any dog to fight with another dog, or cause any dog to injure another dog. Existing law also makes it a crime for a person to permit either of these acts to be done on premises under his or her charge or control, or to aid or abet either act. Existing law makes these crimes punishable as a felony by imprisonment in a county jail, or by a fine not to exceed \$50,000, or by both that fine and imprisonment.

This bill would instead make these crimes punishable as a felony by imprisonment in the state prison, or by a fine not to exceed \$50,000, or by both that fine and imprisonment.

Existing law makes it a crime to willfully and maliciously and with no legal justification take specified actions, including strike, beat, and hurl or project objects at, any horse or dog under the supervision of a peace officer in the discharge or attempted discharge of his or her duties. If the act causes a serious injury, existing law makes it punishable by imprisonment in the county jail for 16 months, 2, or 3 years, or as a misdemeanor punishable by imprisonment in the county jail for not more than one year, or by a fine of not more than (\$2,000), or by both that fine and either imprisonment.

This bill would instead make the above crime punishable as a felony by imprisonment in either the state prison for 2, 3, or 4 years, or a county jail for 16 months, 2, or 3 years, or as a misdemeanor by imprisonment in a county jail, or a fine of not more than \$20,000, or by both that fine and either the felony or misdemeanor terms of imprisonment.

Existing law makes any person who intentionally causes injury to or the death of any guide, signal, or service dog, as defined, while the dog is in discharge of its duties, guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding one year, or by a fine of not more than \$10,000, or by both a fine and that imprisonment.

This bill would instead make that crime punishable as a felony by imprisonment in either the state prison *for 2, 3, or 4 years*, or a county ~~jail~~, *jail for 16 months, 2, or 3 years*, or as a misdemeanor by *imprisonment* in a county jail, or by a fine of not more than \$20,000, or by both that fine and either the felony or misdemeanor terms of imprisonment.

By increasing the punishments for crimes, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 597 of the Penal Code is amended to
2 read:

3 597. (a) Except as provided in subdivision (c) of this section
4 or Section 599c, every person who maliciously and intentionally
5 maims, mutilates, tortures, or wounds a living animal, or
6 maliciously and intentionally kills an animal, is guilty of a crime
7 punishable pursuant to subdivision (d).

8 (b) Except as otherwise provided in subdivision (a) or (c), every
9 person who overdrives, overloads, drives when overloaded,
10 overworks, tortures, torments, deprives of necessary sustenance,
11 drink, or shelter, cruelly beats, mutilates, or cruelly kills any
12 animal, or causes or procures any animal to be so overdriven,
13 overloaded, driven when overloaded, overworked, tortured,
14 tormented, deprived of necessary sustenance, drink, shelter, or to
15 be cruelly beaten, mutilated, or cruelly killed; and whoever, having
16 the charge or custody of any animal, either as owner or otherwise,
17 subjects any animal to needless suffering, or inflicts unnecessary
18 cruelty upon the animal, or in any manner abuses any animal, or
19 fails to provide the animal with proper food, drink, or shelter or
20 protection from the weather, or who drives, rides, or otherwise
21 uses the animal when unfit for labor, is, for each offense, guilty
22 of a crime punishable pursuant to subdivision (d).

23 (c) Every person who maliciously and intentionally maims,
24 mutilates, or tortures any mammal, bird, reptile, amphibian, or
25 fish, as described in subdivision (e), is guilty of a crime punishable
26 pursuant to subdivision (d).

27 (d) A violation of subdivision (a), (b), or (c) is punishable as a
28 felony by imprisonment in the state prison *for two, three, or four*

1 years or pursuant to subdivision (h) of Section 1170, by a fine of
2 not more than twenty thousand dollars (\$20,000), or by both that
3 fine and imprisonment, or alternatively, as a misdemeanor by
4 imprisonment in a county jail for not more than one year, or by a
5 fine of not more than twenty thousand dollars (\$20,000), or by
6 both that fine and imprisonment.

7 (e) Subdivision (c) applies to any mammal, bird, reptile,
8 amphibian, or fish which is a creature described as follows:

9 (1) Endangered species or threatened species as described in
10 Chapter 1.5 (commencing with Section 2050) of Division 3 of the
11 Fish and Game Code.

12 (2) Fully protected birds described in Section 3511 of the Fish
13 and Game Code.

14 (3) Fully protected mammals described in Chapter 8
15 (commencing with Section 4700) of Part 3 of Division 4 of the
16 Fish and Game Code.

17 (4) Fully protected reptiles and amphibians described in Chapter
18 2 (commencing with Section 5050) of Division 5 of the Fish and
19 Game Code.

20 (5) Fully protected fish as described in Section 5515 of the Fish
21 and Game Code.

22 This subdivision does not supersede or affect any provisions of
23 law relating to taking of the described species, including, but not
24 limited to, Section 12008 of the Fish and Game Code.

25 (f) For the purposes of subdivision (c), each act of malicious
26 and intentional maiming, mutilating, or torturing a separate
27 specimen of a creature described in subdivision (e) is a separate
28 offense. If any person is charged with a violation of subdivision
29 (c), the proceedings shall be subject to Section 12157 of the Fish
30 and Game Code.

