



## **Animal Protection Laws of California**

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*This chapter contains California’s general animal protection and related statutes with an effective date on or before September 1, 2018. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories with the relevant part of each statute italicized.*

*California may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.*

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<p>1. <u>DEFINITION OF "ANIMAL"</u></p>	<p>"[E]very dumb creature"  <b>CAL. PENAL CODE § 599b</b></p>
<p>2. <u>GENERAL CRUELTY *</u></p>	<p>Poisoning animals  <b>CAL. PENAL CODE § 596</b>  <i>Unclassified misdemeanor</i></p> <p>Maliciously and intentionally injure or kill an animal  <b>CAL. PENAL CODE § 597(a)</b>  <i>"Wobbler": Can be charged as a misdemeanor or felony at the prosecutor's discretion</i>  <i>Misdemeanor: 1 year county jail and/or \$20,000 fine</i>  <i>Felony: 3 years imprisonment and/or \$20,000 fine</i></p> <p>General cruelty and neglect  <b>CAL. PENAL CODE § 597(b)</b>  <i>"Wobbler": Can be charged as a misdemeanor or felony at the prosecutor's discretion</i>  <i>Misdemeanor: 1 year county jail and/or \$20,000 fine</i>  <i>Felony: 3 years imprisonment and/or \$20,000 fine</i></p> <p>Maliciously and intentionally injure or kill a threatened or endangered animal  <b>CAL. PENAL CODE § 597(c)</b>  <i>"Wobbler": Can be charged as a misdemeanor or felony at the prosecutor's discretion</i>  <i>Misdemeanor: 1 year county jail and/or \$20,000 fine</i>  <i>Felony: 3 years imprisonment and/or \$20,000 fine</i></p> <p>Cruelty to animals being transported  <b>CAL. PENAL CODE § 597a</b>  <i>Unclassified misdemeanor</i></p> <p>Abandonment or neglect of animals  <b>CAL. PENAL CODE § 597f</b>  <i>Unclassified misdemeanor</i></p>

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	<p>Abandonment of domestic animals  <b>CAL. PENAL CODE § 597s</b>  <i>Unclassified misdemeanor</i></p> <p>Animal confinement  <b>CAL. PENAL CODE § 597t</b>  <i>Unclassified misdemeanor</i></p> <p>Failure to care for animals  <b>CAL. PENAL CODE § 597.1</b>  <i>Unclassified misdemeanor</i></p> <p>Animal endangerment  <b>CAL. PENAL CODE § 597.7</b>  <i>If no great bodily injury: \$100 per animal</i>  <i>If great bodily injury: misdemeanor, \$500 per animal and/or 6 months in county jail</i></p> <p>Slaughtering horses for human consumption  <b>CAL. PENAL CODE § 598c</b>  <i>Felony, 3 years imprisonment</i></p> <p>Interfering or harming working dogs or horses  <b>CAL. PENAL CODE § 600</b>  <i>If no serious injury: misdemeanor, 1 year and/or \$1,000 fine</i>  <i>If serious injury: felony, 3 years and/or \$2,000 fine</i></p> <p>Injury or death to service dog  <b>CAL. PENAL CODE § 600.5</b>  <i>Misdemeanor: 1 year in county jail and/or \$10,000 fine</i></p>
<p><b>3. <u>EXEMPTIONS</u></b></p>	<p>Research Animals  <b>CAL. PENAL CODE § 597(g)(2)</b>  <b>CAL. PENAL CODE § 599c</b></p> <p>Wildlife  <b>CAL. PENAL CODE § 597(e)</b>  <b>CAL. PENAL CODE § 599c</b>  <b>CAL. PENAL CODE § 597s</b></p>

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	<p>Slaughter, other  CAL. PENAL CODE § 599c  CAL. PENAL CODE § 597.7(e)</p>
<p><b>4. <u>FIGHTING &amp; RACKETEERING</u></b></p>	<p><b>NOTE:</b> statutes concerning <u>seizure</u> and <u>forfeiture</u> of animals used in fighting are available in those respective sections of this document.</p> <p>A minor under 16 who attends a cockfight or place where one is advertised to occur, and the person who admits the minor  CAL. PENAL CODE § 310  <i>Misdemeanor: 25 days in county jail and/or \$500 fine</i></p> <p>Causing animals (not including dogs) to fight  CAL. PENAL CODE §§ 597b; 597c  <i>Misdemeanor: 1 year in county jail and/or \$10,000 fine</i></p> <p>Baiting dogs with live animals  CAL. PENAL CODE § 597h  <i>Misdemeanor: 6 months county jail and/or \$2,500 fine</i></p> <p>Manufacturing, buying, selling, bartering, exchanging, or having in one's possession cockfighting implements.  CAL. PENAL CODE § 597i  <i>Misdemeanor: 1 year in county jail and/or \$10,000 fine</i></p> <p>Possessing/owning/training an animal (other than a dog) with intent to use in animal fighting:  CAL. PENAL CODE § 597j  <i>Misdemeanor: 1 year county jail and/or \$10,000 fine</i></p> <p>Bullfights, except bloodless and contests or exhibits held in connection with religious events, are prohibited.  CAL. PENAL CODE § 597m  <i>Unclassified misdemeanor</i></p> <p>Various dogfighting activities  CAL. PENAL CODE § 597.5  <i>Felony: 3 years imprisonment and/or \$50,000 fine</i></p> <p>Being a spectator at a dogfight  CAL. PENAL CODE § 597.5</p>

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	<i>Misdemeanor: 1 year in county jail and/or \$5,000 fine</i>
<b>5. <u>SEXUAL ASSAULT</u></b>	Sexually assaulting an animal CAL. PENAL CODE § 286.5 <i>Unclassified misdemeanor</i>
<b>6. <u>MAXIMUM PENALTIES &amp; STATUTE OF LIMITATIONS**</u></b>	Classification of felonies and misdemeanors CAL. PENAL CODE § 17  Unclassified misdemeanor <i>6 months county jail and/or \$1,000 fine</i> CAL. PENAL CODE § 19  Statute of Limitations <i>Misdemeanor: 1 year</i> CAL. PENAL CODE § 802 <i>Felony: 3 years</i> CAL. PENAL CODE § 801
<b>7. <u>CROSS ENFORCEMENT &amp; REPORTING</u></b>	Mandated reporter CAL. PENAL CODE § 11165.7  Animal control and humane officers must report suspected or known child abuse. CAL. PENAL CODE § 11166  Employees of child or adult protective service agencies may report suspected animal abuse. CAL. PENAL CODE § 11199
<b>8. <u>VETERINARIAN REPORTING &amp; IMMUNITY</u></b>	Veterinarians are immune from civil or criminal liability for treating injured animals brought to them by peace officers or humane agents. CAL. PENAL CODE § 597f(b)  Veterinarians are required to report suspected cases of animal fighting and animal cruelty and are immune from any civil liability for so reporting. CAL. BUS. & PROF. CODE §§ 4830.5, 4830.7

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<p><b>9. <u>LAW ENFORCEMENT POLICIES</u></b></p>	<p>Authorized humane agents may make arrests, serve search warrants, carry firearms, and use reasonable force necessary to prevent the perpetration of cruelty to animals.  <b>CAL. CORP. CODE § 14502</b></p>
<p><b>10. <u>SEIZURE</u></b></p>	<p>Mandatory seizure does not apply to research animals.  <b>CAL. PENAL CODE § 597(g)(2)</b></p> <p>Law enforcement and qualified humane agents may enter an exhibit of fighting animals and arrest all present.  <b>CAL. PENAL CODE § 597d</b></p> <p>Peace officer, humane society officer, or animal control officer shall take possession of stray, sick, lame, neglected or abandoned animals; and any endangered animal in an unattended vehicle.  <b>CAL. PENAL CODE §§ 597f(a); 597.1(a)(1),(b); 597.7</b></p> <p>A seizing officer shall provide notice of immediate seizure or, where need for seizure is not immediate, the opportunity for a hearing prior to seizure.  <b>CAL. PENAL CODE § 597.1(f),(g)</b></p> <p>Search warrants shall be issued for reasonable cause.  <b>CAL. PENAL CODE § 599a</b></p> <p>Seizure and forfeiture provisions for fighting animals and other property used in animal fighting.  <b>CAL. PENAL CODE § 599aa</b></p>
<p><b>11. <u>COURTROOM ANIMAL ADVOCATE PROGRAM</u></b></p>	<p>-----</p>
<p><b>12. <u>PROTECTION ORDERS†</u></b></p>	<p><b>CAL. FAM. CODE ANN. § 6320; CAL. CIV. PROC. CODE § 527.6; CAL. WEL. &amp; INST. CODE § 15657.03</b></p>
<p><b>13. <u>RESTITUTION †</u></b></p>	<p>Owner is liable for all costs of impoundment.  <b>CAL. PENAL CODE §§ 597(g)(1); 597a; 597e; 597f(a),(b); 597.1(a)-(c); 597.1(f)(1)(E),(4); 597.1(g)(1)(E); 597.1(h)</b></p>

