

Comparison Table: 2018, 2019 Sexual abuse of animals bills (Nazarian.)

<p>2019 AB 611</p>	<p>2018 AB 3040 – Held in Senate Appropriations Suspense File</p>
<p>CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION</p> <p>ASSEMBLY BILL No. 611</p>	<p>AMENDED IN SENATE JUNE 25, 2018 AMENDED IN ASSEMBLY APRIL 19, 2018 AMENDED IN ASSEMBLY APRIL 10, 2018</p>
<p>Introduced by Assembly Member Nazarian</p> <p>February 14, 2019</p>	<p>CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION</p> <p>ASSEMBLY BILL No. 3040</p>
<p>Introduced by Assembly Member Nazarian</p> <p>February 16, 2018</p>	<p>Introduced by Assembly Member Nazarian</p> <p>February 16, 2018</p>
<p>An act to amend Section 4830.7 of the Business and Professions Code, and to amend Section 597.9 of, and to repeal and add Section 286.5 of, the Penal Code, relating to sexual abuse of animals.</p> <p>LEGISLATIVE COUNSEL'S DIGEST</p> <p>AB 611, as introduced, Nazarian. Sexual abuse of animals.</p>	<p>An act to amend Section 4830.7 of the Business and Professions Code, and to amend Section 597.9 of, and to repeal and add Section 286.5 of, the Penal Code, relating to sexual abuse of animals.</p> <p>LEGISLATIVE COUNSEL'S DIGEST</p> <p>AB 3040, as amended, Nazarian. Sexual abuse of animals.</p>

Comparison Table: 2018, 2019 Sexual abuse of animals bills (Nazarian.)

<p>Existing law makes it a misdemeanor to sexually assault certain animals for the purpose of gratifying the sexual desires of a person. This bill would repeal that provision and would instead prohibit sexual contact, as defined, with any animal. The bill would make a violation of these provisions punishable as a misdemeanor. The bill would also authorize the seizure of an animal used in the violation of this offense. Existing law makes it a misdemeanor for persons convicted of certain animal abuse crimes to own, possess, maintain, care for, reside with, or have custody of an animal for a specified period after conviction. This bill would add animal sexual abuse to the list of offenses which result in that prohibition. Existing law requires a veterinarian that has reasonable cause to believe an animal under their care has been a victim of animal abuse or cruelty to promptly report the abuse or cruelty to the appropriate law enforcement authorities of the county, city, or city and county in which it occurred. Existing law makes a violation of these provisions a misdemeanor. This bill would expand that reporting requirement to include when the veterinarian has reasonable cause to believe an animal has been a victim of sexual abuse or kept without proper care and attention, as specified. By creating new crimes, this bill would impose 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.</p> <p>DIGEST KEY Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes</p> <hr/> <p>BILL TEXT THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:</p> <p>SECTION 1. Section 4830.7 of the Business and Professions Code is amended to read:</p>	<p>Existing law makes it a misdemeanor to sexually assault certain animals for the purpose of gratifying the sexual desires of a person. This bill would repeal that provision and would instead prohibit sexual contact, as defined, with any animal. The bill would make a violation of these provisions punishable as a misdemeanor. The bill would also authorize the seizure of an animal used in the violation of this offense. Existing law makes it a misdemeanor for persons convicted of certain animal abuse crimes to own, possess, maintain, care for, reside with, or have custody of an animal for a specified period after conviction. This bill would add animal sexual abuse to the list of offenses which result in that prohibition. Existing law requires a veterinarian, if he or she has reasonable cause to believe an animal under his or her care has been a victim of animal abuse or cruelty, as specified, to promptly report it to the appropriate law enforcement authorities of the county, city, or city and county in which it occurred. Existing law makes a violation of these provisions a misdemeanor. This bill would expand that reporting requirement to include when the veterinarian has reasonable cause to believe an animal has been a victim of sexual abuse or kept without proper care and attention, as specified. By creating new crimes, this bill would impose 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.</p> <p>DIGEST KEY Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES</p> <hr/> <p>BILL TEXT THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:</p>
---	---

Comparison Table: 2018, 2019 Sexual abuse of animals bills (Nazarian.)

