

AMENDED IN ASSEMBLY JULY 7, 1997
AMENDED IN ASSEMBLY JUNE 19, 1997
AMENDED IN SENATE APRIL 8, 1997
AMENDED IN SENATE MARCH 17, 1997
AMENDED IN SENATE MARCH 5, 1997

SENATE BILL

No. 196

Introduced by Senator Knight
(Coauthor: Assembly Member Runner)

January 23, 1997

An act to amend Section 599aa of the Penal Code, relating to animal abuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 196, as amended, Knight. Animal abuse.

Under existing law, any authorized officer making an arrest for specified animal abuse offenses involving fighting animals or birds is authorized to lawfully take possession of all birds or animals and all paraphernalia used or employed in the violation of any of the criminal provisions relating to the fighting of birds or animals.

This bill would revise and recast this provision to, among other things, make the provision applicable to additional animal abuse offenses involving fighting animals or birds, including owning, possessing, or training any bird or animal with the intent that the bird or animal shall be engaged in an exhibition of fighting, or being present at an exhibition of the

fighting of birds or animals. The bill would require the officer, upon taking possession, to inventory the items seized and question the persons present as to the identity of the owner or owners of the items. The bill also would authorize the court to order the destruction of any animal or bird for which ownership cannot be determined, as specified, and to order the arrested person, upon conviction, to make payment to the appropriate public entity for the costs incurred in the housing, care, feeding, and treatment of the animals or birds.

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 599aa of the Penal Code is
2 amended to read:

3 599aa. (a) Any authorized officer making an arrest
4 under Section 597.5 shall, and any authorized officer
5 making an arrest under Section 597b, 597c, 597j, or 599a
6 may, lawfully take possession of all birds or animals and
7 all paraphernalia, implements or other property or things
8 used or employed, or about to be employed, in the
9 violation of any of the provisions of this code relating to
10 the fighting of birds or animals, that can be used in animal
11 or bird fighting, or in training animals or birds to fight, or
12 that may be used to inflict pain or cruelty upon animals
13 or birds. ~~For purposes of this section, “authorized officer”~~
14 ~~does not include a humane society officer.~~

15 (b) Upon taking possession, the officer shall inventory
16 the items seized and question the persons present as to
17 the identity of the owner or owners of the items. The
18 inventory list shall identify the location where the items
19 were seized, the names of the persons from whom the
20 property was seized, and the names of any known owners
21 of the property.

22 Any person claiming ownership or possession of any
23 item shall be provided with a signed copy of the inventory
24 list which shall identify the seizing officer and his or her
25 employing agency. If no person claims ownership or



1 possession of the items, a copy of the inventory list shall
2 be left at the location from which the items were seized.

3 (c) The officer shall file with the magistrate before
4 whom the complaint against the arrested person is made,
5 a copy of the inventory list and an affidavit stating the
6 affiant's basis for his or her belief that the property and
7 items taken were in violation of this code. On receipt of
8 the affidavit, the magistrate shall order the items seized
9 to be held until the final disposition of any charges filed
10 in the case subject to subdivision (d).

11 (d) (1) All animals and birds seized shall be taken
12 promptly to an appropriate animal storage facility.

13 (2) If ownership of the seized animals or birds cannot
14 be determined after reasonable efforts, the officer or
15 other person named and designated in the order as
16 custodian of the animals or birds may, after holding the
17 animals and birds for a period of not less than ~~30~~ 10 days,
18 petition the magistrate for permission to humanely
19 destroy or otherwise dispose of the animals or birds. The
20 petition shall be published for three successive days in a
21 newspaper of general circulation. The magistrate shall
22 hold a hearing on the petition not less than 45 10 days after
23 seizure of the animals or birds, after which he or she may
24 order the animals or birds to be humanely destroyed or
25 otherwise disposed of, or to be retained by the officer or
26 person with custody until the conviction or final
27 discharge of the arrested person. No animal or bird may
28 be destroyed or otherwise disposed of until 15 days after
29 the order.

30 (3) Paragraph (2) shall apply only to those animals and
31 birds seized under any of the following circumstances:

32 (A) After having been used in violation of any of the
33 provisions of this code relating to the fighting of birds or
34 animals.

35 (B) At the scene or site of a violation of any of the
36 provisions of this code relating to the fighting of birds or
37 animals.

38 (e) Upon the conviction of the arrested person, all
39 property seized shall be adjudged by the court to be
40 forfeited and shall then be destroyed or otherwise



1 disposed of as the court may order. Upon the conviction
2 of the arrested person, the court may order the person to
3 make payment to the appropriate public entity for the
4 costs incurred in the housing, care, feeding, and
5 treatment of the animals or birds. Each person convicted
6 in connection with a particular animal or bird, ~~including~~
7 *excluding* any person convicted as a spectator pursuant
8 to Section 597b or 597c, or subdivision (b) of Section 597.5,
9 may be held jointly and severally liable for restitution
10 pursuant to this subdivision. This payment shall be in
11 addition to any other fine or other sentence ordered by
12 the court. The court shall specify in the order that the
13 public entity shall not enforce the order until the
14 defendant satisfies all other outstanding fines, penalties,
15 assessments, restitution fines, and restitution orders. The
16 court may relieve any convicted person of the obligation
17 to make payment pursuant to this subdivision for good
18 cause but shall state the reasons for that decision in the
19 record. In the event of the acquittal or final discharge
20 without conviction of the arrested person, the court shall,
21 on demand, direct the delivery of the property held in
22 custody to the owner. If the owner is unknown, the court
23 shall order the animals or birds to be humanely destroyed
24 or otherwise disposed of.

