

AMENDED IN ASSEMBLY APRIL 13, 2016

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~~ *of, and to add Section 597.8 to*, 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 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. *Existing law requires a defendant granted probation for a conviction of the above crimes to also complete counseling unless the violation involved police dogs or police horses.*

~~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 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.

This bill would require defendants granted probation for a violation of the above provisions involving police dogs or police horses to also receive counseling.

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 act. Existing law additionally 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 duties. Existing law further 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 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.~~

This bill would require defendants granted probation for a conviction under the above crimes to additionally participate in and successfully complete counseling, as specified. By imposing additional duties on local governments, this bill would create a state-mandated local program.

Existing law makes it a crime to commit various forms of animal abuse, including, among other things, causing bulls or bears to fight, keeping birds with intent that they be used for an exhibition of fighting, or willfully abandoning an animal.

This bill would require, upon conviction of specified types of animal abuse but prior to sentencing, the court to order the person convicted to submit to a psychiatric or psychological examination, to be provided by and paid for by the court. The bill would require the court to consider the result of the examination in determining a sentence.

~~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.~~

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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~~
29 ~~years~~ or pursuant to subdivision (h) of Section 1170, by a fine of
30 not more than twenty thousand dollars (\$20,000), or by both that
31 fine and imprisonment, or alternatively, as a misdemeanor by
32 imprisonment in a county jail for not more than one year, or by a
33 fine of not more than twenty thousand dollars (\$20,000), or by
34 both that fine and imprisonment.

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

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

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

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

9 (4) Fully protected reptiles and amphibians described in Chapter
10 2 (commencing with Section 5050) of Division 5 of the Fish and
11 Game Code.

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

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

17 (f) For the purposes of subdivision (c), each act of malicious
18 and intentional maiming, mutilating, or torturing a separate
19 specimen of a creature described in subdivision (e) is a separate
20 offense. If any person is charged with a violation of subdivision
21 (c), the proceedings shall be subject to Section 12157 of the Fish
22 and Game Code.

23 (g) (1) Upon the conviction of a person charged with a violation
24 of this section by causing or permitting an act of cruelty, as defined
25 in Section 599b, all animals lawfully seized and impounded with
26 respect to the violation by a peace officer, officer of a humane
27 society, or officer of a pound or animal regulation department of
28 a public agency shall be adjudged by the court to be forfeited and
29 shall thereupon be awarded to the impounding officer for proper
30 disposition. A person convicted of a violation of this section by
31 causing or permitting an act of cruelty, as defined in Section 599b,
32 shall be liable to the impounding officer for all costs of
33 impoundment from the time of seizure to the time of proper
34 disposition.

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

39 (h) Notwithstanding any other provision of law, if a defendant
40 is granted probation for a conviction under this section, the court

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

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

27 597.5. (a) Any person who does any of the following is guilty
28 of a felony and is punishable by imprisonment ~~in the state prison~~
29 *pursuant to subdivision (h) of Section 1170* for 16 months, or two
30 or three years, or by a fine not to exceed fifty thousand dollars
31 (\$50,000), or by both that fine and imprisonment:

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

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

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

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

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

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

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

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

21 (d) *Notwithstanding any other provision of law, if a defendant*
22 *is granted probation for a conviction under this section, the court*
23 *shall order the defendant to pay for, and successfully complete,*
24 *counseling, as determined by the court, designed to evaluate and*
25 *treat behavior or conduct disorders. If the court finds that the*
26 *defendant is financially unable to pay for that counseling, the court*
27 *may develop a sliding fee schedule based upon the defendant's*
28 *ability to pay. An indigent defendant may negotiate a deferred*
29 *payment schedule but shall pay a nominal fee if he or she has the*
30 *ability to pay the nominal fee. County mental health departments*
31 *or Medi-Cal shall be responsible for the costs of counseling*
32 *required by this section only for those persons who meet the*
33 *medical necessity criteria for mental health managed care pursuant*
34 *to Section 1830.205 of Title 9 of the California Code of Regulations*
35 *or the targeted population criteria specified in Section 5600.3 of*
36 *the Welfare and Institutions Code. The counseling specified in this*
37 *subdivision shall be in addition to any other terms and conditions*
38 *of probation, including any term of imprisonment and any fine.*
39 *This provision specifies a mandatory additional term of probation*
40 *and is not to be utilized as an alternative in lieu of imprisonment*

1 pursuant to subdivision (h) of Section 1170 when that sentence is
2 otherwise appropriate. If the court does not order custody as a
3 condition of probation for a conviction under this section, the court
4 shall specify on the court record the reason or reasons for not
5 ordering custody.