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	<p>A lien for costs of care attaches to impounded animals and vehicle used to cruelly transport them. CAL. PENAL CODE § 597a</p> <p>The full cost of caring for an animal seized shall constitute a lien on the animal. CAL. PENAL CODE § 597.1(a)(1),(b),(c)(4),(f)(4)</p> <p>If seizure was justified, owner or keeper shall be personally liable to the seizing agency for the full cost of the seizure and care of the animal. CAL. PENAL CODE § 597.1(f)(4), (h)</p> <p>Each person convicted is personally liable to the seizing agency for all costs of impoundment. CAL. PENAL CODE § 597.1(l)(1)</p> <p>Procedure for satisfying lien CAL. CIV. PROC. CODE § 1208.5</p>
<p><b>14. <u>FORFEITURE &amp; POSSESSION BANS †</u></b></p>	<p>All animals seized shall be considered forfeited upon conviction. CAL. PENAL CODE §§ 597(f)(1), 597.1(l)</p> <p>Forfeiture procedures for certain property that was acquired through dogfighting. CAL. PENAL CODE § 598.1</p> <p>Veterinarians may adopt injured animals that they treat if owner does not redeem animals within a certain period, and may humanely euthanize impounded animals that have incurred severe injuries. CAL. PENAL CODE § 597.1(c),(i)</p> <p>Within certain time limits after a proper seizure, impounding officer has authority to permanently dispose of certain seized animals if costs are not paid, or if the humane society or public agency is not assured owner will provide necessary veterinary care. CAL. PENAL CODE § 597.1(h),(i)</p> <p>No animal properly seized 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 to the seizing agency's or</p>

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	<p>hearing officer's satisfaction that the owner can and will provide the necessary care.  <b>CAL. PENAL CODE § 597.1(j)</b></p> <p>Seizing agency or prosecuting attorney may petition for pre-conviction forfeiture of a cat or dog.  <b>CAL. PENAL CODE § 597.1(k)</b></p> <p>Upon conviction, all animals lawfully seized and impounded shall be immediately forfeited.  <b>CAL. PENAL CODE § 597.1(l)(1)</b></p> <p>As a condition of probation, offender may be prohibited from owning, possessing, caring for, or residing with, animals.  <b>CAL. PENAL CODE § 597.1(l)(2)</b></p> <p>Upon a misdemeanor conviction for certain offenses, a defendant shall be prohibited from owning or possessing any animal for five years; and for 10 years on a felony conviction. Defendant may petition the court to reduce duration of prohibition upon meeting certain requirements.  <b>CAL. PENAL CODE § 597.9</b></p> <p>Seizure and forfeiture provisions for fighting animals and other property used in animal fighting.  <b>CAL. PENAL CODE § 599aa</b></p>
<p><b>15. <u>COURT-ORDERED TREATMENT†</u></b></p>	<p>Court shall order counseling as a condition of probation.  <b>CAL. PENAL CODE § 597(h)</b></p>
<p><b>16. <u>HOT CARS</u></b></p>	<p>Civil immunity for removing animal from vehicle.  <b>CAL. CIV. CODE §43.100</b></p> <p>Criminal immunity for removing animal from vehicle.  <b>CAL. PENAL CODE § 597.7</b></p>
<p><b>17. <u>CIVIL NUISANCE ABATEMENT</u></b></p>	<p>Property used for dogfighting or cockfighting is a public nuisance.  <b>CAL. CIV. CODE § 3482.8</b></p>



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<p><b>18. <u>AG-GAG LAWS</u></b></p>	<p>-----</p>
<p><b>19. <u>BREED SPECIFIC LEGISLATION</u></b></p>	<p>No city or county program regulating any dog shall be specific as to breed.  <b>CAL. FOOD &amp; AGR. CODE § 31683</b></p> <p>Localities may enact breed-specific legislation regarding spaying, neutering, and breeding certain breeds.  <b>Cal. Health &amp; Safety Code § 122331</b></p>

\* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

\*\* Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

† This table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

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### 1. DEFINITION OF “ANIMAL”

#### **CAL. PENAL CODE § 599b. Words and phrases; imputation of knowledge to corporation.**

*In this title, the word “animal” includes every dumb creature; the words “torment,” “torture,” and “cruelty” include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted; and the words “owner” and “person” include corporations as well as individuals; and the knowledge and acts of any agent of, or person employed by, a corporation in regard to animals transported, owned, or employed by, or in the custody of, the corporation, must be held to be the act and knowledge of the corporation as well as the agent or employee.*

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### 2. GENERAL CRUELTY

#### CAL. PENAL CODE § 596. Poisoning animals; exceptions; posting warning signs.

*Every person who, without the consent of the owner, willfully administers poison to any animal, the property of another, or exposes any poisonous substance, with the intent that the same shall be taken or swallowed by any such animal, is guilty of a misdemeanor.* However, the provisions of this section shall not apply in the case of a person who exposes poisonous substances upon premises or property owned or controlled by him for the purpose of controlling or destroying predatory animals or livestock-killing dogs and if, prior to or during the placing out of such poisonous substances, he shall have posted upon the property conspicuous signs located at intervals of distance not greater than one-third of a mile apart, and in any case not less than three such signs having words with letters at least one inch high reading “Warning--Poisoned bait placed out on these premises,” which signs shall be kept in place until the poisonous substances have been removed. Whenever such signs have been conspicuously located upon the property or premises owned or controlled by him as hereinabove provided, such person shall not be charged with any civil liability to another party in the event that any domestic animal belonging to such party becomes injured or killed by trespassing or partaking of the poisonous substance or substances so placed.

#### CAL. PENAL CODE § 597. Cruelty to animals.

- (a) Except as provided in subdivision (c) of this section or Section 599c, every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of a crime punishable pursuant to subdivision (d).
- (b) *Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for each offense, guilty of a crime punishable pursuant to subdivision (d).*
- (c) *Every person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish, as described in subdivision (e), is guilty of a crime punishable pursuant to subdivision (d).*
- (d) A violation of subdivision (a), (b), or (c) is punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty

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thousand dollars (\$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 twenty thousand dollars (\$20,000), or by both that fine and imprisonment.

(e) *Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:*

- (1) *Endangered species or threatened species as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.*
- (2) *Fully protected birds described in Section 3511 of the Fish and Game Code.*
- (3) *Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.*
- (4) *Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.*
- (5) *Fully protected fish as described in Section 5515 of the Fish and Game Code.*

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

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

(g)

- (1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.
- (2) Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

(h) Notwithstanding any other provision of law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the

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nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 9 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. This provision specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment pursuant to subdivision (h) of Section 1170 or county jail when that sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering custody. This subdivision shall not apply to cases involving police dogs or horses as described in Section 600.

### **CAL. PENAL CODE § 597a. Cruelty to animals; transportation; care of animals by arresting officer; expense.**

*Whoever carries or causes to be carried in or upon any vehicle or otherwise any domestic animal in a cruel or inhuman manner, or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering, or cruelty of any kind, is guilty of a misdemeanor; and whenever any such person is taken into custody therefor by any officer, such officer must take charge of such vehicle and its contents, together with the horse or team attached to such vehicle, and deposit the same in some place of custody; and any necessary expense incurred for taking care of and keeping the same, is a lien thereon, to be paid before the same can be lawfully recovered; and if such expense, or any part thereof, remains unpaid, it may be recovered, by the person incurring the same, of the owner of such domestic animal, in an action therefor.*

### **CAL. PENAL CODE § 597f. Abandoned or neglected animals; Duties of public authorities; Euthanasia.**

- (a) *Every owner, driver, or possessor of any animal, who permits the animal to be in any building, enclosure, lane, street, square, or lot, of any city, city and county, or judicial district, without proper care and attention, shall, on conviction, be deemed guilty of a misdemeanor. And it shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected and care for the animal until it is redeemed by the owner or claimant, and the cost of caring for the animal shall be a lien on the animal until the charges are paid. Every sick, disabled, infirm, or crippled animal, except a dog or cat, which shall be abandoned in any city, city and county, or judicial district, may, if after due search no owner can be found therefor, be killed by the*

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officer; and it shall be the duty of all peace officers, an officer of such society, or officer of a pound or animal regulation department of a public agency to cause the animal to be killed on information of such abandonment. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated; and, if the animal is not then in the custody of its owner, the officer shall give notice thereof to the owner, if known, and may provide suitable care for the animal until it is deemed to be in a suitable condition to be delivered to the owner, and any necessary expenses which may be incurred for taking care of and keeping the animal shall be a lien thereon, to be paid before the animal can be lawfully recovered.

- (b) It shall be the duty of all officers of pounds or humane societies, and animal regulation departments of public agencies to convey, and for police and sheriff departments, to cause to be conveyed all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer or agency to be a veterinarian that ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment. If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal; or, if the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal. Whenever any animal is transferred pursuant to this subdivision to a veterinarian in a clinic, such as an emergency clinic which is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility. If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services which are provided pending the owner's inquiry to the agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or if the animal is unlicensed the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. No veterinarian shall be criminally or civilly liable for any decision which he or she makes or services which he or she provides pursuant to this section.
- (c) An animal control agency which takes possession of an animal pursuant to subdivision (b), shall keep records of the whereabouts of the animal for a 72- hour period from the time of possession and those records shall be available to inspection by the public upon request.
- (d) Notwithstanding any other provisions of this section, any officer of a pound or animal regulation department or humane society, or any officer of a police or sheriff's department may, with the approval of his or her immediate superior, humanely destroy any abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to dispose of the animal.

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### Cal. Penal Code § 597s. Abandonment of domestic animals.

- (a) Every person who willfully abandons any animal is guilty of a misdemeanor.
- (b) This section shall not apply to the release or rehabilitation and release of native California wildlife pursuant to statute or regulations of the California Department of Fish and Game.

### CAL. PENAL CODE § 597t. Confined animals.

*Every person who keeps an animal confined in an enclosed area shall provide it with an adequate exercise area. If the animal is restricted by a leash, rope, or chain, the leash, rope, or chain shall be affixed in such a manner that it will prevent the animal from becoming entangled or injured and permit the animal's access to adequate shelter, food, and water. Violation of this section constitutes a misdemeanor.* This section shall not apply to an animal which is in transit, in a vehicle, or in the immediate control of a person.

