

Introduced by Senator FlorezFebruary 19, 2010

An act to add Sections 600.6, 600.7, and 600.8 to the Penal Code, relating to animal abuse, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1277, as introduced, Florez. Animal abuse: registry: Internet publication.

(1) Existing law requires persons convicted of arson and sex crimes to register with local law enforcement, as provided. The Department of Justice is required to make specified information about certain sex offenders available to the public via an Internet Web site and to update that information on an ongoing basis.

This bill would require any person, over 18 years of age, convicted of felony animal abuse, as defined, to register with the appropriate law enforcement agency, as provided. The bill would require that the registration consist of a signed written statement of specified information, including, but not limited to, legal name and aliases, date of birth, address or current location, name and address of employer, and specific felony animal abuse conviction. The registration would also consist of a photograph of the person, a complete set of fingerprints, and a description of any tattoos, scars, or other distinguishing features on the person's body that would assist in identifying the person. The bill would require that, within 3 days after the registration, the registering law enforcement agency electronically forward the statement, fingerprints, and photograph of the registrant to the Department of Justice. Because the bill would require local law enforcement agencies

to provide this new service, it would impose a state-mandated local program.

The bill would require that any person required to register who violates any provision would be guilty of a misdemeanor, and if the person willfully fails to register, he or she would be guilty of a misdemeanor punishable by not less than 90 days and not more than one year in a county jail. A person could be eligible to be relieved of the duty to register, only as specified.

The bill, on or before January 1, 2012, would require the department to make available information, concerning persons who are required to register as a result of felony animal abuse convictions, to the public via an Internet Web site, as specified. The department would be required to update the Internet Web site on an ongoing basis. The name or address of the person's employer and the listed person's criminal history other than the specific crimes for which the person is required to register would be prohibited from being included on the Internet Web site. The registration information that would be required to be published on the Internet Web site would include, but not be limited to, his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the address at which the person resides or the county in which the person is registered as a transient, and any other information that the Department of Justice deems relevant. The bill would require that the department make a reasonable effort to provide notice to affected offenders that the department is required to make information about those people available to the public. A person would be removed from the Internet Web site if he or she were relieved of the duty to register, as specified.

The bill would also (1) provide that any person who uses information disclosed pursuant to the Internet Web site to commit a misdemeanor is punishable by a fine of not less than \$10,000, nor more than \$50,000, and that the use of that information to commit a felony is punishable by an additional 5-year term of imprisonment; (2) make it a misdemeanor for an offender who is required to register to enter the Internet Web site; and (3) provide for civil liability for the misuse of the information from the Internet Web site. Because this bill would create these and other new crimes as specified above, it would impose a state-mandated local program.

This bill would require a person who purchased pet food to pay an unspecified charge per pound to be collected by the store at the time of sale. The bill would establish the Animal Protection Fund in the State

Treasury and would require a store to quarterly remit the moneys collected to the State Board of Equalization for deposit into that fund. The board would be required to administer and collect the charges imposed on pet food, as specified. The bill would continuously appropriate the moneys in the fund, and would require that they be expended by the department for creating, administering, and updating the Internet Web site as required by the act, and by local governments for spay and neuter programs.

(2) 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.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 600.6 is added to the Penal Code, to read:
2 600.6. (a) As used in this section, “animal abuse” means a
3 felony conviction of Section 487g, 597, 597b, 597.5, 598c, 598d,
4 or 600, or a felony conviction for an attempt to commit one of
5 those offenses, or a felony conviction for a comparable offense in
6 another state.
7 (b) (1) Every person, over 18 years of age, described in
8 paragraph (2), for the periods specified therein, shall, while residing
9 in, or if the person has no residence, while located in, California,
10 be required to, within 10 days of coming into this state, or changing
11 the person’s residence or location within any city, county, city and
12 county, or campus wherein the person temporarily resides, or if
13 the person has no residence, is located, in this state:
14 (A) Register with the chief of police of the city where the person
15 is residing, or if the person has no residence, where the person is
16 located.

1 (B) Register with the sheriff of the county where the person is
2 residing, or if the person has no residence, where the person is
3 located in an unincorporated area or city that has no police
4 department.

