

AMENDED IN ASSEMBLY APRIL 6, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1117

Introduced by Assembly Member Smyth

February 18, 2011

An act to amend Section 597.1 of, ~~and~~ to add Section 597.9 to, *and to repeal Section 597f of*, the Penal Code, relating to animal abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 1117, as amended, Smyth. Animal abuse: penalties.

Existing law provides that upon the conviction of a person for a violation of a specified law regarding the failure to care for animals, the court is authorized to make an order prohibiting the defendant, as a condition of probation, from owning, possessing, caring for, or having any contact with animals of any kind and to order the convicted person to immediately deliver all animals in his or her possession to a designated public entity, as specified. Existing law requires the court, in the event of acquittal or final discharge of a person arrested pursuant to these provisions, to direct the release of the seized or impounded animals, on demand, upon a showing of proof of ownership.

This bill would instead require the court to make the orders above regarding ownership and forfeiture, as specified. The bill would require the owner to make additional showings in order for the court to direct the release of seized or impounded animals.

Existing law provides that the cost of seizing, caring for, and treating any animal seized pursuant to specified provisions regarding the failure to care for animals shall constitute a lien on the animal and that the animal shall not be returned to its owner until the charges are paid. Existing law provides that no animal properly seized pursuant to these

provisions shall be returned to its owner until, in the determination of the seizing agency or hearing officer, the animal is physically fit, or the owner can demonstrate that the owner can and will provide the necessary care. *Existing law provides a process for a postseizure hearing, as specified, and makes the agency, department, or society employing the person who directed the seizure responsible for the costs incurred for caring and treating the animal, if it is determined that the seizing officer did not have reasonable grounds for the seizure.*

This bill would instead provide that the full cost of housing, feeding, caring for, and treating an animal shall constitute a lien on an animal and additionally apply these provisions to animals seized pursuant to a search warrant, as specified. The bill would require that the animal not be returned to its owner until the charges are paid if the seizure is upheld, regardless of the outcome of any criminal, civil, or administrative proceeding or of the value of the animal seized. The bill would provide that if the animal is seized pursuant to a search warrant, the owner or keeper is not entitled to a postseizure hearing. The bill would, in the event that the owner has satisfied the lien, provide a process for the seizing agency or prosecuting attorney to file a petition seeking forfeiture of any animal, as specified. In regards to seizures determined justified by a postseizure hearing, the bill would provide that the animal shall not be returned until the charges are paid and the owner demonstrates that the owner can and will present the necessary care, and that the owner does not present a danger to the animal. The bill would make other conforming changes and delete a duplicate provision.

Existing law establishes various other crimes regarding cruelty to animals and the failure to care for animals.

This bill would require the court, upon conviction of a person for certain of these crimes, in addition to any other sentence or penalty, to enter an order enjoining the person from owning, possessing, maintaining, having custody of, residing with, or caring for any animal within a specified period after conviction, and would make related changes. The bill would make a violation of this order a misdemeanor, as specified. The bill would provide that the court may, in the interest of justice, reduce the duration of, or, in the case of livestock owners, exempt a defendant from, these restrictions under specified circumstances. By creating a new crime and by increasing the duties of local humane officers, 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 597.1 of the Penal Code is amended to
2 read:

3 597.1. (a) Every owner, driver, or keeper of any animal who
4 permits the animal to be in any building, enclosure, lane, street,
5 square, or lot of any city, county, city and county, or judicial district
6 without proper care and attention is guilty of a misdemeanor. Any
7 peace officer, humane society officer, or animal control officer
8 shall take possession of the stray or abandoned animal and shall
9 provide care and treatment for the animal until the animal is
10 deemed to be in suitable condition to be returned to the owner.
11 When the officer has reasonable grounds to believe that very
12 prompt action is required to protect the health or safety of the
13 animal or the health or safety of others, the officer shall
14 immediately seize the animal and comply with subdivision (f). In
15 all other cases, the officer shall comply with the provisions of
16 subdivision (g). ~~The cost of caring for~~ *The full cost of housing,*
17 *feeding, caring for,* and treating any animal properly seized under
18 this subdivision or pursuant to a search warrant shall constitute a
19 lien on the animal and the animal shall not be returned to its owner
20 until the charges are paid, if the seizure is upheld pursuant to this
21 section, *regardless of the outcome of any criminal, civil, or*
22 *administrative proceeding or the value of the animal seized.*