### CAL. PENAL CODE § 597.1. Failure to care for animals; misdemeanor; powers and duties of local officers and veterinarians; hearings; liability for costs; forfeiture.

- (a)
  - (1) *Every owner, driver, or keeper of any animal who permits the animal to be in any building, enclosure, lane, street, square, or lot of any city, county, city and county, or judicial district without proper care and attention is guilty of a misdemeanor.* Any peace officer, humane society officer, or animal control officer shall take possession of the stray or abandoned animal and shall provide care and treatment for the animal until the animal is deemed to be in suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with the provisions of subdivision (g). The full cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid, if the seizure is upheld pursuant to this section.
  - (2) Notwithstanding any other law, if an animal control officer or humane officer, when necessary to protect the health and safety of a wild, stray, or abandoned animal or the health and safety of others, seeks to administer a tranquilizer that contains a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, to gain control of that animal, he

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or she may possess and administer that tranquilizer with direct or indirect supervision as determined by a licensed veterinarian, provided that the officer has met each of the following requirements:

- (A) Has received training in the administration of tranquilizers from a licensed veterinarian. The training shall be approved by the California Veterinary Medical Board.
  - (B) Has successfully completed the firearms component of a course relating to the exercise of police powers, as set forth in Section 832.
  - (C) Is authorized by his or her agency or organization to possess and administer the tranquilizer in accordance with a policy established by the agency or organization and approved by the veterinarian who obtained the controlled substance.
  - (D) Has successfully completed the euthanasia training set forth in Section 2039 of Title 16 of the California Code of Regulations.
  - (E) Has completed a state and federal fingerprinting background check and does not have any drug- or alcohol-related convictions.
- (b) Every sick, disabled, infirm, or crippled animal, except a dog or cat, that is abandoned in any city, county, city and county, or judicial district may be killed by the officer if, after a reasonable search, no owner of the animal can be found. It shall be the duty of all peace officers, humane society officers, and animal control officers to cause the animal to be killed or rehabilitated and placed in a suitable home on information that the animal is stray or abandoned. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated, and provide care and treatment for the animal until it is deemed to be in a suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of an animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with subdivision (g). The full cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid.
- (c)
- (1) Any peace officer, humane society officer, or animal control officer shall convey all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer to be a veterinarian who ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment.
  - (2) If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal. If the animal is treated and recovers from its injuries, the veterinarian may keep the



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animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal.

- (3) Whenever any animal is transferred to a veterinarian in a clinic, such as an emergency clinic that is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.
  - (4) If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services that are provided pending the owner's inquiry to the responsible agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or, if the animal is unlicensed, shall be paid by the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. The full cost of caring for and treating any animal seized under this subdivision shall constitute a lien on the animal and the animal shall not be returned to the owner until the charges are paid. No veterinarian shall be criminally or civilly liable for any decision that he or she makes or for services that he or she provides pursuant to this subdivision.
- (d) An animal control agency that takes possession of an animal pursuant to subdivision (c) shall
    - (c) keep records of the whereabouts of the animal from the time of possession to the end of the animal's impoundment, and those records shall be available for inspection by the public upon request for three years after the date the animal's impoundment ended.
    - (d) Notwithstanding any other provision of this section, any peace officer, humane society officer, or any animal control officer may, with the approval of his or her immediate superior, humanely destroy any stray or abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to euthanize the animal.
    - (e) Whenever an officer authorized under this section seizes or impounds an animal based on a reasonable belief that prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall, prior to the commencement of any criminal proceedings authorized by this section, provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a postseizure hearing to determine the validity of the seizure or impoundment, or both.
      - (1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice of the seizure or impoundment, or both, to the owner or keeper within 48 hours, excluding weekends and holidays. The notice shall include all of the following:
        - (A) The name, business address, and telephone number of the officer providing the notice.
        - (B) A description of the animal seized, including any identification upon the animal.

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- (C) The authority and purpose for the seizure or impoundment, including the time, place, and circumstances under which the animal was seized.
  - (D) A statement that, in order to receive a postseizure hearing, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning an enclosed declaration of ownership or right to keep the animal to the agency providing the notice within 10 days, including weekends and holidays, of the date of the notice. The declaration may be returned by personal delivery or mail.
  - (E) A statement that the full cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.
- (2) The postseizure hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who directed the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.
  - (3) Failure of the owner or keeper, or of his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a postseizure hearing or right to challenge his or her liability for costs incurred.
  - (4) The agency, department, or society employing the person who directed the seizure shall be responsible for the costs incurred for caring and treating the animal, if it is determined in the postseizure hearing that the seizing officer did not have reasonable grounds to believe very prompt action, including seizure of the animal, was required to protect the health or safety of the animal or the health or safety of others. If it is determined the seizure was justified, the owner or keeper shall be personally liable to the seizing agency for the full cost of the seizure and care of the animal. The charges for the seizure and care of the animal shall be a lien on the animal. The animal shall not be returned to its owner until the charges are paid and the owner demonstrates to the satisfaction of the seizing agency or the hearing officer that the owner can and will provide the necessary care for the animal.
- (f) Where the need for immediate seizure is not present and prior to the commencement of any criminal proceedings authorized by this section, the agency shall provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a hearing prior to any seizure or impoundment of the animal. The owner shall produce the animal at the time of the hearing unless, prior to the hearing, the owner has made arrangements with the agency to view the animal upon request of the agency, or unless the owner can provide verification that the animal was humanely destroyed. Any person who willfully fails to produce the animal or provide the

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verification is guilty of an infraction, punishable by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000).

- (1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice stating the grounds for believing the animal should be seized under subdivision (a) or (b). The notice shall include all of the following:
    - (A) The name, business address, and telephone number of the officer providing the notice.
    - (B) A description of the animal to be seized, including any identification upon the animal.
    - (C) The authority and purpose for the possible seizure or impoundment.
    - (D) A statement that, in order to receive a hearing prior to any seizure, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning the enclosed declaration of ownership or right to keep the animal to the officer providing the notice within two days, excluding weekends and holidays, of the date of the notice.
    - (E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal, that any animal seized shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in a conclusive determination that the animal may properly be seized and that the owner shall be liable for the charges.
  - (2) The preseizure hearing shall be conducted within 48 hours, excluding weekends and holidays, after receipt of the request. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who requests the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.
  - (3) Failure of the owner or keeper, or his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a preseizure hearing or right to challenge his or her liability for costs incurred pursuant to this section.
  - (4) The hearing officer, after the hearing, may affirm or deny the owner's or keeper's right to custody of the animal and, if reasonable grounds are established, may order the seizure or impoundment of the animal for care and treatment.
- (g) If any animal is properly seized under this section or pursuant to a search warrant, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal. Further, if the charges for the seizure or impoundment and any other charges permitted under this section are not paid within 14 days of the seizure, or if the owner, within 14 days of notice of availability of the animal to be returned, fails to pay charges permitted under this section and take possession of the

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animal, the animal shall be deemed to have been abandoned and may be disposed of by the seizing agency.

- (h) If the animal requires veterinary care and the humane society or public agency is not assured, within 14 days of the seizure of the animal, that the owner will provide the necessary care, the animal shall not be returned to its owner and shall be deemed to have been abandoned and may be disposed of by the seizing agency. A veterinarian may humanely destroy an impounded animal without regard to the prescribed holding period when it has been determined that the animal has incurred severe injuries or is incurably crippled. A veterinarian also may immediately humanely destroy an impounded animal afflicted with a serious contagious disease unless the owner or his or her agent immediately authorizes treatment of the animal by a veterinarian at the expense of the owner or agent.
- (i) No animal properly seized under this section or pursuant to a search warrant shall be returned to its owner until the owner can demonstrate to the satisfaction of the seizing agency or hearing officer that the owner can and will provide the necessary care for the animal.
- (j)
  - (1) In the case of cats and dogs, prior to the final disposition of any criminal charges, the seizing agency or prosecuting attorney may file a petition in a criminal action requesting that, prior to that final disposition, the court issue an order forfeiting the animal to the city, county, or seizing agency. The petitioner shall serve a true copy of the petition upon the defendant and the prosecuting attorney.
  - (2) Upon receipt of the petition, the court shall set a hearing on the petition. The hearing shall be conducted within 14 days after the filing of the petition, or as soon as practicable.
  - (3) The petitioner shall have the burden of establishing beyond a reasonable doubt that, even in the event of an acquittal of the criminal charges, the owner will not legally be permitted to retain the animal in question. If the court finds that the petitioner has met its burden, the court shall order the immediate forfeiture of the animal as sought by the petition.
  - (4) Nothing in this subdivision is intended to authorize a seizing agency or prosecuting attorney to file a petition to determine an owner's ability to legally retain an animal pursuant to paragraph (3) of subdivision (l) if a petition has previously been filed pursuant to this subdivision.
- (k)
  - (1) Upon the conviction of a person charged with a violation of this section, or Section 597 or 597a, all animals lawfully seized and impounded with respect to the violation shall be adjudged by the court to be forfeited and shall thereupon be transferred to the impounding officer or appropriate public entity for proper adoption or other disposition. A person convicted of a violation of this section shall be personally liable to the seizing agency for all costs of impoundment from the time of seizure to the time of proper disposition. Upon conviction, the court shall order the convicted person to make payment to the appropriate public

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entity for the costs incurred in the housing, care, feeding, and treatment of the seized or impounded animals. Each person convicted in connection with a particular animal may be held jointly and severally liable for restitution for that particular animal. The payment shall be in addition to any other fine or sentence ordered by the court.

