

to add to the Penal Code a new Section 597.8 to read, "Upon conviction pursuant to subdivision (a) or (b) of Section 597 or Section 597a, 597b, 597h, 597j, 597s, or 597.1, but prior to sentencing, the court shall order the person convicted to submit to a psychiatric or psychological examination. All examinations shall be provided and paid for by the court. The results of the examination shall be sent by the examining psychologist or psychiatrist to the court and to the attorneys for the prosecution and the defense. The court shall consider the results of the examination in determining a sentence.

TITLE 14. MALICIOUS MISCHIEF [594 - 625c]

(Title 14 enacted 1872.)

597.

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

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

597a.

Whoever carries or causes to be carried in or upon any vehicle or otherwise any domestic animal in a cruel or inhuman manner, or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering, or cruelty of any kind, is guilty of a misdemeanor; and whenever any such person is taken into custody therefor by any officer, such officer must take charge of such vehicle and its contents, together with the horse or team attached to such vehicle, and deposit the same in some place of custody; and any necessary expense incurred for

taking care of and keeping the same, is a lien thereon, to be paid before the same can be lawfully recovered; and if such expense, or any part thereof, remains unpaid, it may be recovered, by the person incurring the same, of the owner of such domestic animal, in an action therefor.

(Added by Stats. 1905, Ch. 519.)

597b.

(a) Except as provided in subdivisions (b) and (c), any person who, for amusement or gain, causes any bull, bear, or other animal, not including any dog, to fight with like kind of animal or creature, or causes any animal, including any dog, to fight with a different kind of animal or creature, or with any human being, or who, for amusement or gain, worries or injures any bull, bear, dog, or other animal, or causes any bull, bear, or other animal, not including any dog, to worry or injure each other, or any person who permits the same to be done on any premises under his or her charge or control, or any person who aids or abets the fighting or worrying of an animal or creature, is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed ten thousand dollars (\$10,000), or by both that imprisonment and fine.

(b) Any person who, for amusement or gain, causes any cock to fight with another cock or with a different kind of animal or creature or with any human being; or who, for amusement or gain, worries or injures any cock, or causes any cock to worry or injure another animal; and any person who permits the same to be done on any premises under his or her charge or control, and any person who aids or abets the fighting or worrying of any cock is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, or by a fine not to exceed ten thousand dollars (\$10,000), or by both that imprisonment and fine.

(c) A second or subsequent conviction of this section is a misdemeanor or a felony punishable by imprisonment in a county jail for a period not to exceed one year or the state prison for 16 months, two, or three years, by a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that imprisonment and fine, except in unusual circumstances in which the interests of justice would be better served by the imposition of a lesser sentence.

(d) For the purposes of this section, aiding and abetting a violation of this section shall consist of something more than merely being present or a spectator at a place where a violation is occurring.

(Amended by Stats. 2012, Ch. 133, Sec. 1. Effective January 1, 2013.)

597h.

(a) It shall be unlawful for any person to tie or attach or fasten any live animal to any machine or device propelled by any power for the purpose of causing that animal to be pursued by a dog or dogs.

(b) Any person violating any of the provisions of this section shall be guilty of a misdemeanor punishable by a fine of two thousand five hundred dollars (\$2,500) or by imprisonment in a county jail not exceeding six months, or by both that imprisonment and fine.

(Amended by Stats. 2011, Ch. 562, Sec. 2. Effective January 1, 2012.)

597i.

(a) Any person who owns, possesses, keeps, or trains any bird or other animal with the intent that it be used or engaged by himself or herself, by his or her vendee, or by any other person in an exhibition of fighting as described in Section 597b is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed ten thousand dollars (\$10,000), or by both that imprisonment and fine.

(b) This section shall not apply to an exhibition of fighting of a dog with another dog.

(c) A second or subsequent conviction of this section is a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year or by a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that imprisonment and fine, except in unusual circumstances in which the interests of justice would be better served by the imposition of a lesser sentence.

(Amended by Stats. 2012, Ch. 133, Sec. 4. Effective January 1, 2013.)

597s.

(a) Every person who willfully abandons any animal is guilty of a misdemeanor.

(b) This section shall not apply to the release or rehabilitation and release of native California wildlife pursuant to statute or regulations of the California Department of Fish and Game.

(Amended by Stats. 1999, Ch. 303, Sec. 1. Effective January 1, 2000.)

597.1.

(a) (1) Every owner, driver, or keeper of any animal who permits the animal to be in any building, enclosure, lane, street, square, or lot of any city, county, city and county, or judicial district without proper care and attention is guilty of a misdemeanor. Any peace officer, humane society officer, or animal control officer shall take possession of the stray or abandoned animal and shall provide care and treatment for the animal until the animal is deemed to be in suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with the provisions of subdivision (g). The full cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid, if the seizure is upheld pursuant to this section.

(2) Notwithstanding any other law, if an animal control officer or humane officer, when necessary to protect the health and safety of a wild, stray, or abandoned animal or the health and safety of others, seeks to administer a tranquilizer that contains a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, to gain control of that animal, he or she may possess and administer that tranquilizer with direct or indirect supervision as determined by a licensed veterinarian, provided that the officer has met each of the following requirements:

(A) Has received training in the administration of tranquilizers from a licensed veterinarian. The training shall be approved by the California Veterinary Medical Board.