23 (b) Every sick, disabled, infirm, or crippled animal, except a
24 dog or cat, that is abandoned in any city, county, city and county,
25 or judicial district may be killed by the officer if, after a reasonable
26 search, no owner of the animal can be found. It shall be the duty

1 of all peace officers, humane society officers, and animal control
2 officers to cause the animal to be killed or rehabilitated and placed
3 in a suitable home on information that the animal is stray or
4 abandoned. The officer may likewise take charge of any animal,
5 including a dog or cat, that by reason of lameness, sickness,
6 feebleness, or neglect, is unfit for the labor it is performing, or that
7 in any other manner is being cruelly treated, and provide care and
8 treatment for the animal until it is deemed to be in a suitable
9 condition to be returned to the owner. When the officer has
10 reasonable grounds to believe that very prompt action is required
11 to protect the health or safety of an animal or the health or safety
12 of others, the officer shall immediately seize the animal and comply
13 with subdivision (f). In all other cases, the officer shall comply
14 with subdivision (g). ~~The cost of caring for~~ *The full cost of housing,*
15 *feeding, caring for,* and treating any animal properly seized under
16 this subdivision or pursuant to a search warrant shall constitute a
17 lien on the animal and the animal shall not be returned to its owner
18 until the charges are paid, *regardless of the outcome of any*
19 *criminal, civil, or administrative proceeding or the value of the*
20 *animal seized.*

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

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

34 Whenever any animal is transferred to a veterinarian in a clinic,
35 such as an emergency clinic that is not in continuous operation,
36 the veterinarian may, in turn, transfer the animal to an appropriate
37 facility.

38 If the veterinarian determines that the animal shall be hospitalized
39 under proper care and given emergency treatment, the costs of any
40 services that are provided pending the owner's inquiry to the

1 responsible agency, department, or society shall be paid from the
2 dog license fees, fines, and fees for impounding dogs in the city,
3 county, or city and county in which the animal was licensed or, if
4 the animal is unlicensed, shall be paid by the jurisdiction in which
5 the animal was found, subject to the provision that this cost be
6 repaid by the animal's owner. ~~The cost of caring for~~ *The full cost*
7 *of housing, feeding, caring for,* and treating any animal seized
8 under this subdivision shall constitute a lien on the animal and the
9 animal shall not be returned to the owner until the charges are paid.
10 No veterinarian shall be criminally or civilly liable for any decision
11 that he or she makes or for services that he or she provides pursuant
12 to this subdivision.

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

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

26 (f) Whenever an officer authorized under this section seizes or
27 impounds an animal based on a reasonable belief that prompt action
28 is required to protect the health or safety of the animal or the health
29 or safety of others, the officer shall, prior to the commencement
30 of any criminal proceedings authorized by this section, provide
31 the owner or keeper of the animal, if known or ascertainable after
32 reasonable investigation, with the opportunity for a postseizure
33 hearing to determine the validity of the seizure or impoundment,
34 or both. *If an animal is seized pursuant to a search warrant, the*
35 *owner or keeper shall not be entitled to a postseizure hearing. The*
36 *full cost of housing, feeding, caring for, and treating any animal*
37 *seized pursuant to a search warrant shall constitute a lien on the*
38 *animal.*

39 (1) The agency shall cause a notice to be affixed to a
40 conspicuous place where the animal was situated or personally

1 deliver a notice of the seizure or impoundment, or both, to the
2 owner or keeper within 48 hours, excluding weekends and holidays.

3 The notice shall include all of the following:

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

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

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

11 (D) A statement that, in order to receive a postseizure hearing,
12 the owner or person authorized to keep the animal, or his or her
13 agent, shall request the hearing by signing and returning an
14 enclosed declaration of ownership or right to keep the animal to
15 the agency providing the notice within 10 days, including weekends
16 and holidays, of the date of the notice. The declaration may be
17 returned by personal delivery or mail. *This statement shall not be*
18 *included in the notice if the animal is seized pursuant to a search*
19 *warrant.*

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

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

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

38 (4) The agency, department, or society employing the person
39 who directed the seizure shall be responsible for the costs incurred
40 ~~for caring~~ *housing, feeding, caring for,* and treating the animal, if