- (2) The court may also order, as a condition of probation, that the convicted person be prohibited from owning, possessing, caring for, or residing with, animals of any kind, and require the convicted person to immediately deliver all animals in his or her possession to a designated public entity for adoption or other lawful disposition or provide proof to the court that the person no longer has possession, care, or control of any animals. In the event of the acquittal or final discharge without conviction of the person charged, if the animal is still impounded, the animal has not been previously deemed abandoned pursuant to subdivision (h), the court has not ordered that the animal be forfeited pursuant to subdivision (k), the court shall, on demand, direct the release of seized or impounded animals to the defendant upon a showing of proof of ownership.
  - (3) Any questions regarding ownership shall be determined in a separate hearing by the court where the criminal case was finally adjudicated and the court shall hear testimony from any persons who may assist the court in determining ownership of the animal. If the owner is determined to be unknown or the owner is prohibited or unable to retain possession of the animals for any reason, the court shall order the animals to be released to the appropriate public entity for adoption or other lawful disposition. This section is not intended to cause the release of any animal, bird, reptile, amphibian, or fish seized or impounded pursuant to any other statute, ordinance, or municipal regulation. This section shall not prohibit the seizure or impoundment of animals as evidence as provided for under any other provision of law.
- (l) It shall be the duty of all peace officers, humane society officers, and animal control officers to use all currently acceptable methods of identification, both electronic and otherwise, to determine the lawful owner or caretaker of any seized or impounded animal. It shall also be their duty to make reasonable efforts to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal and, upon the owner's and caretaker's initiation of recovery procedures, retain custody of the animal for a reasonable period of time to allow for completion of the recovery process. Efforts to locate or contact the owner or caretaker and communications with persons claiming to be the owner or caretaker shall be recorded and maintained and be made available for public inspection.

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### CAL. PENAL CODE § 597.7. Animal endangerment; confinement in unattended motor vehicle; violations and penalties.

(a) *A person shall not leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.*

(b)

(1) This section does not prevent a person from taking reasonable steps that are necessary to remove an animal from a motor vehicle if the person holds a reasonable belief that the animal's safety is in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

(2) A person who removes an animal from a vehicle in accordance with paragraph (1) is not criminally liable for actions taken reasonably and in good faith if the person does all of the following:

- (A) Determines the vehicle is locked or there is otherwise no reasonable manner for the animal to be removed from the vehicle.
- (B) Has a good faith belief that forcible entry into the vehicle is necessary because the animal is in imminent danger of suffering harm if it is not immediately removed from the vehicle, and, based upon the circumstances known to the person at the time, the belief is a reasonable one.
- (C) Has contacted a local law enforcement agency, the fire department, animal control, or the "911" emergency service prior to forcibly entering the vehicle.
- (D) Remains with the animal in a safe location, out of the elements but reasonably close to the vehicle, until a peace officer, humane officer, animal control officer, or another emergency responder arrives.
- (E) Used no more force to enter the vehicle and remove the animal from the vehicle than was necessary under the circumstances.
- (F) Immediately turns the animal over to a representative from law enforcement, animal control, or another emergency responder who responds to the scene.

(c) Unless the animal suffers great bodily injury, a first conviction for violation of this section is punishable by a fine not exceeding one hundred dollars (\$100) per animal. If the animal suffers great bodily injury, a violation of this section is punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment. Any subsequent violation of this section, regardless of injury to the animal, is also punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment.

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- (d)
- (1) This section does not prevent a peace officer, firefighter, humane officer, animal control officer, or other emergency responder from removing an animal from a motor vehicle if the animal's safety appears to be in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.
  - (2) A peace officer, firefighter, humane officer, animal control officer, or other emergency responder who removes an animal from a motor vehicle, or who takes possession of an animal that has been removed from a motor vehicle, shall take it to an animal shelter or other place of safekeeping or, if the officer deems necessary, to a veterinary hospital for treatment. The owner of the animal removed from the vehicle may be required to pay for charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.
  - (3) A peace officer, firefighter, humane officer, animal control officer, or other emergency responder is authorized to take all steps that are reasonably necessary for the removal of an animal from a motor vehicle, including, but not limited to, breaking into the motor vehicle, after a reasonable effort to locate the owner or other person responsible.
  - (4) A peace officer, firefighter, humane officer, animal control officer, or other emergency responder who removes an animal from a motor vehicle or who receives an animal rescued from a vehicle from another person shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. The animal may be claimed by the owner only after payment of all charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.
  - (5) Except as provided in subdivision (b), this section does not affect in any way existing liabilities or immunities in current law, or create any new immunities or liabilities.
- (e) Nothing in this section shall preclude prosecution under both this section and Section 597 or any other provision of law, including city or county ordinances.
- (f) Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, pigs, sheep, poultry, or other agricultural animals in motor vehicles designed to transport such animals for agricultural purposes.

### CAL. PENAL CODE § 598c. Horse slaughter for human consumption.

- a) Notwithstanding any other provision of law, it is unlawful for any person to possess, to import into or export from the state, or to sell, buy, give away, hold, or accept any horse with the intent of killing, or having another kill, that horse, if that person knows or should have known that any part of that horse will be used for human consumption.



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- b) For purposes of this section, “horse” means any equine, including any horse, pony, burro, or mule.
- c) *Violation of this section is a felony punishable by imprisonment in the state prison for 16 months, or two or three years.*
- d) It is not the intent of this section to affect any commonly accepted commercial, noncommercial, recreational, or sporting activity that relates to horses.
- e) It is not the intent of this section to affect any existing law that relates to horse taxation or zoning.

### **CAL. PENAL CODE § 600. Horses or dogs used by peace offices or volunteers; willful and malicious harm or interference; punishment; restitution.**

- a) Any person who willfully and maliciously and with no legal justification strikes, beats, kicks, cuts, stabs, shoots with a firearm, administers any poison or other harmful or stupefying substance to, or throws, hurls, or projects at, or places any rock, object, or other substance which is used in such a manner as to be capable of producing injury and likely to produce injury, on or in the path of, a horse being used by, or a dog under the supervision of, a peace officer in the discharge or attempted discharge of his or her duties, or a volunteer who is acting under the direct supervision of a peace officer in the discharge or attempted discharge of his or her assigned volunteer duties, is guilty of a public offense. If the injury inflicted is a serious injury, as described in subdivision (c), the person shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, two or three years, or in a county jail for not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both a fine and imprisonment. If the injury inflicted is not a serious injury, the person shall be punished by imprisonment in the county jail for not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both a fine and imprisonment.
- b) Any person who willfully and maliciously and with no legal justification interferes with or obstructs a horse or dog being used by a peace officer in the discharge or attempted discharge of his or her duties, or a volunteer who is acting under the direct supervision of a peace officer in the discharge or attempted discharge of his or her assigned volunteer duties, by frightening, teasing, agitating, harassing, or hindering the horse or dog shall be punished by imprisonment in a county jail for not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both a fine and imprisonment.
- c) Any person who, in violation of this section, and with intent to inflict that injury or death, personally causes the death, destruction, or serious physical injury including bone fracture, loss or impairment of function of any bodily member, wounds requiring extensive suturing, or serious crippling, of a horse or dog, shall, upon conviction of a felony under this section, in addition and consecutive to the punishment prescribed for the felony, be punished by an additional term of imprisonment pursuant to subdivision (h) of Section 1170 for one year.



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- d) Any person who, in violation of this section, and with the intent to inflict that injury, personally causes great bodily injury, as defined in Section 12022.7, to any person not an accomplice, shall, upon conviction of a felony under this section, in addition and consecutive to the punishment prescribed for the felony, be punished by an additional term of imprisonment in the state prison for two years unless the conduct described in this subdivision is an element of any other offense of which the person is convicted or receives an enhancement under Section 12022.7.
- e) A defendant convicted of a violation of this section shall be ordered to make restitution to the agency owning the animal and employing the peace officer, to a volunteer who is acting under the direct supervision of a peace officer who is using his or her horse or supervising his or her dog in the performance of his or her assigned duties, or to the agency that provides, or the individual who provides, veterinary health care coverage or veterinary care for a horse or dog being used by, or under the supervision of, a volunteer who is acting under the direct supervision of a peace officer for any veterinary bills, replacement costs of the animal if it is disabled or killed, and, if applicable, the salary of the peace officer for the period of time his or her services are lost to the agency.

### **CAL. PENAL CODE § 600.5. Intentional Injury, or death of, guide, signal or service dog; penalty; restitution.**

- a) Any person who intentionally causes injury to or the death of any guide, signal, or service dog, as defined by Section 54.1 of the Civil Code, while the dog is in discharge of its duties, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both a fine and imprisonment. The court shall consider the costs ordered pursuant to subdivision (b) when determining the amount of any fines.
- b) In any case in which a defendant is convicted of a violation of this section, the defendant shall be ordered to make restitution to the person with a disability who has custody or ownership of the dog for any veterinary bills and replacement costs of the dog if it is disabled or killed, or other reasonable costs deemed appropriate by the court. The costs ordered pursuant to this subdivision shall be paid prior to any fines. The person with the disability may apply for compensation by the California Victim Compensation Board pursuant to Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code, in an amount not to exceed ten thousand dollars (\$10,000).

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### 3. EXEMPTIONS

#### CAL. PENAL CODE § 597. Cruelty to animals.

- (a) Except as provided in subdivision (c) of this section or Section 599c, every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of a crime punishable pursuant to subdivision (d).
- (b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for each offense, guilty of a crime punishable pursuant to subdivision (d).
- (c) Every person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish, as described in subdivision (e), is guilty of a crime punishable pursuant to subdivision (d).
- (d) A violation of subdivision (a), (b), or (c) is punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars (\$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 twenty thousand dollars (\$20,000), or by both that fine and imprisonment.
- (e) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:
  - (1) Endangered species or threatened species as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.
  - (2) Fully protected birds described in Section 3511 of the Fish and Game Code.
  - (3) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.
  - (4) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.
  - (5) Fully protected fish as described in Section 5515 of the Fish and Game Code.