4830.7.

Whenever any licensee under this chapter has reasonable cause to believe an animal under its care has been a victim of animal abuse or cruelty, as prescribed in ~~Section Sections~~ *Sections 597 and 597.1* of the Penal Code, *or of sexual abuse, as prescribed in Section 286.5 of the Penal Code*, it shall be the duty of the licensee to promptly report it to the appropriate law enforcement authorities of the county, city, or city and county in which it occurred. No licensee shall incur any civil liability as a result of making any report pursuant to this section or as a result of making any report of a violation of *Section 286.5*, subdivisions (a), (b), and (c) of Section ~~597~~ *597, or Section 597.1*, of the Penal Code.

SEC. 2.

Section 286.5 of the Penal Code is repealed.

~~286.5.~~

~~Any person who sexually assaults any animal protected by Section 597f for the purpose of arousing or gratifying the sexual desire of the person is guilty of a misdemeanor.~~

SEC. 3.

Section 286.5 is added to the Penal Code, to read:

286.5.

- (a) Every person who has sexual contact with an animal is guilty of a misdemeanor.
- (b) This section does not apply to any lawful and accepted practice related to veterinary medicine performed by a licensed veterinarian or a certified veterinary technician under the guidance of a licensed veterinarian, any artificial insemination of animals for reproductive purposes, any accepted animal husbandry practices such as raising, breeding, or assisting with the birthing process of animals or any other practice that provides care for an animal, or to any generally accepted practices related to the judging of breed conformation.
- (c) As used in this section, the following terms have the following meanings:
- (1) "Animal" means any nonhuman creature, whether alive or dead.
 - (2) "Sexual contact" means any act, committed for the purpose of sexual arousal or gratification, abuse, or financial gain, between a person and an animal involving contact between the sex organs or anus of one and the mouth, sex organs, or anus of the other, or, without a bona fide veterinary or animal husbandry purpose, the insertion, however slight, of any part of the body of a person or any object into the vaginal or anal opening of an animal, or the

SECTION 1.

Section 4830.7 of the Business and Professions Code is amended to read:

4830.7. Whenever any licensee under this chapter has reasonable cause to believe an animal under its care has been a victim of animal abuse or cruelty, as prescribed in Sections 597 and 597.1 of the Penal Code, or of sexual abuse, as prescribed in Section 286.5 of the Penal Code, it shall be the duty of the licensee to promptly report it to the appropriate law enforcement authorities of the county, city, or city and county in which it occurred. No licensee shall incur any civil liability as a result of making any report pursuant to this section or as a result of making any report of a violation of Section 286.5, subdivisions (a), (b), and (c) of Section 597, or Section ~~597.1~~ *597.1*, of the Penal Code.

SEC. 2.

Section 286.5 of the Penal Code is repealed.

SEC. 3.

Section 286.5 is added to the Penal Code, to read:

286.5.

- (a) Every person who has sexual contact with an animal is guilty of a misdemeanor.
- (b) This section does not apply to any lawful and accepted practice related to veterinary medicine performed by a licensed veterinarian or a certified veterinary technician under the guidance of a licensed veterinarian, any artificial insemination of animals for reproductive purposes, any accepted animal husbandry practices such as raising, breeding, or assisting with the birthing process of animals or any other practice that provides care for an animal, or to any generally accepted practices related to the judging of breed conformation.
- (c) As used in this section, the following terms have the following meanings:
- (1) "Animal" means any nonhuman creature, whether alive or dead.
 - (2) "Sexual contact" means any act, committed for the purpose of sexual arousal or gratification, abuse, or financial gain, between a person and an animal involving contact between the sex organs or anus of one and the mouth, sex organs, or anus of the other, or, without a bona fide veterinary or animal husbandry purpose, the insertion, however slight, of any part of the body of a person or any object into the vaginal or anal opening of an animal, or the

Comparison Table: 2018, 2019 Sexual abuse of animals bills (Nazarian.)