1 it is determined in the postseizure hearing that the seizing officer
2 did not have reasonable grounds to believe very prompt action,
3 including seizure of the animal, was required to protect the health
4 or safety of the animal or the health or safety of others. If it is
5 determined the seizure was justified, the owner or keeper shall be
6 personally liable to the seizing agency for the cost of the seizure
7 and care of the animal, ~~the charges for the seizure and care of the~~
8 ~~animal shall be a lien on the animal, and the animal shall not be~~
9 ~~returned to its owner until the charges are paid and the seizing~~
10 ~~agency or hearing officer has determined that the animal is~~
11 ~~physically fit or the owner demonstrates to the seizing agency's~~
12 ~~or the hearing officer's satisfaction that the owner can and will~~
13 ~~provide the necessary care: *the full cost of housing, feeding, caring*~~
14 ~~*for, and treating the animal. The full cost for the housing, feeding,*~~
15 ~~*care, and treatment of the animal shall be a lien on the animal*~~
16 ~~*and the animal shall not be returned to its owner until the cost is*~~
17 ~~*paid and the owner demonstrates, to the satisfaction of the seizing*~~
18 ~~*agency or the hearing officer, that he or she can and will provide*~~
19 ~~*the necessary care, and that he or she does not present a danger,*~~
20 ~~*to the animal.*~~

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

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

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

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

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

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

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

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

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

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

34 (h) If any animal is properly seized under this section or pursuant
35 to a search warrant, the owner or keeper shall be personally liable
36 to the seizing agency for the ~~cost of the seizure and care of the~~
37 ~~animal. Furthermore, if the charges for the seizure or impoundment~~
38 ~~and any other charges~~ *full cost of housing, feeding, caring for, and*
39 *treating the animal, regardless of the outcome of any criminal,*
40 *civil, or administrative proceeding or the value of the animal*

1 seized. A statement of charges shall be presented to the owner or
2 keeper at the time of the postseizure hearing. If the animal is seized
3 pursuant to a search warrant, a statement of charges shall be sent
4 by certified mail or personal delivery to the owner or keeper not
5 later than 10 days, including weekends and holidays, of the date
6 of the notice provided pursuant to paragraph (1) of subdivision
7 (f), otherwise if no postseizure hearing is requested, a statement
8 of charges shall be sent by certified mail or personal delivery to
9 the owner or keeper upon expiration of the time to request a
10 hearing pursuant to subparagraph (D) of paragraph (1) of
11 subdivision (f) as permitted under this ~~section~~ Section. If the
12 charges are not paid within 14 days of ~~the seizure~~ presenting or
13 sending the statement of charges, or, if the owner, within 14 days
14 of notice of availability of the animal to be returned, fails to pay
15 charges permitted under this section and take possession of the
16 animal, the animal shall be deemed to have been abandoned ~~and~~
17 ~~may be disposed of by the impounding officer.~~ and shall become
18 the property of the seizing agency. If the owner satisfies payment
19 of the charges that accrued during the first 14 days after seizure
20 and the animal remains impounded, the seizing agency shall
21 continue to regularly send statements of charges that outline all
22 new charges that have accrued. The time period for sending the
23 statements shall be at the discretion of the seizing agency, but shall
24 not exceed 14 days from the date the last statement is sent.
25 Statements of charges shall state that if the owner fails to pay the
26 new charges within 14 days of the date of the statement, the animal
27 shall be deemed to have been abandoned and shall become the
28 property of the seizing agency.

29 (i) If the animal requires veterinary care and the humane society
30 or public agency is not assured, within 14 days of the seizure of
31 the animal, that the owner will provide the necessary care, the
32 animal shall not be returned to its owner and shall be deemed to
33 have been abandoned and ~~may be disposed of by the impounding~~
34 ~~officer~~ shall become the property of the seizing agency. A
35 veterinarian may humanely destroy an impounded animal without
36 regard to the prescribed holding period when it has been determined
37 that the animal has incurred severe injuries or is incurably crippled.
38 A veterinarian also may immediately humanely destroy an
39 impounded animal afflicted with a serious contagious disease
40 unless the owner or his or her agent immediately authorizes

1 treatment of the animal by a veterinarian at the expense of the
 2 owner or agent.

