

AMENDED IN ASSEMBLY APRIL 23, 2008

AMENDED IN ASSEMBLY APRIL 1, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2296

Introduced by Assembly Member Mullin

February 21, 2008

An act to add Section 52.6 to the Civil Code, *and* to add Section 6254.30 to the Government Code, ~~and to add Sections 606, 606.1, 606.2, and 606.3 to the Penal Code, relating to animal enterprises. relating to animals.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2296, as amended, Mullin. Animals: Animal Enterprise Protection Act.

Existing law establishes various causes of action, including actions for damages and injunctive relief, for the enforcement of various rights.

This bill would provide that no person, business, or association shall knowingly publicly post or publicly display on the Internet a home address, home telephone number, or image of any employee of an animal enterprise, *as defined*, or other individuals residing at the same home address of the employee of an animal enterprise, *with the intent to incite great bodily harm or threaten the person*, as specified. The bill would authorize a victim of a violation of those prohibitions to maintain an action for damages and for injunctive relief, as specified. *The bill would state the intent of the Legislature to balance the public's right of access to information with the ability of animal researchers to conduct their work without fear of harassment and threats of violence.*

Existing law, subject to exceptions, generally provides the disclosure of public records, as specified.

This bill would exempt from disclosure, information relating to animal research activities when there is a reasonable basis to conclude that public disclosure of the records would result in harassment of individuals involved with the research. The bill would state findings and the intent of the Legislature in this regard.

Existing law establishes various offenses in connection with obstruction of, or interference with, among other things, places of business.

This bill would provide that every person who commits any of certain acts for the purpose of injuring, intimidating, or interfering with the operations of an animal enterprise, as defined, or with a person connected, as specified, to an animal enterprise, or who damages or destroys property because of its connection to an animal enterprise, as specified, is guilty of a misdemeanor. The bill would provide alternate punishments depending on the elements of the offense of up to 6 months imprisonment in a county jail and a fine of up to \$2,000, or up to one year in a county jail and a fine of up to \$25,000. Fines would be increased for subsequent offenses and other circumstances, as specified. The bill would also authorize actions for damages and civil penalties, and for restraining orders in connection with violations of the prohibitions, 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.

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

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

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 California Animal Enterprise Protection Act.
- 3 SEC. 2. Section 52.6 is added to the Civil Code, to read:
- 4 52.6. (a) (1) No person, business, or association shall
- 5 knowingly publicly post or publicly display on the Internet a home

1 address, home telephone number, or image of any employee of an
2 animal enterprise or other individuals residing at the same home
3 address of the employee of an animal enterprise, with the intent
4 to do either of the following:

5 (A) Incite a third person to cause imminent great bodily harm
6 to the person identified in the posting or display, or to a coresident
7 of that person, where the third person is likely to commit this harm.

8 (B) Threaten the person identified in the posting or display, or
9 a coresident of that person, in a manner that places the person
10 identified or the coresident in objectively reasonable fear for his
11 or her personal safety.

12 (2) An employee of an animal enterprise whose home address,
13 home telephone number, or image is made public as a result of a
14 violation of paragraph (1) may do either or both of the following:

15 (A) Bring an action seeking injunctive or declarative relief in
16 any court of competent jurisdiction. If a jury or court finds that a
17 violation has occurred, it may grant injunctive or declarative relief
18 and shall award the successful plaintiff court costs and reasonable
19 attorney's fees.

20 (B) Bring an action for money damages in any court of
21 competent jurisdiction. In addition to any other legal rights or
22 remedies, if a jury or court finds that a violation has occurred, it
23 shall award damages to that individual in an amount up to a
24 maximum of three times the actual damages, but in no case less
25 than four thousand dollars (\$4,000).

26 (b) (1) No person, business, or association shall publicly post or
27 publicly display on the Internet a home address, home telephone
28 number, or image of any employee of an animal enterprise if that
29 individual has made a written demand of that person, business, or
30 association to not disclose his or her home address or home
31 telephone number. A demand made under this paragraph shall
32 include a sworn statement declaring that the person is subject to
33 the protection of this section and describing a reasonable fear for
34 the safety of that individual or of any person residing at the
35 individual's home address, based on a violation of subdivision (a).
36 A written demand made under this paragraph shall be effective
37 for four years, regardless of whether or not the individual's
38 affiliation with an animal enterprise has expired prior to the end
39 of the four-year period.

1 (2) An employee of an animal enterprise whose home address
2 or home telephone number is made public as a result of a failure
3 to honor a demand made pursuant to paragraph (1) may bring an
4 action seeking injunctive or declarative relief in any court of
5 competent jurisdiction. If a jury or court finds that a violation has
6 occurred, it may grant injunctive or declarative relief and shall
7 award the successful plaintiff court costs and reasonable attorney's
8 fees.

