

Introduced by Senator StoneFebruary 19, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1395, as introduced, Stone. Crimes: animal abuse.

Existing law prohibits, subject to exceptions, specified acts of animal abuse including, among others, the malicious and intentional maiming, mutilation, torture, or wounding of a living animal. Under existing law, a violation of those provisions is punishable as a felony by imprisonment in a county jail for 16 months, or 2 or 3 years, or by a fine of not more than \$20,000, or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail for not more than one year, or by a fine of not more than \$20,000, or by both that fine and imprisonment.

This bill would instead make a felony violation of the provisions described above punishable by imprisonment in a county jail for 2, 3, or 4 years, or by a fine of not more than \$40,000, or by both that fine and imprisonment. By increasing the penalties for existing crimes, the 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.
State-mandated local program: yes.

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~~ a 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 a person who overdrives, overloads, drives when overloaded,
10 overworks, tortures, torments, deprives of necessary sustenance,
11 drink, or shelter, cruelly beats, mutilates, or cruelly kills ~~any an~~
12 animal, or causes or procures ~~any an~~ animal to be so overdriven,
13 overloaded, driven when overloaded, overworked, tortured,
14 tormented, deprived of necessary sustenance, drink, shelter, or to
15 be cruelly beaten, mutilated, or cruelly killed; and whoever, having
16 the charge or custody of ~~any an~~ animal, either as owner or
17 otherwise, subjects ~~any an~~ animal to needless suffering, or inflicts
18 unnecessary cruelty upon the animal, or in any manner abuses ~~any~~
19 an animal, or fails to provide the animal with proper food, drink,
20 or shelter or protection from the weather, or who drives, rides, or
21 otherwise uses the animal when unfit for labor, is, for each offense,
22 guilty of a crime punishable pursuant to subdivision (d).

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

27 (d) A violation of subdivision (a), (b), or (c) is punishable as a
28 felony by imprisonment pursuant to subdivision (h) of Section
29 ~~1170, 1170 for three, four, or six years~~, or by a fine of not more
30 than ~~twenty~~ forty thousand dollars (~~\$20,000~~), (\$40,000), or by both
31 that fine and imprisonment, or alternatively, as a misdemeanor by
32 imprisonment in a county jail for not more than one year, or by a
33 fine of not more than twenty thousand dollars (\$20,000), or by
34 both that fine and imprisonment.

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

37 (1)

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

4 ~~(2)~~

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

7 ~~(3)~~

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

11 ~~(4)~~

12 (D) Fully protected reptiles and amphibians described in Chapter
13 2 (commencing with Section 5050) of Division 5 of the Fish and
14 Game Code.

15 ~~(5)~~

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

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

21 (f) For the purposes of subdivision (c), each act of malicious
22 and intentional maiming, mutilating, or torturing a separate
23 specimen of a creature described in subdivision (e) is a separate
24 offense. If ~~any~~ a person is charged with a violation of subdivision
25 (c), the proceedings shall be subject to Section 12157 of the Fish
26 and Game Code.

27 (g) (1) Upon the conviction of a person charged with a violation
28 of this section by causing or permitting an act of cruelty, as defined
29 in Section 599b, all animals lawfully seized and impounded with
30 respect to the violation by a peace officer, officer of a humane
31 society, or officer of a pound or animal regulation department of
32 a public agency shall be adjudged by the court to be forfeited and
33 shall thereupon be awarded to the impounding officer for proper
34 disposition. A person convicted of a violation of this section by
35 causing or permitting an act of cruelty, as defined in Section 599b,
36 shall be liable to the impounding officer for all costs of
37 impoundment from the time of seizure to the time of proper
38 disposition.

39 (2) Mandatory seizure or impoundment shall not apply to
40 animals in properly conducted scientific experiments or

1 investigations performed under the authority of the faculty of a
2 regularly incorporated medical college or university of this state.

3 (h) Notwithstanding any other ~~provision of law~~, if a defendant
4 is granted probation for a conviction under this section, the court
5 shall order the defendant to pay for, and successfully complete,
6 counseling, as determined by the court, designed to evaluate and
7 treat behavior or conduct disorders. If the court finds that the
8 defendant is financially unable to pay for that counseling, the court
9 may develop a sliding fee schedule based upon the defendant's
10 ability to pay. An indigent defendant may negotiate a deferred
11 payment schedule, but shall pay a nominal fee if the defendant has
12 the ability to pay the nominal fee. County mental health
13 departments or Medi-Cal shall be responsible for the costs of
14 counseling required by this section only for those persons who
15 meet the medical necessity criteria for mental health managed care
16 pursuant to Section 1830.205 of Title 9 of the California Code of
17 Regulations or the targeted population criteria specified in Section
18 5600.3 of the Welfare and Institutions Code. The counseling
19 specified in this subdivision shall be in addition to any other terms
20 and conditions of probation, including any term of imprisonment
21 and any fine. This ~~provision~~ *subdivision* specifies a mandatory
22 additional term of probation and is not to be utilized as an
23 alternative in lieu of imprisonment pursuant to subdivision (h) of
24 Section 1170 or county jail when that sentence is otherwise
25 appropriate. If the court does not order custody as a condition of
26 probation for a conviction under this section, the court shall specify
27 on the court record the reason or reasons for not ordering custody.
28 This subdivision shall not apply to cases involving police dogs or
29 horses as described in Section 600.

30 SEC. 2. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

O