6 SEC. 3. Section 597.8 is added to the Penal Code, to read:

7 597.8. Upon conviction pursuant to subdivision (a) or (b) of
8 Section 597 or Section 597a, 597b, 597h, 597j, 597s, or 597.1, but
9 prior to sentencing, the court shall order the person convicted to
10 submit to a psychiatric or psychological examination to determine
11 his or her potential to reoffend. All examinations shall be provided
12 for and paid for by the court. The results of the examination shall
13 be sent by the examining psychologist or psychiatrist to the court
14 and to the attorneys for the prosecution and the defense. The court
15 shall consider the results of the examination in determining a
16 sentence.

17 ~~SEC. 3.~~

18 SEC. 4. Section 600 of the Penal Code is amended to read:

19 600. (a) Any person who willfully and maliciously and with
20 no legal justification strikes, beats, kicks, cuts, stabs, shoots with
21 a firearm, administers any poison or other harmful or stupefying
22 substance to, or throws, hurls, or projects at, or places any rock,
23 object, or other substance which is used in such a manner as to be
24 capable of producing injury and likely to produce injury, on or in
25 the path of, a horse being used by, or a dog under the supervision
26 of, a peace officer in the discharge or attempted discharge of his
27 or her duties, or a volunteer who is acting under the direct
28 supervision of a peace officer in the discharge or attempted
29 discharge of his or her assigned volunteer duties, is guilty of a
30 public offense. If the injury inflicted is a serious injury, as
31 described in subdivision (c), ~~the person is guilty of a felony,~~
32 ~~punishable by imprisonment in the state prison for two, three, or~~
33 ~~four years or pursuant to subdivision (h) of Section 1170, or by a~~
34 ~~fine of not more than twenty thousand dollars (\$20,000), or by~~
35 ~~both that fine and imprisonment, or alternatively as a misdemeanor~~
36 ~~by imprisonment in a county jail not exceeding one year, or by a~~
37 ~~fine not exceeding twenty thousand dollars (\$20,000), or by both~~
38 ~~that fine and imprisonment. the person shall be punished by~~
39 ~~imprisonment pursuant to subdivision (h) of Section 1170 for 16~~
40 ~~months, two or three years, or in a county jail for not exceeding~~

1 *one year, or by a fine not exceeding two thousand dollars (\$2,000),*
2 *or by both a fine and imprisonment.* If the injury inflicted is not a
3 serious injury, the person shall be punished by imprisonment in
4 the county jail for not exceeding one year, or by a fine not
5 exceeding one thousand dollars (\$1,000), or by both a fine and
6 imprisonment.

7 (b) Any person who willfully and maliciously and with no legal
8 justification interferes with or obstructs a horse or dog being used
9 by a peace officer in the discharge or attempted discharge of his
10 or her duties, or a volunteer who is acting under the direct
11 supervision of a peace officer in the discharge or attempted
12 discharge of his or her assigned volunteer duties, by frightening,
13 teasing, agitating, harassing, or hindering the horse or dog shall
14 be punished by imprisonment in a county jail for not exceeding
15 one year, or by a fine not exceeding one thousand dollars (\$1,000),
16 or by both a fine and imprisonment.

17 (c) Any person who, in violation of this section, and with intent
18 to inflict that injury or death, personally causes the death,
19 destruction, or serious physical injury including bone fracture, loss
20 or impairment of function of any bodily member, wounds requiring
21 extensive suturing, or serious crippling, of a horse or dog, shall,
22 upon conviction of a felony under this section, in addition and
23 consecutive to the punishment prescribed for the felony, be
24 punished by an additional term of imprisonment pursuant to
25 subdivision (h) of Section 1170 for one year.

26 (d) Any person who, in violation of this section, and with the
27 intent to inflict that injury, personally causes great bodily injury,
28 as defined in Section 12022.7, to any person not an accomplice,
29 shall, upon conviction of a felony under this section, in addition
30 and consecutive to the punishment prescribed for the felony, be
31 punished by an additional term of imprisonment in the state prison
32 for two years unless the conduct described in this subdivision is
33 an element of any other offense of which the person is convicted
34 or receives an enhancement under Section 12022.7.

