

AMENDED IN ASSEMBLY APRIL 27, 2011

AMENDED IN ASSEMBLY APRIL 6, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1117

Introduced by Assembly Member Smyth
(Coauthor: Assembly Member Solorio)
(Coauthors: Senators Hancock, Lieu, and Strickland)

February 18, 2011

An act to amend Section 597.1 of, 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~~ *provide* the necessary care *for*, 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 full cost of housing, feeding, caring for, and
 17 treating any animal properly seized under this subdivision or
 18 pursuant to a search warrant shall constitute a lien on the animal
 19 and the animal shall not be returned to its owner until the charges
 20 are paid, if the seizure is upheld pursuant to this section, ~~regardless~~
 21 ~~of the outcome of any criminal, civil, or administrative proceeding~~
 22 ~~or the value of the animal seized.~~

1 (b) Every sick, disabled, infirm, or crippled animal, except a
2 dog or cat, that is abandoned in any city, county, city and county,
3 or judicial district may be killed by the officer if, after a reasonable
4 search, no owner of the animal can be found. It shall be the duty
5 of all peace officers, humane society officers, and animal control
6 officers to cause the animal to be killed or rehabilitated and placed
7 in a suitable home on information that the animal is stray or
8 abandoned. The officer may likewise take charge of any animal,
9 including a dog or cat, that by reason of lameness, sickness,
10 feebleness, or neglect, is unfit for the labor it is performing, or that
11 in any other manner is being cruelly treated, and provide care and
12 treatment for the animal until it is deemed to be in a suitable
13 condition to be returned to the owner. When the officer has
14 reasonable grounds to believe that very prompt action is required
15 to protect the health or safety of an animal or the health or safety
16 of others, the officer shall immediately seize the animal and comply
17 with subdivision (f). In all other cases, the officer shall comply
18 with subdivision (g). The full cost of housing, feeding, caring for,
19 and treating any animal properly seized under this subdivision or
20 pursuant to a search warrant shall constitute a lien on the animal
21 and the animal shall not be returned to its owner until the charges
22 are paid, ~~regardless of the outcome of any criminal, civil, or~~
23 ~~administrative proceeding or the value of the animal seized.~~

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

31 If

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

38 ~~Whenever~~

39 (3) *Whenever* any animal is transferred to a veterinarian in a
40 clinic, such as an emergency clinic that is not in continuous

1 operation, the veterinarian may, in turn, transfer the animal to an
2 appropriate facility.

3 ~~If~~

4 (4) *If* the veterinarian determines that the animal shall be
5 hospitalized under proper care and given emergency treatment,
6 the costs of any services that are provided pending the owner's
7 inquiry to the responsible agency, department, or society shall be
8 paid from the dog license fees, fines, and fees for impounding dogs
9 in the city, county, or city and county in which the animal was
10 licensed or, if the animal is unlicensed, shall be paid by the
11 jurisdiction in which the animal was found, subject to the provision
12 that this cost be repaid by the animal's owner. The full cost of
13 housing, feeding, caring for, and treating any animal seized under
14 this subdivision shall constitute a lien on the animal and the animal
15 shall not be returned to the owner until the charges are paid. No
16 veterinarian shall be criminally or civilly liable for any decision
17 that he or she makes or for services that he or she provides pursuant
18 to this subdivision.

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

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

32 (f) Whenever an officer authorized under this section seizes or
33 impounds an animal based on a reasonable belief that prompt action
34 is required to protect the health or safety of the animal or the health
35 or safety of others, the officer shall, prior to the commencement
36 of any criminal proceedings authorized by this section, provide
37 the owner or keeper of the animal, if known or ascertainable after
38 reasonable investigation, with the opportunity for a postseizure
39 hearing to determine the validity of the seizure or impoundment,
40 or both. ~~If an animal is seized pursuant to a search warrant, the~~

1 owner or keeper shall not be entitled to a postseizure hearing. The
2 full cost of housing, feeding, caring for, and treating any animal
3 seized pursuant to a search warrant shall constitute a lien on the
4 animal.

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

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

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

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

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

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

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

39 (3) Failure of the owner or keeper, or of his or her agent, to
40 request or to attend a scheduled hearing shall result in a forfeiture

1 of any right to a postseizure hearing or right to challenge his or
2 her liability for costs incurred.