9 (3) This subdivision shall not apply to a person or entity defined
10 in Section 1070 of the Evidence Code.

11 (c) (1) No person, business, or association shall solicit, sell, or
12 trade on the Internet a home address, home telephone number, or
13 image of any employee of an animal enterprise with the intent to
14 do either of the following:

15 (A) Incite a third person to cause imminent great bodily harm
16 to the person identified in the posting or display, or to a coresident
17 of that person, where the third person is likely to commit this harm.

18 (B) Threaten the person identified in the posting or display, or
19 a coresident of that person, in a manner that places the person
20 identified or the coresident in objectively reasonable fear for his
21 or her personal safety.

22 (2) An employee of an animal enterprise whose home address,
23 home telephone number, or image is solicited, sold, or traded in
24 violation of paragraph (1) may bring an action in any court of
25 competent jurisdiction. In addition to any other legal rights and
26 remedies, if a jury or court finds that a violation has occurred, it
27 shall award damages to that individual in an amount up to a
28 maximum of three times the actual damages, but in no case less
29 than four thousand dollars (\$4,000).

30 (d) An interactive computer service or access software provider,
31 as defined in Section 230(f) of Title 47 of the United States Code,
32 shall not be liable under this section unless the service or provider
33 intends to abet or cause bodily harm that is likely to occur or
34 threatens to cause bodily harm to an owner or employee of an
35 animal enterprise or any person residing at the same home address.

36 (e) Nothing in this section is intended to preclude punishment
37 under any other provision of law.

38 (f) For purposes of this section, the following terms have the
39 following meanings:

40 (1) "Animal enterprise" means ~~any of the following:~~

1 ~~(A) A commercial or academic enterprise that uses or sells~~
2 ~~animals or animal products for profit, food or fiber production,~~
3 ~~agriculture, education, research, or testing.~~

4 ~~(B) A zoo, aquarium, animal shelter, pet store, breeder, furrier,~~
5 ~~circus, or rodeo, or other lawful competitive animal event.~~

6 ~~(C) Any fair or similar event intended to advance agricultural~~
7 ~~arts and sciences: an entity that lawfully uses animals or animal~~
8 ~~products for education or research in any exercise of a~~
9 ~~constitutional right that relates to academic freedom.~~

10 (2) “Image” includes, but is not limited to, any photograph,
11 video footage, sketch, or computer-generated image that provides
12 a means to visually identify the person depicted.

13 (3) “Publicly post” or “publicly display” means to intentionally
14 communicate or otherwise make available to the general public.

15 SEC. 3. Section 6254.30 is added to the Government Code, to
16 read:

17 ~~6254.30. (a) The Legislature finds and declares that this section~~
18 ~~imposes a limitation on the public’s right of access to the meetings~~
19 ~~of public bodies or the writings of public officials and agencies~~
20 ~~within the meaning of Section 3 of Article I of the California~~
21 ~~Constitution. Pursuant to that constitutional provision, the~~
22 ~~Legislature makes the following findings to demonstrate the interest~~
23 ~~protected by this limitation and the need for protecting that interest:~~

24 ~~(1) Access to information concerning the conduct of the people’s~~
25 ~~business is a fundamental and necessary right of every person in~~
26 ~~this state pursuant to subdivision (b) of Section 3 of Article I of~~
27 ~~the California Constitution and Section 6250. The public has a~~
28 ~~paramount interest in knowing how public money is spent and~~
29 ~~invested, including how moneys are used to fund research~~
30 ~~activities.~~

31 ~~(2) No researcher should be subject to the risk of threats, assault,~~
32 ~~or physical harm in order to engage in legal research activities.~~

33 ~~(3) Increasingly, individuals who conduct research using animal~~
34 ~~subjects have become targets of harassment and threats of violence~~
35 ~~by groups representing themselves as animal rights activists.~~

36 ~~(4) Threats of violence, stalking, and vandalism have extended~~
37 ~~beyond animal researchers to also target their family members and~~
38 ~~supporters.~~

1 ~~(5) The information used to target the victims of these crimes~~
2 ~~often is obtained by making a request for public records from a~~
3 ~~government agency.~~

4 ~~(6) The high incidence of violence against animal researchers~~
5 ~~has led some to abandon their work with animal subjects out of~~
6 ~~fear for themselves and their families.~~

7 ~~(b)~~
8 6254.30. It is the intent of the Legislature to balance the
9 public's right of access to information and the ability of animal
10 researchers to conduct their work without fear of being targets of
11 harassment and threats of violence. This section is not intended to
12 reverse the general presumption of access and openness of the
13 California Public Records Act and subdivision (b) of Section 3 of
14 Article I of the California Constitution.

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Assembly, April 1, 2008 (JR11)**