3 (j) No animal properly seized under this section or pursuant to
 4 a search warrant shall be returned to its owner until, ~~in the~~
 5 ~~determination of the seizing agency or hearing officer, the animal~~
 6 ~~is physically fit or the owner can demonstrate to the seizing~~
 7 ~~agency's or hearing officer's satisfaction that the owner can and~~
 8 ~~will provide the necessary care.~~ *the owner demonstrates to the*
 9 *satisfaction of the seizing agency or the hearing officer that the*
 10 *owner can and will provide the necessary care, and that the owner*
 11 *does not present a danger, to the animal.*

12 (k) (1) In the event that the owner has satisfied the lien provided
 13 for in this section for the ~~cost of caring for or~~ *full cost of housing,*
 14 *feeding, caring for, and treating* treating an animal, prior to final
 15 disposition of any criminal charges, the seizing agency or
 16 prosecuting attorney may file a petition in the criminal action
 17 requesting that the court issue an order forfeiting the animal to the
 18 county or seizing agency prior to final disposition of the criminal
 19 charge. The petitioner shall serve a true copy of the petition upon
 20 the defendant and the prosecuting attorney.

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

24 ~~(3) The petitioner shall have the burden of establishing probable~~
 25 ~~cause to believe that even in the event of acquittal, the owner cannot~~
 26 ~~and will not provide the necessary care for, or that the owner will~~
 27 ~~not legally be permitted to retain, any of the animals in question.~~
 28 ~~If the court finds probable cause exists, the court shall order~~
 29 ~~immediate forfeiture of the animal to the petitioner.~~

30 *(3) At the hearing, if the court finds that the petitioner has*
 31 *established, by a preponderance of the evidence, that, even in the*
 32 *event of acquittal, either the owner cannot or will not provide the*
 33 *necessary care for the animal in question or the owner will not*
 34 *legally be permitted to retain the animal, the court shall order*
 35 *immediate forfeiture of the animal to the petitioner.*

36 (l) (1) Upon the conviction of a person charged with a violation
 37 of this section, or Section 597 or 597a, all animals lawfully seized
 38 and impounded with respect to the violation shall be adjudged by
 39 the court to be forfeited and shall thereupon be transferred to the
 40 impounding officer or appropriate public entity for proper adoption

1 or other disposition. A person convicted of a violation of this
2 section shall be personally liable to the seizing agency for all costs
3 of impoundment from the time of seizure to the time of proper
4 disposition. Upon conviction, the court shall order the convicted
5 person to make payment to the appropriate public entity for the
6 costs incurred in the housing, care, feeding, and treatment of the
7 seized or impounded animals. Each person convicted in connection
8 with a particular animal may be held jointly and severally liable
9 for restitution for that particular animal. The payment shall be in
10 addition to any other fine or sentence ordered by the court.

11 (2) ~~If~~ *Notwithstanding a modification granted pursuant to*
12 *subdivision (d) or (e) of Section 597.9, if probation is granted, the*
13 *court shall also order, as a condition of probation, that the convicted*
14 *person be prohibited from owning, possessing, caring for, or having*
15 ~~any contact~~ *residing with, animals of any kind. Regardless of*
16 *whether probation is granted, the court shall require the convicted*
17 *person to immediately deliver all animals in his or her possession*
18 *to a designated public entity for adoption or other lawful disposition*
19 *or provide proof to the court that the person no longer has*
20 *possession, care, or control of any animals. In the event of the*
21 *acquittal or final discharge without conviction of the arrested*
22 ~~person~~ *person charged, if any of the animals are still impounded*
23 ~~because~~ *and the animal or animals have not previously been*
24 *deemed abandoned pursuant to subdivision (h) or the lien has been*
25 *satisfied and the court has not previously ordered that any of the*
26 *animals be forfeited, the court shall, on demand, direct the release*
27 *of seized or impounded animals to the person charged upon a*
28 *showing of all of the following:*

29 (A) Proof of ownership.

30 (B) Proof that all charges for the cost of seizure and ~~are~~ *the*
31 *full cost of housing, feeding, care, and treatment of the animals*
32 *for the entire duration of the matter have been paid.*

33 (C) Proof that the animals are physically fit and that the owner
34 has demonstrated to the seizing agency ~~or~~ *and* the court that the
35 owner can and will provide the necessary care.

36 (D) Proof that the owner can legally retain and possess all
37 animals in question.