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

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- (f) For the purposes of subdivision (c), each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subdivision (e) is a separate offense. If any person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.
- (g)
- (1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.
  - (2) *Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.*
- (h) Notwithstanding any other provision of law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 9 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. This provision specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment pursuant to subdivision (h) of Section 1170 or county jail when that sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering custody. This subdivision shall not apply to cases involving police dogs or horses as described in Section 600.

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### CAL. PENAL CODE § 597s. Abandonment of domestic animals.

- (a) Every person who willfully abandons any animal is guilty of a misdemeanor.
- (b) *This section shall not apply to the release or rehabilitation and release of native California wildlife pursuant to statute or regulations of the California Department of Fish and Game.*

### CAL. PENAL CODE § 597.7. Animal endangerment; confinement in unattended motor vehicle; violations and penalties.

- (a) A person shall not leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.
- (b)
  - (1) This section does not prevent a person from taking reasonable steps that are necessary to remove an animal from a motor vehicle if the person holds a reasonable belief that the animal's safety is in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.
  - (2) A person who removes an animal from a vehicle in accordance with paragraph (1) is not criminally liable for actions taken reasonably and in good faith if the person does all of the following:
    - (A) Determines the vehicle is locked or there is otherwise no reasonable manner for the animal to be removed from the vehicle.
    - (B) Has a good faith belief that forcible entry into the vehicle is necessary because the animal is in imminent danger of suffering harm if it is not immediately removed from the vehicle, and, based upon the circumstances known to the person at the time, the belief is a reasonable one.
    - (C) Has contacted a local law enforcement agency, the fire department, animal control, or the "911" emergency service prior to forcibly entering the vehicle.
    - (D) Remains with the animal in a safe location, out of the elements but reasonably close to the vehicle, until a peace officer, humane officer, animal control officer, or another emergency responder arrives.
    - (E) Used no more force to enter the vehicle and remove the animal from the vehicle than was necessary under the circumstances.
    - (F) Immediately turns the animal over to a representative from law enforcement, animal control, or another emergency responder who responds to the scene.

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- (c) Unless the animal suffers great bodily injury, a first conviction for violation of this section is punishable by a fine not exceeding one hundred dollars (\$100) per animal. If the animal suffers great bodily injury, a violation of this section is punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment. Any subsequent violation of this section, regardless of injury to the animal, is also punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment.
- (d)
- (1) This section does not prevent a peace officer, firefighter, humane officer, animal control officer, or other emergency responder from removing an animal from a motor vehicle if the animal's safety appears to be in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.
  - (2) A peace officer, firefighter, humane officer, animal control officer, or other emergency responder who removes an animal from a motor vehicle, or who takes possession of an animal that has been removed from a motor vehicle, shall take it to an animal shelter or other place of safekeeping or, if the officer deems necessary, to a veterinary hospital for treatment. The owner of the animal removed from the vehicle may be required to pay for charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.
  - (3) A peace officer, firefighter, humane officer, animal control officer, or other emergency responder is authorized to take all steps that are reasonably necessary for the removal of an animal from a motor vehicle, including, but not limited to, breaking into the motor vehicle, after a reasonable effort to locate the owner or other person responsible.
  - (4) A peace officer, firefighter, humane officer, animal control officer, or other emergency responder who removes an animal from a motor vehicle or who receives an animal rescued from a vehicle from another person shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. The animal may be claimed by the owner only after payment of all charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.
  - (5) Except as provided in subdivision (b), this section does not affect in any way existing liabilities or immunities in current law, or create any new immunities or liabilities.
- (e) Nothing in this section shall preclude prosecution under both this section and Section 597 or any other provision of law, including city or county ordinances.
- (f) *Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, pigs, sheep, poultry, or other agricultural animals in motor vehicles designed to transport such animals for agricultural purposes*

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**CAL. PENAL CODE § 599c. Construction of title; game laws; destruction of dangerous animals or reptiles; killing for food; authorized scientific experiments or investigations.**

*No part of this title shall be construed as interfering with any of the laws of this state known as the “game laws,” or any laws for or against the destruction of certain birds, nor must this title be construed as interfering with the right to destroy any venomous reptile, or any animal known as dangerous to life, limb, or property, or to interfere with the right to kill all animals used for food, or with properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.*

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### 4. FIGHTING AND RACKETEERING

**NOTE:** statutes concerning [seizure](#) and [forfeiture](#) of animals used in fighting are available in those respective sections of this document.

#### **CAL. PENAL CODE § 310. Exclusion of minors from prizefights and cockfights.**

- (a) Any minor under 16 years of age who visits or attends any prizefight or place where any prizefight is advertised to take place, and any owner, lessee, or proprietor, or the agent of any owner, lessee, or proprietor of any place where any prizefight is advertised or represented to take place who admits any minor to a place where any prizefight is advertised or represented to take place or who admits, sells, or gives to any minor a ticket or other paper by which that minor may be admitted to a place where a prizefight is advertised to take place, is guilty of a misdemeanor, and is punishable by a fine not exceeding one hundred dollars (\$100) or by imprisonment in the county jail for not more than 25 days.
- (b) *Any minor under 16 years of age who visits or attends any cockfight or place where any cockfight is advertised to take place, and any owner, lessee, or proprietor, or the agent of any owner, lessee, or proprietor of any place where any cockfight is advertised or represented to take place who admits any minor to a place where any cockfight is advertised or represented to take place or who admits, sells, or gives to any minor a ticket or other paper by which that minor may be admitted to a place where a cockfight is advertised to take place, is guilty of a misdemeanor, and is punishable by a fine not exceeding five hundred dollars (\$500) or by imprisonment in the county jail for not more than 25 days.*

#### **CAL. PENAL CODE § 597b. Fighting animals or cockfighting; prohibition; penalties; aiding and abetting.**

- (a) *Except as provided in subdivisions (b) and (c), any person who, for amusement or gain, causes any bull, bear, or other animal, not including any dog, to fight with like kind of animal or creature, or causes any animal, including any dog, to fight with a different kind of animal or creature, or with any human being, or who, for amusement or gain, worries or injures any bull, bear, dog, or other animal, or causes any bull, bear, or other animal, not including any dog, to worry or injure each other, or any person who permits the same to be done on any premises under his or her charge or control, or any person who aids or abets the fighting or worrying of an animal or creature, is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed ten thousand dollars (\$10,000), or by both that imprisonment and fine.*
- (b) *Any person who, for amusement or gain, causes any cock to fight with another cock or with a different kind of animal or creature or with any human being; or who, for*



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*amusement or gain, worries or injures any cock, or causes any cock to worry or injure another animal; and any person who permits the same to be done on any premises under his or her charge or control, and any person who aids or abets the fighting or worrying of any cock is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, or by a fine not to exceed ten thousand dollars (\$10,000), or by both that imprisonment and fine.*

- (c) *A second or subsequent conviction of this section is a misdemeanor or a felony punishable by imprisonment in a county jail for a period not to exceed one year or the state prison for 16 months, two, or three years, by a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that imprisonment and fine, except in unusual circumstances in which the interests of justice would be better served by the imposition of a lesser sentence.*
- (d) *For the purposes of this section, aiding and abetting a violation of this section shall consist of something more than merely being present or a spectator at a place where a violation is occurring.*

### **CAL. PENAL CODE § 597c. Animal fighting exhibitions; spectators; penalty.**

*Any person who is knowingly present as a spectator at any place, building, or tenement for an exhibition of animal fighting, or who is knowingly present at that exhibition or is knowingly present where preparations are being made for the acts described in subdivision (a) or (b) of Section 597b, is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed six months, or by a fine of five thousand dollars (\$5,000), or by both that imprisonment and fine.*

### **CAL. PENAL CODE § 597h. Attaching live animal to device to be pursued by dogs.**

- (a) *It shall be unlawful for any person to tie or attach or fasten any live animal to any machine or device propelled by any power for the purpose of causing that animal to be pursued by a dog or dogs.*
- (b) *Any person violating any of the provisions of this section shall be guilty of a misdemeanor punishable by a fine of two thousand five hundred dollars (\$2,500) or by imprisonment in a county jail not exceeding six months, or by both that imprisonment and fine.*

### **CAL. PENAL CODE § 597i. Cockfighting implements; prohibitions; penalties.**

- (a) *It shall be unlawful for anyone to manufacture, buy, sell, barter, exchange, or have in his or her possession any of the implements commonly known as gaffs or slashers, or any*



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*other sharp implement designed to be attached in place of the natural spur of a gamecock or other fighting bird.*

- (b) *Any person who violates any of the provisions of this section is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed ten thousand dollars (\$10,000), or by both that imprisonment and fine and upon conviction thereof shall, in addition to any judgment or sentence imposed by the court, forfeit possession or ownership of those implements.*

### **CAL. PENAL CODE § 597j. Persons who own, possess or keep or train any bird or other animal with intent that it be used or engaged in fighting exhibition; penalties.**

- (a) *Any person who owns, possesses, keeps, or trains any bird or other animal with the intent that it be used or engaged by himself or herself, by his or her vendee, or by any other person in an exhibition of fighting as described in Section 597b is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed ten thousand dollars (\$10,000), or by both that imprisonment and fine.*
- (b) *This section shall not apply to an exhibition of fighting of a dog with another dog.*
- (c) *A second or subsequent conviction of this section is a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year or by a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that imprisonment and fine, except in unusual circumstances in which the interests of justice would be better served by the imposition of a lesser sentence.*

### **CAL. PENAL CODE § 597m. Bullfights prohibited; exceptions; penalty.**

*It shall be unlawful for any person to promote, advertise, stage, hold, manage, conduct, participate in, engage in, or carry on any bullfight exhibition, any bloodless bullfight contest or exhibition, or any similar contest or exhibition, whether for amusement or gain or otherwise; provided, that nothing herein shall be construed to prohibit rodeos or to prohibit measures necessary to the safety of participants at rodeos.*

*This section shall not, however, be construed as prohibiting bloodless bullfights, contests, or exhibitions held in connection with religious celebrations or religious festivals.*

*Any person violating the provisions of this section is guilty of a misdemeanor.*

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### CAL. PENAL CODE § 597.5. Fighting dogs; felony; punishment; spectators; misdemeanor; exceptions.