(B) Has successfully completed the firearms component of a course relating to the exercise of police powers, as set forth in Section 832.

(C) Is authorized by his or her agency or organization to possess and administer the tranquilizer in accordance with a policy established by the agency or organization and approved by the veterinarian who obtained the controlled substance.

(D) Has successfully completed the euthanasia training set forth in Section 2039 of Title 16 of the California Code of Regulations.

(E) Has completed a state and federal fingerprinting background check and does not have any drug- or alcohol-related convictions.

(b) Every sick, disabled, infirm, or crippled animal, except a dog or cat, that is abandoned in any city, county, city and county, or judicial district may be killed by

the officer if, after a reasonable search, no owner of the animal can be found. It shall be the duty of all peace officers, humane society officers, and animal control officers to cause the animal to be killed or rehabilitated and placed in a suitable home on information that the animal is stray or abandoned. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated, and provide care and treatment for the animal until it is deemed to be in a suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of an animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with subdivision (g). The full cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid.

(c) (1) Any peace officer, humane society officer, or animal control officer shall convey all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer to be a veterinarian who ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment.

(2) If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal. If the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal.

(3) Whenever any animal is transferred to a veterinarian in a clinic, such as an emergency clinic that is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.

(4) If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services that are provided pending the owner's inquiry to the responsible agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or, if the animal is unlicensed, shall be paid by the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. The full cost of caring for and treating any animal seized under this subdivision shall constitute a lien on the animal and the animal shall not be returned to the owner until the charges are paid. No veterinarian shall be criminally or civilly liable for any decision

that he or she makes or for services that he or she provides pursuant to this subdivision.

(d) An animal control agency that takes possession of an animal pursuant to subdivision (c) shall keep records of the whereabouts of the animal from the time of possession to the end of the animal's impoundment, and those records shall be available for inspection by the public upon request for three years after the date the animal's impoundment ended.

(e) Notwithstanding any other provision of this section, any peace officer, humane society officer, or any animal control officer may, with the approval of his or her immediate superior, humanely destroy any stray or abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to euthanize the animal.

(f) Whenever an officer authorized under this section seizes or impounds an animal based on a reasonable belief that prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall, prior to the commencement of any criminal proceedings authorized by this section, provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a postseizure hearing to determine the validity of the seizure or impoundment, or both.

(1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice of the seizure or impoundment, or both, to the owner or keeper within 48 hours, excluding weekends and holidays. The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice.

(B) A description of the animal seized, including any identification upon the animal.

(C) The authority and purpose for the seizure or impoundment, including the time, place, and circumstances under which the animal was seized.

(D) A statement that, in order to receive a postseizure hearing, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning an enclosed declaration of ownership or right to keep the animal to the agency providing the notice within 10 days, including weekends and holidays, of the date of the notice. The declaration may be returned by personal delivery or mail.

(E) A statement that the full cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.

(2) The postseizure hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who directed the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.

(3) Failure of the owner or keeper, or of his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a postseizure hearing or right to challenge his or her liability for costs incurred.

(4) The agency, department, or society employing the person who directed the seizure shall be responsible for the costs incurred for caring and treating the animal, if it is determined in the postseizure hearing that the seizing officer did not have reasonable grounds to believe very prompt action, including seizure of the animal, was required to protect the health or safety of the animal or the health or safety of others. If it is determined the seizure was justified, the owner or keeper shall be personally liable to the seizing agency for the full cost of the seizure and care of the animal. The charges for the seizure and care of the animal shall be a lien on the animal. The animal shall not be returned to its owner until the charges are paid and the owner demonstrates to the satisfaction of the seizing agency or the hearing officer that the owner can and will provide the necessary care for the animal.

(g) Where the need for immediate seizure is not present and prior to the commencement of any criminal proceedings authorized by this section, the agency shall provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a hearing prior to any seizure or impoundment of the animal. The owner shall produce the animal at the time of the hearing unless, prior to the hearing, the owner has made arrangements with the agency to view the animal upon request of the agency, or unless the owner can provide verification that the animal was humanely destroyed. Any person who willfully fails to produce the animal or provide the verification is guilty of an infraction, punishable by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000).

(1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice stating the grounds for believing the animal should be seized under subdivision (a) or (b). The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice.

(B) A description of the animal to be seized, including any identification upon the animal.

(C) The authority and purpose for the possible seizure or impoundment.

(D) A statement that, in order to receive a hearing prior to any seizure, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning the enclosed declaration of ownership or right to keep the animal to the officer providing the notice within two days, excluding weekends and holidays, of the date of the notice.

(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal, that any animal seized shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in a conclusive determination that the animal may properly be seized and that the owner shall be liable for the charges.

(2) The pre-seizure hearing shall be conducted within 48 hours, excluding weekends and holidays, after receipt of the request. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who requests the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.

