

Introduced by Senator Wilk

February 7, 2018

An act to amend Section 597 of the Penal Code, relating to animal abuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 1024, as introduced, Wilk. Animal abuse.

Existing law makes it a crime to maliciously and intentionally maim, mutilate, torture, wound, or kill a living animal. If a defendant is granted probation for a conviction under this provision, existing law requires the court to order the defendant to complete counseling designed to evaluate and treat behavior or conduct disorders.

This bill would make technical, nonsubstantive changes to these provisions.

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

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,

1 drink, or shelter, cruelly beats, mutilates, or cruelly kills ~~any~~ *an*
2 animal, or causes or procures ~~any~~ *an* animal to be so overdriven,
3 overloaded, driven when overloaded, overworked, tortured,
4 tormented, deprived of necessary sustenance, drink, shelter, or to
5 be cruelly beaten, mutilated, or cruelly killed; and whoever, having
6 the charge or custody of ~~any~~ *an* animal, either as owner or
7 otherwise, subjects ~~any~~ *an* animal to needless suffering, or inflicts
8 unnecessary cruelty upon the animal, or in any manner abuses ~~any~~
9 *an* animal, or fails to provide the animal with proper food, drink,
10 or ~~shelter~~ *shelter*, or protection from the weather, or who drives,
11 rides, or otherwise uses the animal when unfit for labor, is, for
12 each offense, guilty of a crime punishable pursuant to subdivision
13 (d).

14 (c) Every person who maliciously and intentionally maims,
15 mutilates, or tortures ~~any~~ *a* mammal, bird, reptile, amphibian, or
16 fish, as described in subdivision (e), is guilty of a crime punishable
17 pursuant to subdivision (d).

18 (d) A violation of subdivision (a), (b), or (c) is punishable as a
19 felony by imprisonment pursuant to subdivision (h) of Section
20 1170, or by a fine of not more than twenty thousand dollars
21 (\$20,000), or by both that fine and imprisonment, or alternatively,
22 as a misdemeanor by imprisonment in a county jail for not more
23 than one year, or by a fine of not more than twenty thousand dollars
24 (\$20,000), or by both that fine and imprisonment.

25 (e) (1) Subdivision (c) applies to any mammal, bird, reptile,
26 amphibian, or fish which is a creature described as follows:

27 (1)

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

31 (2)

32 (B) Fully protected birds described in Section 3511 of the Fish
33 and Game Code.

34 (3)

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

38 (4)

1 (D) Fully protected reptiles and amphibians described in Chapter
2 2 (commencing with Section 5050) of Division 5 of the Fish and
3 Game Code.

4 ~~(5)~~

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

7 ~~This~~

8 (2) ~~This~~ subdivision does not supersede or affect any provisions
9 of law relating to taking of the described species, including, but
10 not limited to, Section 12008 of the Fish and Game Code.

11 (f) For the purposes of subdivision (c), each act of malicious
12 and intentional maiming, mutilating, or torturing a separate
13 specimen of a creature described in subdivision (e) is a separate
14 offense. If ~~any~~ a person is charged with a violation of subdivision
15 (c), the proceedings shall be subject to Section 12157 of the Fish
16 and Game Code.

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

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

33 (h) Notwithstanding any other ~~provision~~ of law, if a defendant
34 is granted probation for a conviction under this section, the court
35 shall order the defendant to pay for, and successfully complete,
36 counseling, as determined by the court, designed to evaluate and
37 treat behavior or conduct disorders. If the court finds that the
38 defendant is financially unable to pay for that counseling, the court
39 may develop a sliding fee schedule based upon the defendant's
40 ability to pay. An indigent defendant may negotiate a deferred

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

O