5 (C) In addition to subparagraph (A) or (B) above, register with
6 the chief of police of a campus of the University of California, the
7 California State University, or the California Community Colleges
8 where the person is residing, or if the person has no residence,
9 where the person is located upon the campus or any of its facilities.

10 (2) Any person who is convicted in any court in this state of
11 animal abuse shall be required to register, in accordance with the
12 provisions of this section, for the rest of his or her life.

13 (c) Any person required to register pursuant to this section who
14 is discharged or paroled from a jail, prison, school, road camp, or
15 other penal institution, or from the Division of Juvenile Justice
16 where he or she was confined because of the commission of animal
17 abuse, shall, prior to the discharge, parole, or release, be informed
18 of his or her duty to register under this section by the official in
19 charge of the place of confinement. The official shall require the
20 person to read and sign the form as may be required by the
21 Department of Justice, stating that the duty of the person to register
22 under this section has been explained to him or her. The official
23 in charge of the place of confinement shall obtain the address
24 where the person expects to reside upon his or her discharge,
25 parole, or release and shall report the address to the Department
26 of Justice. The official in charge of the place of confinement shall
27 give one copy of the form to the person, and shall, not later than
28 45 days prior to the scheduled release of the person, send one copy
29 to the appropriate law enforcement agency having local jurisdiction
30 where the person expects to reside upon his or her discharge,
31 parole, or release; one copy to the prosecuting agency that
32 prosecuted the person; and one copy to the Department of Justice.
33 The official in charge of the place of confinement shall retain one
34 copy. All forms shall be transmitted in time so as to be received
35 by the local law enforcement agency and prosecuting agency 30
36 days prior to the discharge, parole, or release of the person.

37 (d) Any person who is required to register pursuant to this
38 section who is released on probation or discharged upon payment
39 of a fine shall, prior to the release or discharge, be informed of his
40 or her duty to register under this section by the probation

1 department of the county in which he or she has been convicted,
2 and the probation officer shall require the person to read and sign
3 the form as may be required by the Department of Justice, stating
4 that the duty of the person to register under this section has been
5 explained to him or her. The probation officer shall obtain the
6 address where the person expects to reside upon his or her release
7 or discharge and shall report within three days the address to the
8 Department of Justice. The probation officer shall give one copy
9 of the form to the person, and shall send one copy to the appropriate
10 law enforcement agency having local jurisdiction where the person
11 expects to reside upon his or her discharge or release, and one copy
12 to the Department of Justice. The probation officer shall also retain
13 one copy.

14 (e) (1) The registration shall consist of all of the following
15 information:

16 (A) A statement in writing signed by the person, giving all of
17 the following information:

18 (i) The legal name and any other names or aliases that the person
19 is using or has used.

20 (ii) Date of birth.

21 (iii) The current address or location of the person.

22 (iv) Name and address of employer.

23 (v) Animal abuse offense for which the person was convicted.

24 (vi) The date and place of the animal abuse offense conviction
25 of the person.

26 (vii) Any other information as may be required by the
27 Department of Justice.

28 (B) The complete set of fingerprints and a photograph of the
29 person.

30 (C) A description of any tattoos, scars, or other distinguishing
31 features on the person's body that would assist in identifying the
32 person.

33 (2) Within three days after registration, the registering law
34 enforcement agency shall electronically forward the statement,
35 fingerprints, and photograph to the Department of Justice.

36 (f) If any person required to register by this section changes his
37 or her residence address, he or she shall inform, in writing within
38 10 days, the law enforcement agency with whom he or she last
39 registered of his or her new address. The law enforcement agency
40 shall, within three days after receipt of the information,

1 electronically forward it to the Department of Justice. The
2 Department of Justice shall forward appropriate registration data
3 to the law enforcement agency having local jurisdiction of the new
4 place of residence.

5 (g) Any person required to register under this section who
6 violates any of the provisions thereof is guilty of a misdemeanor.
7 Any person who has been convicted of animal abuse who is
8 required to register under this section who willfully violates any
9 of the provisions thereof is guilty of a misdemeanor and shall be
10 sentenced to serve a term of not less than 90 days nor more than
11 one year in a county jail. In no event does the court have the power
12 to absolve a person who willfully violates this section from the
13 obligation of spending at least 90 days of confinement in a county
14 jail and of completing probation of at least one year.