- (a) *Any person who does any of the following is guilty of a felony and is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, or two or three years, or by a fine not to exceed fifty thousand dollars (\$50,000), or by both that fine and imprisonment:*
- (1) *Owens, possesses, keeps, or trains any dog, with the intent that the dog shall be engaged in an exhibition of fighting with another dog.*
  - (2) *For amusement or gain, causes any dog to fight with another dog, or causes any dogs to injure each other.*
  - (3) *Permits any act in violation of paragraph (1) or (2) to be done on any premises under his or her charge or control, or aids or abets that act.*
- (c) *Any person who is knowingly present, as a spectator, at any place, building, or tenement where preparations are being made for an exhibition of the fighting of dogs, with the intent to be present at those preparations, or is knowingly present at that exhibition or at any other fighting or injuring as described in paragraph (2) of subdivision (a), with the intent to be present at that exhibition, fighting, or injuring, is guilty of an offense punishable by imprisonment in a county jail not to exceed one year, or by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine.*
- (d) *Nothing in this section shall prohibit any of the following:*
- (1) *The use of dogs in the management of livestock, as defined by Section 14205 of the Food and Agricultural Code, by the owner of the livestock or his or her employees or agents or other persons in lawful custody thereof.*
  - (2) *The use of dogs in hunting as permitted by the Fish and Game Code, including, but not limited to, Sections 4002 and 4756, and by the rules and regulations of the Fish and Game Commission.*
  - (3) *The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law.*

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**5 SEXUAL ASSAULT**

**CAL. PENAL CODE § 286.5. Sexually assaulting animal; misdemeanor.**

*Any person who sexually assaults any animal protected by Section 597f for the purpose of arousing or gratifying the sexual desire of the person is guilty of a misdemeanor.*

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### 6. MAXIMUM PENALTIES & STATUTES OF LIMITATIONS

**NOTE:** some penalties defined in substantive statutes, available in the [General Cruelty](#) section of this document.

#### **CAL. PENAL CODE § 17. Felony; misdemeanor; infraction; classification of offenses.**

- (a) *A felony is a crime that is punishable with death, by imprisonment in the state prison, or notwithstanding any other provision of law, by imprisonment in a county jail under the provisions of subdivision (h) of Section 1170. Every other crime or public offense is a misdemeanor except those offenses that are classified as infractions.*
- (b) *When a crime is punishable, in the discretion of the court, either by imprisonment in the state prison or imprisonment in a county jail under the provisions of subdivision (h) of Section 1170, or by fine or imprisonment in the county jail, it is a misdemeanor for all purposes under the following circumstances:*
  - (1) *After a judgment imposing a punishment other than imprisonment in the state prison or imprisonment in a county jail under the provisions of subdivision (h) of Section 1170.*
  - (2) *When the court, upon committing the defendant to the Division of Juvenile Justice, designates the offense to be a misdemeanor.*
  - (3) *When the court grants probation to a defendant and at the time of granting probation, or on application of the defendant or probation officer thereafter, the court declares the offense to be a misdemeanor.*
  - (4) *When the prosecuting attorney files in a court having jurisdiction over misdemeanor offenses a complaint specifying that the offense is a misdemeanor, unless the defendant at the time of his or her arraignment or plea objects to the offense being made a misdemeanor, in which event the complaint shall be amended to charge the felony and the case shall proceed on the felony complaint.*
  - (5) *When, at or before the preliminary examination or prior to filing an order pursuant to Section 872, the magistrate determines that the offense is a misdemeanor, in which event the case shall proceed as if the defendant had been arraigned on a misdemeanor complaint.*
- (c) *When a defendant is committed to the Division of Juvenile Justice for a crime punishable, in the discretion of the court, either by imprisonment in the state prison or imprisonment in a county jail under the provisions of subdivision (h) of Section 1170, or by fine or imprisonment in the county jail not exceeding one year, the offense shall, upon the discharge of the defendant from the Division of Juvenile Justice, thereafter be deemed a misdemeanor for all purposes.*
- (d) A violation of any code section listed in Section 19.8 is an infraction subject to the procedures described in Sections 19.6 and 19.7 when:

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- (1) The prosecutor files a complaint charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being informed of his or her rights, elects to have the case proceed as a misdemeanor, or;
  - (2) The court, with the consent of the defendant, determines that the offense is an infraction in which event the case shall proceed as if the defendant had been arraigned on an infraction complaint.
- (e) Nothing in this section authorizes a judge to relieve a defendant of the duty to register as a sex offender pursuant to Section 290 if the defendant is charged with an offense for which registration as a sex offender is required pursuant to Section 290, and for which the trier of fact has found the defendant guilty.

### **CAL. PENAL CODE § 19. Punishment for misdemeanor.**

*Except in cases where a different punishment is prescribed by any law of this state, every offense declared to be a misdemeanor is punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars (\$ 1,000), or by both.*

### **CAL. PENAL CODE § 801. Time of Commencing Criminal Actions.**

*Except as provided in Sections 799 and 800, prosecution for an offense punishable by imprisonment in the state prison or pursuant to subdivision (h) of Section 1170 shall be commenced within three years after commission of the offense.*

### **CAL. PENAL CODE § 802. Prosecution for offenses not punishable by death or imprisonment and other enumerated misdemeanor violations; commencement of action.**

- (a) Except as provided in subdivision (b), (c), (d), or (e), prosecution for an offense not punishable by death or imprisonment in the state prison or pursuant to subdivision (h) of Section 1170 shall be commenced within one year after commission of the offense.
- (b) Prosecution for a misdemeanor violation of Section 647.6 or former Section 647a committed with or upon a minor under the age of 14 years shall be commenced within three years after commission of the offense.
- (c) Prosecution of a misdemeanor violation of Section 729 of the Business and Professions Code shall be commenced within two years after commission of the offense.
- (d) Prosecution of a misdemeanor violation of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code shall be commenced as follows:
  - (1) With respect to Sections 7028.17, 7068.5, and 7068.7 of the Business and Professions Code, within one year of the commission of the offense.
  - (2) With respect to Sections 7027.1, 7028.1, 7028.15, 7118.4, 7118.5, 7118.6, 7126, 7153, 7156, 7157, 7158, 7159.5 (licensee only), 7159.14 (licensee only), 7161,

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- and 7189 of the Business and Professions Code, within two years of the commission of the offense.
- (3) With respect to Sections 7027.3 and 7028.16 of the Business and Professions Code, within three years of the commission of the offense.
  - (4) With respect to Sections 7028, 7159.5 (nonlicensee only), and 7159.14 (nonlicensee only) of the Business and Professions Code, within four years of the commission of the offense.
- (e) Prosecution for a misdemeanor violation of Section 6126, 10085.6, 10139, or 10147.6 of the Business and Professions Code or Section 2944.6 or 2944.7 of the Civil Code shall be commenced within three years after discovery of the commission of the offense, or within three years after completion of the offense, whichever is later.

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### 7. CROSS ENFORCEMENT & REPORTING

#### CAL. PENAL CODE § 11165.7. Mandated reporter.

- (a) As used in this article, “mandated reporter” is defined as any of the following:
- (1) A teacher.
  - (2) An instructional aide.
  - (3) A teacher's aide or teacher's assistant employed by a public or private school.
  - (4) A classified employee of a public school.
  - (5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of a public or private school.
  - (6) An administrator of a public or private day camp.
  - (7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
  - (8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children, including a foster family agency.
  - (9) An employee of a county office of education or the California Department of Education whose duties bring the employee into contact with children on a regular basis.
  - (10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.
  - (11) A Head Start program teacher.
  - (12) A licensing worker or licensing evaluator employed by a licensing agency, as defined in Section 11165.11.
  - (13) A public assistance worker.
  - (14) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
  - (15) A social worker, probation officer, or parole officer.
  - (16) An employee of a school district police or security department.
  - (17) A person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in a public or private school.
  - (18) A district attorney investigator, inspector, or local child support agency caseworker, unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.
  - (19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.
  - (20) A firefighter, except for volunteer firefighters.
  - (21) A physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage and family and child therapist, clinical social worker, professional clinical

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- counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.
- (22) An emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.
- (23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.
- (24) A marriage, family, and child therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.
- (25) An unlicensed associate marriage and family therapist registered under Section 4980.44 of the Business and Professions Code.
- (26) A state or county public health employee who treats a minor for venereal disease or any other condition.
- (27) A coroner.
- (28) A medical examiner, or other person who performs autopsies.
- (29) A commercial film and photographic print or image processor as specified in subdivision (e) of Section 11166. As used in this article, “commercial film and photographic print or image processor” means a person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, or who prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image, for compensation. The term includes any employee of that person; it does not include a person who develops film or makes prints or images for a public agency.
- (30) A child visitation monitor. As used in this article, “child visitation monitor” means a person who, for financial compensation, acts as a monitor of a visit between a child and another person when the monitoring of that visit has been ordered by a court of law.
- (31) *An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings:*
- (A) *“Animal control officer” means a person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.*
- (B) *“Humane society officer” means a person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporations Code.*
- (32) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, “clergy member” means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.