31 (g) (1) Upon the conviction of a person charged with a violation
32 of this section by causing or permitting an act of cruelty, as defined
33 in Section 599b, all animals lawfully seized and impounded with
34 respect to the violation by a peace officer, officer of a humane
35 society, or officer of a pound or animal regulation department of
36 a public agency shall be adjudged by the court to be forfeited and
37 shall thereupon be awarded to the impounding officer for proper
38 disposition. A person convicted of a violation of this section by
39 causing or permitting an act of cruelty, as defined in Section 599b,
40 shall be liable to the impounding officer for all costs of

1 impoundment from the time of seizure to the time of proper
2 disposition.

3 (2) Mandatory seizure or impoundment shall not apply to
4 animals in properly conducted scientific experiments or
5 investigations performed under the authority of the faculty of a
6 regularly incorporated medical college or university of this state.

7 (h) Notwithstanding any other provision of law, if a defendant
8 is granted probation for a conviction under this section, the court
9 shall order the defendant to pay for, and successfully complete,
10 counseling, as determined by the court, designed to evaluate and
11 treat behavior or conduct disorders. If the court finds that the
12 defendant is financially unable to pay for that counseling, the court
13 may develop a sliding fee schedule based upon the defendant's
14 ability to pay. An indigent defendant may negotiate a deferred
15 payment schedule, but shall pay a nominal fee if the defendant has
16 the ability to pay the nominal fee. County mental health
17 departments or Medi-Cal shall be responsible for the costs of
18 counseling required by this section only for those persons who
19 meet the medical necessity criteria for mental health managed care
20 pursuant to Section 1830.205 of Title 9 of the California Code of
21 Regulations or the targeted population criteria specified in Section
22 5600.3 of the Welfare and Institutions Code. The counseling
23 specified in this subdivision shall be in addition to any other terms
24 and conditions of probation, including any term of imprisonment
25 and any fine. This provision specifies a mandatory additional term
26 of probation and is not to be utilized as an alternative in lieu of
27 imprisonment pursuant to subdivision (h) of Section 1170 or county
28 jail when that sentence is otherwise appropriate. If the court does
29 not order custody as a condition of probation for a conviction under
30 this section, the court shall specify on the court record the reason
31 or reasons for not ordering custody. This subdivision shall not
32 apply to cases involving police dogs or horses as described in
33 Section 600.

34 SEC. 2. Section 597.5 of the Penal Code is amended to read:

35 597.5. (a) Any person who does any of the following is guilty
36 of a felony and is punishable by imprisonment in the state prison
37 for 16 months, or two or three years, or by a fine not to exceed
38 fifty thousand dollars (\$50,000), or by both that fine and
39 imprisonment:

1 (1) Owns, possesses, keeps, or trains any dog, with the intent
2 that the dog shall be engaged in an exhibition of fighting with
3 another dog.

4 (2) For amusement or gain, causes any dog to fight with another
5 dog, or causes any dogs to injure each other.

6 (3) Permits any act in violation of paragraph (1) or (2) to be
7 done on any premises under his or her charge or control, or aids
8 or abets that act.

9 (b) Any person who is knowingly present, as a spectator, at any
10 place, building, or tenement where preparations are being made
11 for an exhibition of the fighting of dogs, with the intent to be
12 present at those preparations, or is knowingly present at that
13 exhibition or at any other fighting or injuring as described in
14 paragraph (2) of subdivision (a), with the intent to be present at
15 that exhibition, fighting, or injuring, is guilty of an offense
16 punishable by imprisonment in a county jail not to exceed one
17 year, or by a fine not to exceed five thousand dollars (\$5,000), or
18 by both that imprisonment and fine.

19 (c) Nothing in this section shall prohibit any of the following:

20 (1) The use of dogs in the management of livestock, as defined
21 by Section 14205 of the Food and Agricultural Code, by the owner
22 of the livestock or his or her employees or agents or other persons
23 in lawful custody thereof.

24 (2) The use of dogs in hunting as permitted by the Fish and
25 Game Code, including, but not limited to, Sections 4002 and 4756,
26 and by the rules and regulations of the Fish and Game Commission.

27 (3) The training of dogs or the use of equipment in the training
28 of dogs for any purpose not prohibited by law.