(3) Failure of the owner or keeper, or his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a pre-seizure hearing or right to challenge his or her liability for costs incurred pursuant to this section.

(4) The hearing officer, after the hearing, may affirm or deny the owner's or keeper's right to custody of the animal and, if reasonable grounds are established, may order the seizure or impoundment of the animal for care and treatment.

(h) If any animal is properly seized under this section or pursuant to a search warrant, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal. Further, if the charges for the seizure or impoundment and any other charges permitted under this section are not paid within 14 days of the seizure, or if the owner, within 14 days of notice of availability of the animal to be returned, fails to pay charges permitted under this section and take possession of the animal, the animal shall be deemed to have been abandoned and may be disposed of by the seizing agency.

(i) If the animal requires veterinary care and the humane society or public agency is not assured, within 14 days of the seizure of the animal, that the owner will provide the necessary care, the animal shall not be returned to its owner and shall be deemed to have been abandoned and may be disposed of by the seizing agency. A veterinarian may humanely destroy an impounded animal without regard to the prescribed holding period when it has been determined that the animal has incurred

severe injuries or is incurably crippled. A veterinarian also may immediately humanely destroy an impounded animal afflicted with a serious contagious disease unless the owner or his or her agent immediately authorizes treatment of the animal by a veterinarian at the expense of the owner or agent.

(j) No animal properly seized under this section or pursuant to a search warrant shall be returned to its owner until the owner can demonstrate to the satisfaction of the seizing agency or hearing officer that the owner can and will provide the necessary care for the animal.

(k) (1) In the case of cats and dogs, prior to the final disposition of any criminal charges, the seizing agency or prosecuting attorney may file a petition in a criminal action requesting that, prior to that final disposition, the court issue an order forfeiting the animal to the city, county, or seizing agency. The petitioner shall serve a true copy of the petition upon the defendant and the prosecuting attorney.

(2) Upon receipt of the petition, the court shall set a hearing on the petition. The hearing shall be conducted within 14 days after the filing of the petition, or as soon as practicable.

(3) The petitioner shall have the burden of establishing beyond a reasonable doubt that, even in the event of an acquittal of the criminal charges, the owner will not legally be permitted to retain the animal in question. If the court finds that the petitioner has met its burden, the court shall order the immediate forfeiture of the animal as sought by the petition.

(4) Nothing in this subdivision is intended to authorize a seizing agency or prosecuting attorney to file a petition to determine an owner's ability to legally retain an animal pursuant to paragraph (3) of subdivision (l) if a petition has previously been filed pursuant to this subdivision.

(l) (1) Upon the conviction of a person charged with a violation of this section, or Section 597 or 597a, all animals lawfully seized and impounded with respect to the violation shall be adjudged by the court to be forfeited and shall thereupon be transferred to the impounding officer or appropriate public entity for proper adoption or other disposition. A person convicted of a violation of this section shall be personally liable to the seizing agency for all costs of impoundment from the time of seizure to the time of proper disposition. Upon conviction, the court shall order the convicted person to make payment to the appropriate public entity for the costs incurred in the housing, care, feeding, and treatment of the seized or impounded animals. Each person convicted in connection with a particular animal may be held jointly and severally liable for restitution for that particular animal. The payment shall be in addition to any other fine or sentence ordered by the court.

(2) The court may also order, as a condition of probation, that the convicted person be prohibited from owning, possessing, caring for, or residing with, animals of any

kind, and require the convicted person to immediately deliver all animals in his or her possession to a designated public entity for adoption or other lawful disposition or provide proof to the court that the person no longer has possession, care, or control of any animals. In the event of the acquittal or final discharge without conviction of the person charged, if the animal is still impounded, the animal has not been previously deemed abandoned pursuant to subdivision (h), the court has not ordered that the animal be forfeited pursuant to subdivision (k), the court shall, on demand, direct the release of seized or impounded animals to the defendant upon a showing of proof of ownership.

(3) Any questions regarding ownership shall be determined in a separate hearing by the court where the criminal case was finally adjudicated and the court shall hear testimony from any persons who may assist the court in determining ownership of the animal. If the owner is determined to be unknown or the owner is prohibited or unable to retain possession of the animals for any reason, the court shall order the animals to be released to the appropriate public entity for adoption or other lawful disposition. This section is not intended to cause the release of any animal, bird, reptile, amphibian, or fish seized or impounded pursuant to any other statute, ordinance, or municipal regulation. This section shall not prohibit the seizure or impoundment of animals as evidence as provided for under any other provision of law.

(m) It shall be the duty of all peace officers, humane society officers, and animal control officers to use all currently acceptable methods of identification, both electronic and otherwise, to determine the lawful owner or caretaker of any seized or impounded animal. It shall also be their duty to make reasonable efforts to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal and, upon the owner's and caretaker's initiation of recovery procedures, retain custody of the animal for a reasonable period of time to allow for completion of the recovery process. Efforts to locate or contact the owner or caretaker and communications with persons claiming to be the owner or caretaker shall be recorded and maintained and be made available for public inspection.

(Amended by Stats. 2012, Ch. 598, Sec. 1.5. Effective January 1, 2013.)