3 (4) The agency, department, or society employing the person
4 who directed the seizure shall be responsible for the costs incurred
5 for housing, feeding, caring for, and treating the animal, if it is
6 determined in the postseizure hearing that the seizing officer did
7 not have reasonable grounds to believe very prompt action,
8 including seizure of the animal, was required to protect the health
9 or safety of the animal or the health or safety of others. If it is
10 determined the seizure was justified, the owner or keeper shall be
11 personally liable to the seizing agency for the cost of the seizure
12 and the full cost of housing, feeding, caring for, and treating the
13 animal. The full cost for the housing, feeding, care, and treatment
14 of the animal shall be a lien on the animal and the animal shall not
15 be returned to its owner until the cost is paid and the owner
16 demonstrates, to the satisfaction of the seizing agency or the
17 hearing officer, that he or she can and will provide the necessary
18 care, and that he or she does not present a danger, to the animal.

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

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

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

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

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

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

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

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

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

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

32 (h) If any animal is properly seized under this section or pursuant
33 to a search warrant, the owner or keeper shall be personally liable
34 to the seizing agency for the full cost of housing, feeding, caring
35 for, and treating the animal, ~~regardless of the outcome of any~~
36 ~~criminal, civil, or administrative proceeding or the value of the~~
37 ~~animal seized.~~ A statement of charges shall be presented to the
38 owner or keeper at the time of the postseizure hearing. If the animal
39 is seized pursuant to a search warrant, a statement of charges shall
40 be sent by certified mail or personal delivery to the owner or keeper

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

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

36 (j) No animal properly seized under this section or pursuant to
37 a search warrant shall be returned to its owner until the owner
38 demonstrates to the satisfaction of the seizing agency or the hearing
39 officer that the owner can and will provide the necessary care, and
40 that the owner does not present a danger, to the animal.

1 (k) (1) In the event that the owner has satisfied the lien provided
2 for in this section for the full cost of housing, feeding, caring for,
3 and ~~treating~~ treating an animal, prior to final disposition of any
4 criminal charges, the seizing agency or prosecuting attorney may
5 file a petition in the criminal action requesting that the court issue
6 an order forfeiting the animal to the county or seizing agency prior
7 to final disposition of the criminal charge. The petitioner shall
8 serve a true copy of the petition upon the defendant and the
9 prosecuting attorney.

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

13 (3) At the hearing, if the court finds that the petitioner has
14 established, by a preponderance of the evidence, that, even in the
15 event of acquittal, ~~either the owner cannot or will not provide the~~
16 ~~necessary care for the animal in question or the owner will not~~
17 legally be permitted to retain the animal, the court shall order
18 immediate forfeiture of the animal to the petitioner.

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

34 (2) ~~Notwithstanding a modification~~ *Unless a modification has*
35 *been granted pursuant to subdivision (d) or (e) of Section 597.9,*
36 *if probation is granted, the court shall also order, as a condition of*
37 *probation, that the convicted person be prohibited from owning,*
38 *possessing, caring for, or residing with, animals of any kind.*
39 *Regardless of whether probation is granted, the court shall require*
40 *the convicted person to immediately deliver all animals in his or*

1 her possession to a designated public entity for adoption or other
2 lawful disposition or provide proof to the court that the person no
3 longer has possession, care, or control of any animals. In the event
4 of the acquittal or final discharge without conviction of the person
5 charged, if any of the animals are still impounded and the animal
6 or animals have not previously been deemed abandoned pursuant
7 to subdivision (h) or the lien has been satisfied and the court has
8 not previously ordered that any of the animals be forfeited, the
9 court shall, on demand, direct the release of seized or impounded
10 animals to the person charged upon a showing of all of the
11 following:

12 (A) Proof of ownership.

13 (B) Proof that all charges for the cost of seizure and the full cost
14 of housing, feeding, care, and treatment of the animals for the
15 entire duration of the matter have been paid.

16 (C) Proof that the animals are physically fit and that the owner
17 has demonstrated to the seizing agency and the court that the owner
18 can and will provide the necessary care.