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- (33) Any custodian of records of a clergy member, as specified in this section and subdivision (d) of Section 11166.
- (34) An employee of any police department, county sheriff's department, county probation department, or county welfare department.
- (35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 5.655 of the California Rules of Court.
- (36) A custodial officer, as defined in Section 831.5.
- (37) A person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code.
- (38) An alcohol and drug counselor. As used in this article, an "alcohol and drug counselor" is a person providing counseling, therapy, or other clinical services for a state licensed or certified drug, alcohol, or drug and alcohol treatment program. However, alcohol or drug abuse, or both alcohol and drug abuse, is not, in and of itself, a sufficient basis for reporting child abuse or neglect.
- (39) A clinical counselor trainee, as defined in subdivision (g) of Section 4999.12 of the Business and Professions Code.
- (40) A clinical counselor intern registered under Section 4999.42 of the Business and Professions Code.
- (41) An employee or administrator of a public or private postsecondary institution, whose duties bring the administrator or employee into contact with children on a regular basis, or who supervises those whose duties bring the administrator or employee into contact with children on a regular basis, as to child abuse or neglect occurring on that institution's premises or at an official activity of, or program conducted by, the institution. Nothing in this paragraph shall be construed as altering the lawyer-client privilege as set forth in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.
- (42) An athletic coach, athletic administrator, or athletic director employed by any public or private school that provides any combination of instruction for kindergarten, or grades 1 to 12, inclusive.
- (43)
  - (A) A commercial computer technician as specified in subdivision (e) of Section 11166. As used in this article, "commercial computer technician" means a person who works for a company that is in the business of repairing, installing, or otherwise servicing a computer or computer component, including, but not limited to, a computer part, device, memory storage or recording mechanism, auxiliary storage recording or memory capacity, or any other material relating to the operation and maintenance of a computer or computer network system, for a fee. An employer who provides an electronic communications service or a remote computing service to the public shall be deemed to comply with this article if that employer complies with Section 2258A of Title 18 of the United States Code.
  - (B) An employer of a commercial computer technician may implement internal procedures for facilitating reporting consistent with this article. These

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procedures may direct employees who are mandated reporters under this paragraph to report materials described in subdivision (e) of Section 11166 to an employee who is designated by the employer to receive the reports. An employee who is designated to receive reports under this subparagraph shall be a commercial computer technician for purposes of this article. A commercial computer technician who makes a report to the designated employee pursuant to this subparagraph shall be deemed to have complied with the requirements of this article and shall be subject to the protections afforded to mandated reporters, including, but not limited to, those protections afforded by Section 11172.

- (44) Any athletic coach, including, but not limited to, an assistant coach or graduate assistant involved in coaching, at public or private postsecondary educational institutions.
- (b) Except as provided in paragraph (35) of subdivision (a), volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9.
- (c) Employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required pursuant to subdivision (a) of Section 11166.5.
- (d) Pursuant to Section 44691 of the Education Code, school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools shall annually train their employees and persons working on their behalf specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws. The training shall include, but not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting.
- (e)
  - (1) On and after January 1, 2018, pursuant to Section 1596.8662 of the Health and Safety Code, a child care licensee applicant shall take training in the duties of mandated reporters under the child abuse reporting laws as a condition of licensure, and a child care administrator or an employee of a licensed child day care facility shall take training in the duties of mandated reporters during the first 90 days when he or she is employed by the facility.
  - (2) A person specified in paragraph (1) who becomes a licensee, administrator, or employee of a licensed child day care facility shall take renewal mandated reporter training every two years following the date on which he or she completed the initial mandated reporter training. The training shall include, but

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not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting.

- (f) Unless otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article.
- (g) Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.

### CAL. PENAL CODE § 11166. Report; duty; time.

- (a) *Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report to the agency immediately or as soon as is practicably possible by telephone and the mandated reporter shall prepare and send, fax, or electronically transmit a written followup report thereof within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.*
  - (1) *For purposes of this article, “reasonable suspicion” means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. “Reasonable suspicion” does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any “reasonable suspicion” is sufficient. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.*
  - (2) *The agency shall be notified and a report shall be prepared and sent, faxed, or electronically transmitted even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy.*
  - (3) *A report made by a mandated reporter pursuant to this section shall be known as a mandated report.*
- (b) *If, after reasonable efforts, a mandated reporter is unable to submit an initial report by telephone, he or she shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone followup call by the agency with which he or she filed the report. A mandated*

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*reporter who files a one-time automated written report because he or she was unable to submit an initial report by telephone is not required to submit a written followup report.*

- (1) The one-time automated written report form prescribed by the Department of Justice shall be clearly identifiable so that it is not mistaken for a standard written followup report. In addition, the automated one-time report shall contain a section that allows the mandated reporter to state the reason the initial telephone call was not able to be completed. The reason for the submission of the one-time automated written report in lieu of the procedure prescribed in subdivision (a) shall be captured in the Child Welfare Services/Case Management System (CWS/CMS). The department shall work with stakeholders to modify reporting forms and the CWS/CMS as is necessary to accommodate the changes enacted by these provisions.
  - (2) This subdivision shall not become operative until the CWS/CMS is updated to capture the information prescribed in this subdivision.
  - (3) This subdivision shall become inoperative three years after this subdivision becomes operative or on January 1, 2009, whichever occurs first.
  - (4) On the inoperative date of these provisions, a report shall be submitted to the counties and the Legislature by the Department of Social Services that reflects the data collected from automated one-time reports indicating the reasons stated as to why the automated one-time report was filed in lieu of the initial telephone report.
  - (5) Nothing in this section shall supersede the requirement that a mandated reporter first attempt to make a report via telephone, or that agencies specified in Section 11165.9 accept reports from mandated reporters and other persons as required.
- (c) A mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars (\$1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.
- (d)
- (1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

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- (2) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.
- (3)
  - (A) On or before January 1, 2004, a clergy member or any custodian of records for the clergy member may report to an agency specified in Section 11165.9 that the clergy member or any custodian of records for the clergy member, prior to January 1, 1997, in his or her professional capacity or within the scope of his or her employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse and that the clergy member or any custodian of records for the clergy member did not previously report the abuse to an agency specified in Section 11165.9. The provisions of Section 11172 shall apply to all reports made pursuant to this paragraph.
  - (B) This paragraph shall apply even if the victim of the known or suspected abuse has reached the age of majority by the time the required report is made.
  - (C) The local law enforcement agency shall have jurisdiction to investigate any report of child abuse made pursuant to this paragraph even if the report is made after the victim has reached the age of majority.
- (e)
  - (1) A commercial film, photographic print, or image processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape, negative, slide, or any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image depicting a child under 16 years of age engaged in an act of sexual conduct, shall, immediately or as soon as practicably possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images are seen. Within 36 hours of receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written followup report of the incident with a copy of the image or material attached.
  - (2) A commercial computer technician who has knowledge of or observes, within the scope of his or her professional capacity or employment, any representation of information, data, or an image, including, but not limited to, any computer hardware, computer software, computer file, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image that is retrievable in perceivable form and that is intentionally saved,

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transmitted, or organized on an electronic medium, depicting a child under 16 years of age engaged in an act of sexual conduct, shall immediately, or as soon as practicably possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images or materials are seen. As soon as practicably possible after receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written followup report of the incident with a brief description of the images or materials.

- (3) For purposes of this article, "commercial computer technician" includes an employee designated by an employer to receive reports pursuant to an established reporting process authorized by subparagraph (B) of paragraph (43) of subdivision (a) of Section 11165.7.
- (4) As used in this subdivision, "electronic medium" includes, but is not limited to, a recording, CD-ROM, magnetic disk memory, magnetic tape memory, CD, DVD, thumbdrive, or any other computer hardware or media.
- (5) As used in this subdivision, "sexual conduct" means any of the following:
  - (A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.
  - (B) Penetration of the vagina or rectum by any object.
  - (C) Masturbation for the purpose of sexual stimulation of the viewer.
  - (D) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.
  - (E) Exhibition of the genitals, pubic, or rectal areas of a person for the purpose of sexual stimulation of the viewer.
- (f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, he or she makes a report of the abuse or neglect pursuant to subdivision (a).
- (g) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9. For purposes of this section, "any other person" includes a mandated reporter who acts in his or her private capacity and not in his or her professional capacity or within the scope of his or her employment.
- (h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.
- (i)



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- (1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article. An internal policy shall not direct an employee to allow his or her supervisor to file or process a mandated report under any circumstances.
  - (2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose his or her identity to the employer.
  - (3) Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.
- (j)
- (1) A county probation or welfare department shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.
  - (2) A county probation or welfare department shall immediately, and in no case in more than 24 hours, report to the law enforcement agency having jurisdiction over the case after receiving information that a child or youth who is receiving child welfare services has been identified as the victim of commercial sexual exploitation, as defined in subdivision (d) of Section 11165.1.
  - (3) When a child or youth who is receiving child welfare services and who is reasonably believed to be the victim of, or is at risk of being the victim of, commercial sexual exploitation, as defined in Section 11165.1, is missing or has been abducted, the county probation or welfare department shall immediately, or in no case later than 24 hours from receipt of the information, report the incident to the appropriate law enforcement authority for entry into the National Crime Information Center database of the Federal Bureau of Investigation and to the National Center for Missing and Exploited Children.
- (k) A law enforcement agency shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the agency given responsibility for