38 (3) Any questions regarding ownership shall be determined in
39 a separate hearing by the court where the criminal case was finally
40 adjudicated and the court shall hear testimony from any persons

1 who may assist the court in determining ownership of the animal.
2 If the owner is determined to be unknown or the owner is
3 prohibited or unable to retain possession of the animals for any
4 reason, the court shall order the animals to be released to the
5 appropriate public entity for adoption or other lawful disposition.
6 This section is not intended to cause the release of any animal,
7 bird, reptile, amphibian, or fish seized or impounded pursuant to
8 any other statute, ordinance, or municipal regulation. This section
9 shall not prohibit the seizure or impoundment of animals as
10 evidence as provided for under any other provision of law.

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

24 SEC. 2. Section 597.9 is added to the Penal Code, to read:

25 597.9. (a) Except as provided in subdivision (d) or (e), the
26 court shall, upon a conviction for a misdemeanor violation of
27 subdivision (a) or (b) of Section 597, or of Section 597a, 597b,
28 597h, 597j, 597s, or 597.1, in addition to any other sentence or
29 penalty imposed, enter an order enjoining the person from owning,
30 possessing, maintaining, having custody of, residing with, or caring
31 for any animal for a period of not less than five years.

32 (b) Except as provided in subdivision (d) or (e), the court shall,
33 upon a conviction of a person for a felony violation of subdivision
34 (a) or (b) of Section 597, or of Section 597b or 597.5, in addition
35 to any other sentence or penalty imposed, enter an order enjoining
36 the person from owning, possessing, maintaining, having custody
37 of, residing with, or caring for any animal for a period of not less
38 than 10 years.

39 (c) Any person who is convicted of violating an order issued
40 under this section is guilty of a public offense, which shall be

1 punished by imprisonment in a county jail not exceeding one year,
2 by a fine not exceeding one thousand dollars (\$1,000), or by both
3 that imprisonment and fine.

4 (d) (1) In cases of owners of livestock, as defined in Section
5 14205 of the Food and Agricultural Code, a court may, in the
6 interest of justice, exempt a defendant from the injunction required
7 under subdivision (a) or (b), as it would apply to livestock, if the
8 defendant files a petition with the court—~~establishing and~~
9 *establishes, by a preponderance of evidence*, that the imposition
10 of the provisions of this section would result in substantial or undue
11 economic hardship to the defendant’s livelihood and that the
12 defendant has the ability to properly care for ~~all~~, *and does not*
13 *present a danger to, the* livestock in his or her possession.

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

23 (e) (1) A defendant may petition the court to reduce the duration
24 of the mandatory ownership prohibition. The petitioner shall serve
25 a true copy of the petition upon the court and the prosecuting
26 attorney 10 calendar days prior to the requested hearing. Upon a
27 petition from the defendant, the court shall set a hearing on the
28 petition. The hearing shall be conducted within 30 days after the
29 filing of the petition. At the hearing, the petitioner shall have the
30 burden of establishing ~~probable cause to believe~~, *by a*
31 *preponderance of evidence*, all of the following:

32 (A) He or she does not present a danger to animals.

33 (B) He or she has the ability to properly care for all animals in
34 his or her possession.

35 (C) He or she has successfully completed all classes or
36 counseling ordered by the court.

37 (2) If the petitioner has met his or her burden, the court may
38 reduce the mandatory ownership prohibition and may order that
39 the defendant comply with reasonable and unannounced inspections
40 by animal control agencies or law enforcement.