29 *SEC. 3. Section 600 of the Penal Code is amended to read:*

30 600. (a) Any person who willfully and maliciously and with
31 no legal justification strikes, beats, kicks, cuts, stabs, shoots with
32 a firearm, administers any poison or other harmful or stupefying
33 substance to, or throws, hurls, or projects at, or places any rock,
34 object, or other substance which is used in such a manner as to be
35 capable of producing injury and likely to produce injury, on or in
36 the path of, a horse being used by, or a dog under the supervision
37 of, a peace officer in the discharge or attempted discharge of his
38 or her duties, or a volunteer who is acting under the direct
39 supervision of a peace officer in the discharge or attempted
40 discharge of his or her assigned volunteer duties, is guilty of a

1 public offense. If the injury inflicted is a serious injury, as
2 described in subdivision (c), ~~the person shall be punished by~~
3 ~~imprisonment pursuant to subdivision (h) of Section 1170 for 16~~
4 ~~months, two or three years, or in a county jail for not exceeding~~
5 ~~one year, or by a fine not exceeding two thousand dollars (\$2,000),~~
6 ~~or by both a fine and imprisonment.~~ *the person is guilty of a felony,*
7 *punishable by imprisonment in the state prison for two, three, or*
8 *four years or pursuant to subdivision (h) of Section 1170, or by a*
9 *fine of not more than twenty thousand dollars (\$20,000), or by*
10 *both that fine and imprisonment, or alternatively as a misdemeanor*
11 *by imprisonment in a county jail not exceeding one year, or by a*
12 *fine not exceeding twenty thousand dollars (\$20,000), or by both*
13 *that fine and imprisonment.* If the injury inflicted is not a serious
14 injury, the person shall be punished by imprisonment in the county
15 jail for not exceeding one year, or by a fine not exceeding one
16 thousand dollars (\$1,000), or by both a fine and imprisonment.

17 (b) Any person who willfully and maliciously and with no legal
18 justification interferes with or obstructs a horse or dog being used
19 by a peace officer in the discharge or attempted discharge of his
20 or her duties, or a volunteer who is acting under the direct
21 supervision of a peace officer in the discharge or attempted
22 discharge of his or her assigned volunteer duties, by frightening,
23 teasing, agitating, harassing, or hindering the horse or dog shall
24 be punished by imprisonment in a county jail for not exceeding
25 one year, or by a fine not exceeding one thousand dollars (\$1,000),
26 or by both a fine and imprisonment.

27 (c) Any person who, in violation of this section, and with intent
28 to inflict that injury or death, personally causes the death,
29 destruction, or serious physical injury including bone fracture, loss
30 or impairment of function of any bodily member, wounds requiring
31 extensive suturing, or serious crippling, of a horse or dog, shall,
32 upon conviction of a felony under this section, in addition and
33 consecutive to the punishment prescribed for the felony, be
34 punished by an additional term of imprisonment pursuant to
35 subdivision (h) of Section 1170 for one year.

36 (d) Any person who, in violation of this section, and with the
37 intent to inflict that injury, personally causes great bodily injury,
38 as defined in Section 12022.7, to any person not an accomplice,
39 shall, upon conviction of a felony under this section, in addition
40 and consecutive to the punishment prescribed for the felony, be

1 punished by an additional term of imprisonment in the state prison
2 for two years unless the conduct described in this subdivision is
3 an element of any other offense of which the person is convicted
4 or receives an enhancement under Section 12022.7.

5 (e) A defendant convicted of a violation of this section shall be
6 ordered to make restitution to the agency owning the animal and
7 employing the peace officer, to a volunteer who is acting under
8 the direct supervision of a peace officer who is using his or her
9 horse or supervising his or her dog in the performance of his or
10 her assigned duties, or to the agency that provides, or the individual
11 who provides, veterinary health care coverage or veterinary care
12 for a horse or dog being used by, or under the supervision of, a
13 volunteer who is acting under the direct supervision of a peace
14 officer for any veterinary bills, replacement costs of the animal if
15 it is disabled or killed, and, if applicable, the salary of the peace
16 officer for the period of time his or her services are lost to the
17 agency.

18 ~~SEC. 3.~~

19 *SEC. 4.* Section 600.5 of the Penal Code is amended to read:

20 600.5. (a) Any person who intentionally causes injury to or
21 the death of any guide, signal, or service dog, as defined by Section
22 54.1 of the Civil Code, while the dog is in discharge of its duties,
23 is guilty of a ~~misdemeanor~~, *felony* punishable ~~as a felony~~ by
24 imprisonment in the state prison *for two, three, or four years* or
25 pursuant to subdivision (h) of Section 1170, or by a fine of not
26 more than twenty thousand dollars (\$20,000), or by both that fine
27 and imprisonment, or alternatively as a misdemeanor by
28 imprisonment in a county jail not exceeding one year, or by a fine
29 not exceeding twenty thousand dollars (\$20,000), or by both a fine
30 and imprisonment. The court shall consider the costs ordered
31 pursuant to subdivision (b) when determining the amount of any
32 fines.

33 (b) In any case in which a defendant is convicted of a violation
34 of this section, the defendant shall be ordered to make restitution
35 to the person with a disability who has custody or ownership of
36 the dog for any veterinary bills and replacement costs of the dog
37 if it is disabled or killed, or other reasonable costs deemed
38 appropriate by the court. The costs ordered pursuant to this
39 subdivision shall be paid prior to any fines. The person with the
40 disability may apply for compensation by the California Victim

1 Compensation and Government Claims Board pursuant to Chapter
2 5 (commencing with Section 13950) of Part 4 of Division 3 of
3 Title 2 of the Government Code, in an amount not to exceed ten
4 thousand dollars (\$10,000).

5 ~~SEC. 4.~~

6 *SEC. 5.* No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.

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