15 (h) Whenever any person is released on parole or probation and
16 is required to register under this section but fails to do so within
17 the time prescribed, the Board of Parole Hearings or the court, as
18 the case may be, shall order the parole or probation of that person
19 revoked.

20 (i) Certain of the information required by this section shall be
21 open to inspection by the public, pursuant to Section 600.7, through
22 the use of an Internet Web site maintained by the Department of
23 Justice, or by telephone or upon written request where practicable.

24 (j) In any case in which a person who would be required to
25 register pursuant to this section is to be temporarily sent outside
26 the institution where he or she is confined on any assignment within
27 a city or county, the local law enforcement agency having
28 jurisdiction over the place or places where that assignment shall
29 occur shall be notified within a reasonable time prior to removal
30 from the institution. This subdivision shall not apply to any person
31 temporarily released under guard from the institution where he or
32 she is confined.

33 (k) Nothing in this section shall be construed to conflict with
34 Section 1203.4 concerning termination of probation and release
35 from penalties and disabilities of probation.

36 A person required to register under this section may initiate a
37 proceeding under Chapter 3.5 (commencing with Section 4852.01)
38 of Title 6 of Part 3 and, upon obtaining a certificate of
39 rehabilitation, shall be relieved of any further duty to register under
40 this section. This certificate shall not relieve the petitioner of the

1 duty to register under this section for any offense subject to this
2 section of which he or she is convicted in the future.

3 SEC. 2. Section 600.7 is added to the Penal Code, to read:

4 600.7. (a) (1) On or before the dates specified in this section,
5 the Department of Justice shall make available information
6 concerning persons who are required to register pursuant to Section
7 600.6 to the public via an Internet Web site as specified in this
8 section. The department shall update the Internet Web site on an
9 ongoing basis. The name or address of the person's employer and
10 the listed person's criminal history other than the specific crimes
11 for which the person is required to register shall not be included
12 on the Internet Web site. The Internet Web site shall be translated
13 into languages other than English as determined by the department.

14 (2) (A) On or before January 1, 2012, the Department of Justice
15 shall make available to the public, via an Internet Web site as
16 specified in this section, as to any person described in subdivision
17 (b), the following information:

18 (i) The year of conviction of his or her most recent offense
19 requiring registration pursuant to Section 600.6.

20 (ii) The year he or she was released from incarceration for that
21 offense.

22 (iii) Whether he or she was subsequently incarcerated for any
23 other felony, if that fact is reported to the department. If the
24 department has no information about a subsequent incarceration
25 for any felony, that fact shall be noted on the Internet Web site.

26 However, no year of conviction shall be made available to the
27 public unless the department also is able to make available the
28 corresponding year of release of incarceration for that offense, and
29 the required notation regarding any subsequent felony.

30 (B) (i) Any state facility that releases from incarceration a
31 person who was incarcerated because of a crime for which he or
32 she is required to register pursuant to Section 600.6 shall, within
33 30 days of release, provide the year of release for his or her most
34 recent offense requiring registration to the Department of Justice
35 in a manner and format approved by the department.

36 (ii) Any state facility that releases a person who is required to
37 register pursuant to Section 600.6 from incarceration whose
38 incarceration was for a felony committed subsequent to the offense
39 for which he or she is required to register shall, within 30 days of
40 release, advise the Department of Justice of that fact.

1 (b) On or before January 1, 2012, with respect to a person who
2 has been convicted of the commission of any of the offenses listed
3 in subdivision (a) of Section 600.6, the Department of Justice shall
4 make available to the public via the Internet Web site, the
5 information included in the person's registration, including, but
6 not limited to, his or her name and known aliases, a photograph,
7 a physical description, including gender and race, date of birth,
8 criminal history, the address at which the person resides or the
9 city, county, or city and county in which the person is registered
10 as a transient, and any other information that the Department of
11 Justice deems relevant, but not the information excluded pursuant
12 to subdivision (a).

13 (c) The Department of Justice shall make a reasonable effort to
14 provide notification to persons who have been convicted of the
15 commission of an offense specified in subdivision (a) of Section
16 600.6, that on or before January 1, 2012, the department is required
17 to make information about offenders available to the public via an
18 Internet Web site as specified in this section.