1 ~~SEC. 3. Section 597f of the Penal Code is repealed.~~

2 ~~597f. (a) Every owner, driver, or possessor of any animal, who~~
3 ~~permits the animal to be in any building, enclosure, lane, street,~~
4 ~~square, or lot, of any city, city and county, or judicial district,~~
5 ~~without proper care and attention, shall, on conviction, be deemed~~
6 ~~guilty of a misdemeanor. And it shall be the duty of any peace~~
7 ~~officer, officer of the humane society, or officer of a pound or~~
8 ~~animal regulation department of a public agency, to take possession~~
9 ~~of the animal so abandoned or neglected and care for the animal~~
10 ~~until it is redeemed by the owner or claimant, and the cost of caring~~
11 ~~for the animal shall be a lien on the animal until the charges are~~
12 ~~paid. Every sick, disabled, infirm, or crippled animal, except a dog~~
13 ~~or cat, which shall be abandoned in any city, city and county, or~~
14 ~~judicial district, may, if after due search no owner can be found~~
15 ~~therefor, be killed by the officer; and it shall be the duty of all~~
16 ~~peace officers, an officer of such society, or officer of a pound or~~
17 ~~animal regulation department of a public agency to cause the~~
18 ~~animal to be killed on information of such abandonment. The~~
19 ~~officer may likewise take charge of any animal, including a dog~~
20 ~~or cat, that by reason of lameness, sickness, feebleness, or neglect,~~
21 ~~is unfit for the labor it is performing, or that in any other manner~~
22 ~~is being cruelly treated; and, if the animal is not then in the custody~~
23 ~~of its owner, the officer shall give notice thereof to the owner, if~~
24 ~~known, and may provide suitable care for the animal until it is~~
25 ~~deemed to be in a suitable condition to be delivered to the owner,~~
26 ~~and any necessary expenses which may be incurred for taking care~~
27 ~~of and keeping the animal shall be a lien thereon, to be paid before~~
28 ~~the animal can be lawfully recovered.~~

29 ~~(b) It shall be the duty of all officers of pounds or humane~~
30 ~~societies, and animal regulation departments of public agencies to~~
31 ~~convey, and for police and sheriff departments, to cause to be~~
32 ~~conveyed all injured cats and dogs found without their owners in~~
33 ~~a public place directly to a veterinarian known by the officer or~~
34 ~~agency to be a veterinarian that ordinarily treats dogs and cats for~~
35 ~~a determination of whether the animal shall be immediately and~~
36 ~~humanely destroyed or shall be hospitalized under proper care and~~
37 ~~given emergency treatment.~~

38 ~~If the owner does not redeem the animal within the locally~~
39 ~~prescribed waiting period, the veterinarian may personally perform~~
40 ~~euthanasia on the animal; or, if the animal is treated and recovers~~

1 from its injuries, the veterinarian may keep the animal for purposes
2 of adoption, provided the responsible animal control agency has
3 first been contacted and has refused to take possession of the
4 animal.

5 Whenever any animal is transferred pursuant to this subdivision
6 to a veterinarian in a clinic, such as an emergency clinic which is
7 not in continuous operation, the veterinarian may, in turn, transfer
8 the animal to an appropriate facility.

9 If the veterinarian determines that the animal shall be hospitalized
10 under proper care and given emergency treatment, the costs of any
11 services which are provided pending the owner's inquiry to the
12 agency, department, or society shall be paid from the dog license
13 fees, fines, and fees for impounding dogs in the city, county, or
14 city and county in which the animal was licensed or if the animal
15 is unlicensed the jurisdiction in which the animal was found,
16 subject to the provision that this cost be repaid by the animal's
17 owner. No veterinarian shall be criminally or civilly liable for any
18 decision which he or she makes or services which he or she
19 provides pursuant to this section.

20 (e) An animal control agency which takes possession of an
21 animal pursuant to subdivision (b), shall keep records of the
22 whereabouts of the animal for a 72-hour period from the time of
23 possession and those records shall be available to inspection by
24 the public upon request.

25 (d) Notwithstanding any other provisions of this section, any
26 officer of a pound or animal regulation department or humane
27 society, or any officer of a police or sheriff's department may,
28 with the approval of his or her immediate superior, humanely
29 destroy any abandoned animal in the field in any case where the
30 animal is too severely injured to move or where a veterinarian is
31 not available and it would be more humane to dispose of the
32 animal.

33 ~~SEC. 3.~~

34 *SEC. 4.* No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution for certain
36 costs that may be incurred by a local agency or school district
37 because, in that regard, this act creates a new crime or infraction,
38 eliminates a crime or infraction, or changes the penalty for a crime
39 or infraction, within the meaning of Section 17556 of the
40 Government Code, or changes the definition of a crime within the

1 meaning of Section 6 of Article XIII B of the California
2 Constitution.

3 However, if the Commission on State Mandates determines that
4 this act contains other costs mandated by the state, reimbursement
5 to local agencies and school districts for those costs shall be made
6 pursuant to Part 7 (commencing with Section 17500) of Division
7 4 of Title 2 of the Government Code.

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