<p>insertion of any part of the body of an animal into the vaginal or anal opening of a person.</p> <p>(d) Notwithstanding any other law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 9 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. This provision specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment in a county jail when that sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering custody.</p> <p>(e) (1) Any authorized officer investigating a violation of this section may seize an animal that has been used in the commission of an offense to protect the health or safety of the animal or the health or safety of others, and to obtain evidence of the offense.</p> <p>(2) Any animal seized pursuant to this subdivision shall be promptly taken to a shelter facility or veterinary clinic to be examined by a veterinarian for evidence of sexual contact.</p> <p>(3) Upon the conviction of a person charged with a violation of this section, 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</p>	<p>insertion of any part of the body of an animal into the vaginal or anal opening of a person.</p> <p>(d) Notwithstanding any other law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 9 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. This provision specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment in a county jail when that sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering custody.</p> <p>(e) (1) Any authorized officer investigating a violation of this section may seize an animal that has been used in the commission of an offense to protect the health or safety of the animal or the health or safety of others, and to obtain evidence of the offense.</p> <p>(2) Any animal seized pursuant to this subdivision shall be promptly taken to a shelter facility or veterinary clinic to be examined by a veterinarian for evidence of sexual contact. The animal shall be maintained at such a facility until disposition by the court or until a decision has been made to not file a complaint.</p> <p>(3) Upon the conviction of a person charged with a violation of this section, 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</p>
--	---

Comparison Table: 2018, 2019 Sexual abuse of animals bills (Nazarian.)

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. (4) Except as otherwise specified in this section, if an animal is seized pursuant to paragraph (1), the disposition, care, or the responsibility for the financial cost of animals seized shall be in accordance with the provisions of Section 597.1.

SEC. 4.

Section 597.9 of the Penal Code is amended to read:

597.9.

(a) Except as provided in subdivision (c) or (d), a person who has been convicted of a misdemeanor violation of [Section 286.5](#), subdivision (a) or (b) of Section 597, or Section 597a, 597b, 597h, 597j, 597s, or 597.1, and who, within five years after the conviction, owns, possesses, maintains, has custody of, resides with, or cares for any animal is guilty of a public offense, punishable by a fine of one thousand dollars (\$1,000).

(b) Except as provided in subdivision (c) or (d), a person who has been convicted of a felony violation of subdivision (a) or (b) of Section 597, or Section 597b or 597.5, and who, within 10 years after the conviction, owns, possesses, maintains, has custody of, resides with, or cares for any animal is guilty of a public offense, punishable by a fine of one thousand dollars (\$1,000).

(c) (1) In cases of owners of livestock, as defined in Section 14205 of the Food and Agricultural Code, a court may, in the interest of justice, exempt a defendant from the injunction required under subdivision (a) or (b), as it would apply to livestock, if the defendant files a petition with the court to establish, and does establish by a preponderance of the evidence, that the imposition of the provisions of this section would result in substantial or undue economic hardship to the defendant's livelihood and that the defendant has the ability to properly care for all livestock in ~~his or her~~ *their* possession.

(2) Upon receipt of a petition from the defendant, the court shall set a hearing to be conducted within 30 days after the filing of the petition. The petitioner shall serve a copy of the petition upon the prosecuting attorney 10 calendar days prior to the requested hearing. The court shall grant the petition for exemption from subdivision (a) or (b) unless the prosecuting attorney shows by a preponderance of the evidence that either or both of the criteria for exemption under this subdivision are untrue.

(d) (1) A defendant may petition the court to reduce the duration of the mandatory ownership prohibition. Upon receipt of a petition from the defendant,

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. (4) Except as otherwise specified in this section, if an animal is seized pursuant to paragraph (1), the disposition, care, or the responsibility for the financial cost of animals seized shall be in accordance with the provisions of Section 597.1.

SEC. 4.

Section 597.9 of the Penal Code is amended to read:

597.9.