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

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

34 (m) It shall be the duty of all peace officers, humane society
35 officers, and animal control officers to use all currently acceptable
36 methods of identification, both electronic and otherwise, to
37 determine the lawful owner or caretaker of any seized or
38 impounded animal. It shall also be their duty to make reasonable
39 efforts to notify the owner or caretaker of the whereabouts of the
40 animal and any procedures available for the lawful recovery of the

1 animal and, upon the owner's and caretaker's initiation of recovery
2 procedures, retain custody of the animal for a reasonable period
3 of time to allow for completion of the recovery process. Efforts to
4 locate or contact the owner or caretaker and communications with
5 persons claiming to be the owner or caretaker shall be recorded
6 and maintained and be made available for public inspection.

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

8 597.9. (a) Except as provided in subdivision (d) or (e), the
9 court shall, upon a conviction for a misdemeanor violation of
10 subdivision (a) or (b) of Section 597, or of Section 597a, 597b,
11 597h, 597j, 597s, or 597.1, in addition to any other sentence or
12 penalty imposed, enter an order enjoining the person from owning,
13 possessing, maintaining, having custody of, residing with, or caring
14 for any animal for a period of not less than five years.

15 (b) Except as provided in subdivision (d) or (e), the court shall,
16 upon a conviction of a person for a felony violation of subdivision
17 (a) or (b) of Section 597, or of Section 597b or 597.5, in addition
18 to any other sentence or penalty imposed, enter an order enjoining
19 the person from owning, possessing, maintaining, having custody
20 of, residing with, or caring for any animal for a period of not less
21 than 10 years.

22 (c) Any person who is convicted of violating an order issued
23 under this section is guilty of a public offense, which shall be
24 punished by imprisonment in a county jail not exceeding one year,
25 by a fine not exceeding one thousand dollars (\$1,000), or by both
26 that imprisonment and fine.

27 (d) (1) In cases of owners of livestock, as defined in Section
28 14205 of the Food and Agricultural Code, a court may, in the
29 interest of justice, exempt a defendant from the injunction required
30 under subdivision (a) or (b), as it would apply to livestock, if the
31 defendant files a petition with the court ~~and establishes, by a~~
32 ~~preponderance of evidence, establishing~~ that the imposition of the
33 provisions of this section would result in substantial or undue
34 economic hardship to the defendant's livelihood and that the
35 defendant has the ability to properly care for, ~~and does not present~~
36 ~~a danger to, the all~~ livestock in his or her possession.

37 (2) The petitioner shall serve a true copy of the petition upon
38 the court and the prosecuting attorney 10 calendar days prior to
39 the requested hearing. Upon petition from the defendant, the court
40 shall set a hearing on the petition. The hearing shall be conducted

1 within 30 days after the filing of the petition. The court shall grant
2 the petition for exemption from subdivision (a) or (b) unless the
3 prosecuting attorney shows by a preponderance of the evidence
4 that either or both of the criteria for exemption under this
5 subdivision are untrue.

6 (e) (1) A defendant may petition the court to reduce the duration
7 of the mandatory ownership prohibition. The petitioner shall serve
8 a true copy of the petition upon the court and the prosecuting
9 attorney 10 calendar days prior to the requested hearing. Upon a
10 petition from the defendant, the court shall set a hearing on the
11 petition. The hearing shall be conducted within 30 days after the
12 filing of the petition. At the hearing, the petitioner shall have the
13 burden of establishing, ~~by a preponderance of evidence,~~ *probable*
14 *cause to believe* all of the following:

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

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

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

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

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

25 SEC. 4. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution for certain
27 costs that may be incurred by a local agency or school district
28 because, in that regard, this act creates a new crime or infraction,
29 eliminates a crime or infraction, or changes the penalty for a crime
30 or infraction, within the meaning of Section 17556 of the
31 Government Code, or changes the definition of a crime within the
32 meaning of Section 6 of Article XIII B of the California
33 Constitution.

34 However, if the Commission on State Mandates determines that
35 this act contains other costs mandated by the state, reimbursement
36 to local agencies and school districts for those costs shall be made
37 pursuant to Part 7 (commencing with Section 17500) of Division
38 4 of Title 2 of the Government Code.

O