19 (d) (1) A designated law enforcement entity may make available
20 information concerning persons who are required to register
21 pursuant to Section 600.6 to the public via an Internet Web site as
22 specified in paragraph (2).

23 (2) The law enforcement entity may make available by way of
24 an Internet Web site the information described in subdivision (b)
25 if it determines that the public disclosure of the information about
26 a specific offender by way of the entity's Internet Web site is
27 necessary to ensure the public safety based upon information
28 available to the entity concerning that specific offender.

29 (3) The information that may be provided pursuant to this
30 subdivision may include the information specified in subdivision
31 (b).

32 (4) For purposes of this section, "designated law enforcement
33 entity" means the Department of Justice, every district attorney,
34 the department, the Division of Juvenile Justice of the department,
35 and every state or local agency expressly authorized by statute to
36 investigate or prosecute law violators.

37 (e) Notwithstanding Section 6254.5 of the Government Code,
38 disclosure of information pursuant to this section is not a waiver
39 of exemptions under Chapter 3.5 (commencing with Section 6250)

1 of Division 7 of Title 1 of the Government Code and does not
2 affect other statutory restrictions on disclosure in other situations.

3 (f) The department shall also make the information on the
4 Internet Web site available by telephone and upon written request
5 where practicable.

6 (g) (1) Any person who uses information disclosed pursuant
7 to this section to commit a misdemeanor shall be subject to, in
8 addition to any other penalty or fine imposed, a fine of not less
9 than ten thousand dollars (\$10,000) and not more than fifty
10 thousand dollars (\$50,000).

11 (2) Any person who uses information disclosed pursuant to this
12 section to commit a felony shall be punished, in addition and
13 consecutive to any other punishment, by a five-year term of
14 imprisonment in the state prison.

15 (h) Any person who is required to register pursuant to Section
16 600.6 who enters an Internet Web site established pursuant to this
17 section shall be punished by a fine not exceeding one thousand
18 dollars (\$1,000), imprisonment in a county jail for a period not to
19 exceed six months, or by both that fine and imprisonment.

20 (i) (1) A person is authorized to use information disclosed
21 pursuant to this section only to protect an animal at risk.

22 (2) Except as authorized under paragraph (1) or any other
23 provision of law, use of any information that is disclosed pursuant
24 to this section for purposes relating to any of the following is
25 prohibited:

26 (A) Health insurance.

27 (B) Insurance.

28 (C) Loans.

29 (D) Credit.

30 (E) Employment.

31 (F) Education, scholarships, or fellowships.

32 (G) Housing or accommodations.

33 (H) Benefits, privileges, or services provided by any business
34 establishment.

35 (3) This section shall not affect authorized access to, or use of,
36 information pursuant to, among other provisions, Sections 11105
37 and 11105.3, Section 8808 of the Family Code, Section 14409.2
38 of the Financial Code, Sections 1522.01 and 1596.871 of the Health
39 and Safety Code, and Section 432.7 of the Labor Code.

1 (4) (A) Any use of information disclosed pursuant to this section
2 for purposes other than those provided by paragraph (1) or in
3 violation of paragraph (2) shall make the user liable for the actual
4 damages, and any amount that may be determined by a jury or a
5 court sitting without a jury, not exceeding three times the amount
6 of actual damage, and not less than two hundred fifty dollars
7 (\$250), and attorney's fees, exemplary damages, or a civil penalty
8 not exceeding twenty-five thousand dollars (\$25,000).

9 (B) Whenever there is reasonable cause to believe that any
10 person or group of persons is engaged in a pattern or practice of
11 misuse of the information available via an Internet Web site
12 established pursuant to this section in violation of paragraph (2),
13 the Attorney General, any district attorney, or city attorney, or any
14 person aggrieved by the misuse is authorized to bring a civil action
15 in the appropriate court requesting preventive relief, including an
16 application for a permanent or temporary injunction, restraining
17 order, or other order against the person or group of persons
18 responsible for the pattern or practice of misuse. The foregoing
19 remedies shall be independent of any other remedies or procedures
20 that may be available to an aggrieved party under other provisions
21 of law, including Part 2 (commencing with Section 43) of Division
22 1 of the Civil Code.