35 (e) A defendant convicted of a violation of this section shall be
36 ordered to make restitution to the agency owning the animal and
37 employing the peace officer, to a volunteer who is acting under
38 the direct supervision of a peace officer who is using his or her
39 horse or supervising his or her dog in the performance of his or
40 her assigned duties, or to the agency that provides, or the individual

1 who provides, veterinary health care coverage or veterinary care
 2 for a horse or dog being used by, or under the supervision of, a
 3 volunteer who is acting under the direct supervision of a peace
 4 officer for any veterinary bills, replacement costs of the animal if
 5 it is disabled or killed, and, if applicable, the salary of the peace
 6 officer for the period of time his or her services are lost to the
 7 agency.

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

33 ~~SEC. 4.~~

34 SEC. 5. Section 600.5 of the Penal Code is amended to read:

35 600.5. (a) Any person who intentionally causes injury to or
 36 the death of any guide, signal, or service dog, as defined by Section
 37 54.1 of the Civil Code, while the dog is in discharge of its duties,
 38 is guilty of a felony punishable by imprisonment in the state prison
 39 for two, three, or four years or pursuant to subdivision (h) of
 40 Section 1170, or by a fine of not more than twenty thousand dollars

1 (\$20,000), or by both that fine and imprisonment, or alternatively
2 as a misdemeanor by imprisonment in a county jail not exceeding
3 one year, or by a fine not exceeding twenty thousand dollars
4 (\$20,000), or by both a fine and imprisonment. The court shall
5 consider the costs ordered pursuant to subdivision (b) when
6 determining the amount of any fines.

7 (b) In any case in which a defendant is convicted of a violation
8 of this section, the defendant shall be ordered to make restitution
9 to the person with a disability who has custody or ownership of
10 the dog for any veterinary bills and replacement costs of the dog
11 if it is disabled or killed, or other reasonable costs deemed
12 appropriate by the court. The costs ordered pursuant to this
13 subdivision shall be paid prior to any fines. The person with the
14 disability may apply for compensation by the California Victim
15 Compensation and Government Claims Board pursuant to Chapter
16 5 (commencing with Section 13950) of Part 4 of Division 3 of
17 Title 2 of the Government Code, in an amount not to exceed ten
18 thousand dollars (\$10,000).

19 (c) *Notwithstanding any other provision of law, if a defendant*
20 *is granted probation for a conviction under this section, the court*
21 *shall order the defendant to pay for, and successfully complete,*
22 *counseling, as determined by the court, designed to evaluate and*
23 *treat behavior or conduct disorders. If the court finds that the*
24 *defendant is financially unable to pay for that counseling, the court*
25 *may develop a sliding fee schedule based upon the defendant's*
26 *ability to pay. An indigent defendant may negotiate a deferred*
27 *payment schedule but shall pay a nominal fee if he or she has the*
28 *ability to pay the nominal fee. County mental health departments*
29 *or Medi-Cal shall be responsible for the costs of counseling*
30 *required by this section only for those persons who meet the*
31 *medical necessity criteria for mental health managed care pursuant*
32 *to Section 1830.205 of Title 9 of the California Code of Regulations*
33 *or the targeted population criteria specified in Section 5600.3 of*
34 *the Welfare and Institutions Code. The counseling specified in this*
35 *subdivision shall be in addition to any other terms and conditions*
36 *of probation, including any term of imprisonment and any fine.*
37 *This provision specifies a mandatory additional term of probation*
38 *and is not to be utilized as an alternative in lieu of imprisonment*
39 *pursuant to subdivision (h) of Section 1170 or county jail when*
40 *that sentence is otherwise appropriate. If the court does not order*

1 *custody as a condition of probation for a conviction under this*
2 *section, the court shall specify on the court record the reason or*
3 *reasons for not ordering custody.*

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

13 *SEC. 6. If the Commission on State Mandates determines that*
14 *this act contains costs mandated by the state, reimbursement to*
15 *local agencies and school districts for those costs shall be made*
16 *pursuant to Part 7 (commencing with Section 17500) of Division*
17 *4 of Title 2 of the Government Code.*