(a) Except as provided in subdivision (c) or (d), any person who has been convicted of a misdemeanor violation of Section 286.5, subdivision (a) or (b) of Section 597, or Section 597a, 597b, 597h, 597j, 597s, or 597.1, and who, within five years after the conviction, owns, possesses, maintains, has custody of, resides with, or cares for any animal is guilty of a public offense, punishable by a fine of one thousand dollars (\$1,000).

(b) Except as provided in subdivision (c) or (d), any person who has been convicted of a felony violation of subdivision (a) or (b) of Section 597, or Section 597b or 597.5, and who, within 10 years after the conviction, owns, possesses, maintains, has custody of, resides with, or cares for any animal is guilty of a public offense, punishable by a fine of one thousand dollars (\$1,000).

(c) (1) In cases of owners of livestock, as defined in Section 14205 of the Food and Agricultural Code, a court may, in the interest of justice, exempt a defendant from the injunction required under subdivision (a) or (b), as it would apply to livestock, if the defendant files a petition with the court to establish, and does establish by a preponderance of the evidence, that the imposition of the provisions of this section would result in substantial or undue economic hardship to the defendant's livelihood and that the defendant has the ability to properly care for all livestock in **his or her** possession.

(2) Upon receipt of a petition from the defendant, the court shall set a hearing to be conducted within 30 days after the filing of the petition. The petitioner shall serve a copy of the petition upon the prosecuting attorney 10 calendar days prior to the requested hearing. The court shall grant the petition for exemption from subdivision (a) or (b) unless the prosecuting attorney shows by a preponderance of the evidence that either or both of the criteria for exemption under this subdivision are untrue.

(d) (1) A defendant may petition the court to reduce the duration of the mandatory ownership prohibition. Upon receipt of a petition from the defendant,

Comparison Table: 2018, 2019 Sexual abuse of animals bills (Nazarian.)

<p>the court shall set a hearing to be conducted within 30 days after the filing of the petition. The petitioner shall serve a copy of the petition upon the prosecuting attorney 10 calendar days prior to the requested hearing. At the hearing, the petitioner shall have the burden of establishing by a preponderance of the evidence all of the following:</p> <p>(A) He or she <i>The petitioner</i> does not present a danger to animals.</p> <p>(B) He or she <i>The petitioner</i> has the ability to properly care for all animals in his or her <i>their</i> possession.</p> <p>(C) He or she <i>The petitioner</i> has successfully completed all classes or counseling ordered by the court.</p> <p>(2) If the petitioner has met his or her <i>their</i> burden, the court may reduce the mandatory ownership prohibition and may order that the defendant comply with reasonable and unannounced inspections by animal control agencies or law enforcement.</p> <p>(e) An animal shelter administered by a public animal control agency, a humane society, or any society for the prevention of cruelty to animals, and an animal rescue or animal adoption organization may ask an individual a person who is attempting to adopt an animal from that entity whether he or she <i>the person</i> is prohibited from owning, possessing, maintaining, having custody of, or residing with an animal pursuant to this section.</p> <p>SEC. 5.</p> <p>No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.</p>	<p>the court shall set a hearing to be conducted within 30 days after the filing of the petition. The petitioner shall serve a copy of the petition upon the prosecuting attorney 10 calendar days prior to the requested hearing. At the hearing, the petitioner shall have the burden of establishing by a preponderance of the evidence all of the following:</p> <p>(A) He or she does not present a danger to animals.</p> <p>(B) He or she has the ability to properly care for all animals in his or her possession.</p> <p>(C) He or she has successfully completed all classes or counseling ordered by the court.</p> <p>(2) If the petitioner has met his or her burden, the court may reduce the mandatory ownership prohibition and may order that the defendant comply with reasonable and unannounced inspections by animal control agencies or law enforcement.</p> <p>Added by 2018 AB 2774 Limón (e) <i>An animal shelter administered by a public animal control agency, a humane society, or any society for the prevention of cruelty to animals, and an animal rescue or animal adoption organization may ask an individual who is attempting to adopt an animal from that entity whether he or she is prohibited from owning, possessing, maintaining, having custody of, or residing with an animal pursuant to this section.</i></p> <p>SEC. 5.</p> <p>No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.</p>
--	--