23 (j) The public notification provisions of this section are
24 applicable to every person described in this section, without regard
25 to when his or her crimes were committed or his or her duty to
26 register pursuant to Section 600.6 arose, and to every offense
27 described in this section, regardless of when it was committed.

28 (k) A designated law enforcement entity and its employees shall
29 be immune from liability for good faith conduct under this section.

30 (l) Any person who is relieved of the duty to register pursuant
31 to subdivision (k) of Section 600.6 shall be removed from the
32 Internet Web site.

33 (m) The Attorney General, in collaboration with local law
34 enforcement and others knowledgeable about animal abuse
35 offenders, shall develop strategies to assist members of the public
36 in understanding and using publicly available information about
37 registered animal abuse offenders to further public safety. These
38 strategies may include, but are not limited to, a hotline for
39 community inquiries, neighborhood and business guidelines for
40 how to respond to information posted on this Internet Web site,

1 and any other resource that promotes public education about these
2 offenders.

3 SEC. 3. Section 600.8 is added to the Penal Code, to read:

4 600.8. (a) (1) A person who purchases pet food shall pay a
5 charge of _____ (\$_____) per pound of pet food purchased.

6 (2) A store shall collect the charge from the customer at the
7 time of sale. The store shall then remit the charge collected to the
8 State Board of Equalization on a quarterly schedule for deposit in
9 the Animal Protection Fund, which is hereby created in the State
10 Treasury.

11 (3) The amount charged pursuant to paragraph (1) shall not be
12 subject to sales tax.

13 (b) All moneys collected by the State Board of Equalization
14 pursuant to this section shall be deposited in the fund.

15 (c) The moneys in the fund, notwithstanding Section 13340 of
16 the Government Code, are hereby continuously appropriated
17 without regard to fiscal year, and shall be expended for the
18 following purposes:

19 (1) By the Department of Justice for creating, administering,
20 and updating the Internet Web site pursuant to Section 600.7.

21 (2) By local governments for spay and neuter programs.

22 (3) No more than 3 percent of the revenue deposited in the fund
23 may be used for reimbursement of costs of administration,
24 collection, enforcement, and auditing requirements associated with
25 this section and Section 600.7.

26 (d) (1) The State Board of Equalization shall administer and
27 collect the moneys charged pursuant to the Fee Collection
28 Procedures Law (Part 30 (commencing with Section 55001) of
29 Division 2 of the Revenue and Taxation Code).

30 (2) The State Board of Equalization may adopt rules and
31 regulations to carry out this section, including, but not limited to,
32 provisions governing collections, reporting, refunds, and appeals.

33 (e) (1) The charge shall be due and payable quarterly on or
34 before the 15th day of the month following each calendar quarter.

35 (2) Payments shall be accompanied by a form, as prescribed by
36 the State Board of Equalization, including, but not limited to,
37 electronic media.

38 (f) The State Board of Equalization may require the payment
39 of the moneys for other than quarterly periods.

1 (g) For purposes of this section, “store” means a retail
2 establishment that sells pet food.

3 SEC. 4. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution for certain
5 costs that may be incurred by a local agency or school district
6 because, in that regard, this act creates a new crime or infraction,
7 eliminates a crime or infraction, or changes the penalty for a crime
8 or infraction, within the meaning of Section 17556 of the
9 Government Code, or changes the definition of a crime within the
10 meaning of Section 6 of Article XIII B of the California
11 Constitution.

12 However, if the Commission on State Mandates determines that
13 this act contains other costs mandated by the state, reimbursement
14 to local agencies and school districts for those costs shall be made
15 pursuant to Part 7 (commencing with Section 17500) of Division
16 4 of Title 2 of the Government Code.

17 SEC. 5. This act is an urgency statute necessary for the
18 immediate preservation of the public peace, health, or safety within
19 the meaning of Article IV of the Constitution and shall go into
20 immediate effect. The facts constituting the necessity are:

21 In order to raise money quickly to get the animal abuse registry
22 started as soon as possible, it is necessary that this act take effect
23 immediately.