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investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

### **CAL. PENAL CODE § 11199. Reports of animal abuse, cruelty, or neglect by county employees; time and method of report; definitions; contents of report.**

- (a) *Any employee of a county child or adult protective services agency, while acting in his or her professional capacity or within the scope of his or her employment, who has knowledge of or observes an animal whom he or she knows or reasonably suspects has been the victim of cruelty, abuse, or neglect, may report the known or reasonably suspected animal cruelty, abuse, or neglect to the entity or entities that investigate reports of animal cruelty, abuse, and neglect in that county.*
- (b) *The report may be made within two working days of receiving the information concerning the animal by facsimile transmission of a written report presented in the form described in subdivision (e) or by telephone if all of the information that is required to be provided pursuant to subdivision (e) is furnished. In cases where an immediate response may be necessary in order to protect the health and safety of the animal or others, the report may be made by telephone as soon as possible.*
- (c) *Nothing in this section shall be construed to impose a duty to investigate known or reasonably suspected animal cruelty, abuse, or neglect.*
- (d) *As used in this section, the terms "animal," "cruelty," "abuse," "neglect," "reasonable suspicion," and "owner" are defined as follows:*
  - (1) *"Animal" includes every dumb creature.*
  - (2) *"Cruelty," "abuse," and "neglect" include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.*
  - (3) *"Reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect animal cruelty, abuse, or neglect.*



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- (4) *“Owner” means any person who is the legal owner, keeper, harborer, possessor, or the actual custodian of an animal. “Owner” includes corporations as well as individuals.*
- (e) *Reports made pursuant to this section may be made on a preprinted form prepared by the entity or entities that investigate reports of animal cruelty, abuse, and neglect in that county that includes the definitions contained in subdivision (d), and a space for the reporter to include each of the following:*
- (1) *His or her name and title.*
  - (2) *His or her business address and telephone number.*
  - (3) *The name, if known, of the animal owner or custodian.*
  - (4) *The location of the animal and the premises on which the known or reasonably suspected animal cruelty, abuse, or neglect took place.*
  - (5) *A description of the location of the animal and the premises.*
  - (6) *Type and numbers of animals involved.*
  - (7) *A description of the animal and its condition.*
  - (8) *The date, time, and a description of the observation or incident which led the reporter to suspect animal cruelty, abuse, or neglect and any other information the reporter believes may be relevant.*
- (f) *When two or more employees of a county child or adult protective services agency are present and jointly have knowledge of known or reasonably suspected animal cruelty, abuse, or neglect, and where there is agreement among them, a report may be made by one person by mutual agreement. Any reporter who has knowledge that the person designated to report has failed to do so may thereafter make the report.*

**ANIMAL PROTECTION LAWS OF CALIFORNIA****8. VETERINARY REPORTING & IMMUNITY****CAL. PENAL CODE § 597f. Abandoned or neglected animals; Duties of public authorities; Euthanasia.**

- (a) Every owner, driver, or possessor of any animal, who permits the animal to be in any building, enclosure, lane, street, square, or lot, of any city, city and county, or judicial district, without proper care and attention, shall, on conviction, be deemed guilty of a misdemeanor. And it shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected and care for the animal until it is redeemed by the owner or claimant, and the cost of caring for the animal shall be a lien on the animal until the charges are paid. Every sick, disabled, infirm, or crippled animal, except a dog or cat, which shall be abandoned in any city, city and county, or judicial district, may, if after due search no owner can be found therefor, be killed by the officer; and it shall be the duty of all peace officers, an officer of such society, or officer of a pound or animal regulation department of a public agency to cause the animal to be killed on information of such abandonment. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated; and, if the animal is not then in the custody of its owner, the officer shall give notice thereof to the owner, if known, and may provide suitable care for the animal until it is deemed to be in a suitable condition to be delivered to the owner, and any necessary expenses which may be incurred for taking care of and keeping the animal shall be a lien thereon, to be paid before the animal can be lawfully recovered.
- (b) It shall be the duty of all officers of pounds or humane societies, and animal regulation departments of public agencies to convey, and for police and sheriff departments, to cause to be conveyed all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer or agency to be a veterinarian that ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment. If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal; or, if the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal. Whenever any animal is transferred pursuant to this subdivision to a veterinarian in a clinic, such as an emergency clinic which is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility. If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services which are provided pending the owner's inquiry to the agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in

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which the animal was licensed or if the animal is unlicensed the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. *No veterinarian shall be criminally or civilly liable for any decision which he or she makes or services which he or she provides pursuant to this section.*

- (c) An animal control agency which takes possession of an animal pursuant to subdivision (b), shall keep records of the whereabouts of the animal for a 72- hour period from the time of possession and those records shall be available to inspection by the public upon request.
- (d) Notwithstanding any other provisions of this section, any officer of a pound or animal regulation department or humane society, or any officer of a police or sheriff's department may, with the approval of his or her immediate superior, humanely destroy any abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to dispose of the animal.

### **CAL. BUS. & PROF. CODE § 4830.5. Report of dog injured or killed in staged animal fight; civil liability.**

Whenever any licensee under this chapter has reasonable cause to believe that a dog has been injured or killed through participation in a staged animal fight, as prescribed in Section 797b of the Penal Code, it shall be the duty of the licensee to promptly report the same to the appropriate law enforcement authorities of the county, city, or city and county in which the same occurred.

*No licensee shall incur any civil liability as a result of making any report pursuant to this section or as a result of making any report of a violation of Section 596, subdivision (a) or (b) of Section 597, or Section 597b, 597f, 597g, 597n, or 597.5 of the Penal Code.*

### **CAL. BUS. & PROF. CODE § 4830.7. Report of animal abuse or cruelty.**

*Whenever any licensee under this chapter has reasonable cause to believe an animal under its care has been a victim of animal abuse or cruelty, as prescribed in Section 597 of the Penal Code, it shall be the duty of the licensee to promptly report it to the appropriate law enforcement authorities of the county, city, or city and county in which it occurred.*

*No licensee shall incur any civil liability as a result of making any report pursuant to this section or as a result of making any report of a violation of subdivisions (a), (b), and (c) of Section 597 of the Penal Code.*

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## 9. LAW ENFORCEMENT POLICIES

## CAL. CORP. CODE § 14502. Humane officers; Appointment; Qualifications; Term of office.

- (a)
  - (1)
    - (A)
      - (i) On and after July 1, 1996, no entity, other than a humane society or society for the prevention of cruelty to animals, shall be eligible to petition for confirmation of an appointment of any individual as a *humane officer, the duty of which shall be the enforcement of the laws for the prevention of cruelty to animals.*
      - (ii) On and after July 1, 1996, only a person who meets the requirements of this section may be appointed as, or perform the duties of, a humane officer.
      - (iii) Any person appointed as a humane officer prior to July 1, 1996, may continue to serve as a humane officer until the expiration of the term of appointment only if the appointing society maintains records pursuant to subparagraph (B) documenting that both the appointing society and the humane officer meet the requirements of this section.
    - (B) Each humane society or society for the prevention of cruelty to animals for which an individual is acting as a humane officer shall maintain complete and accurate records documenting that the individual has successfully completed all requirements established in this section and shall make those records available, upon request, to the superior court, the Attorney General, or any entity duly authorized to review that information, including the State Humane Association of California. The records shall include the full name and address of each humane officer.
  - (2) The humane society or society for the prevention of cruelty to animals shall possess insurance of at least one million dollars (\$1,000,000) for liability for bodily injury or property damage.
  - (3) Each appointment of a humane officer shall be by separate resolution by the board of directors or trustees of the humane society or society for the prevention of cruelty to animals duly entered in its minutes. The resolution shall state the full name and address of the principal office of the appointing society, the full name of the person so appointed, the fact that he or she is a citizen of the State of California, that he or she has met the training requirements set forth in subdivision (h), and whether he or she is authorized to carry a weapon pursuant to this section. The resolution shall also designate the number of the badge to be allotted to the officer, and the date on which the term of office shall expire.
- (b) A humane society or a society for the prevention of cruelty to animals seeking confirmation of a humane officer's appointment shall comply with each of the following provisions:

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- (1) Prior to filing a Petition for Order Confirming Appointment of a Humane Officer under paragraph (3), the humane society or society for the prevention of cruelty to animals shall submit to the Department of Justice fingerprint images and related information of all humane officer applicants for the purposes of obtaining information as to the existence and content of a record of state and federal convictions and state and federal arrests and also information as to the existence and content of a record of state and federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.
  - (A) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a fitness determination regarding the humane officer applicants to the humane society or society for the prevention of cruelty to animals.
  - (B) The Department of Justice shall provide a state response to the humane society or society for the prevention of cruelty to animals pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.
  - (C) The humane society or society for the prevention of cruelty to animals shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons whose appointments are confirmed as described in subdivision (c).
  - (D) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this paragraph.
- (2) When filing a Petition for Order Confirming Appointment of a Humane Officer under paragraph (3), the humane society or society for the prevention of cruelty to animals shall serve a copy of the petition on each of the following:
  - (A) The police department having jurisdiction in the city in which the principal office of the appointing society is located.
  - (B) The sheriff's department having jurisdiction in the county in which the principal office of the appointing society is located.
  - (C) The Department of the California Highway Patrol.
  - (D) The State Humane Association of California.
  - (E) The animal control agency having jurisdiction in the city in which the principal office of the appointing society is located. If the sheriff's department or police department entitled to notice under subparagraph (A) or (B) provides animal control services for the city in which the principal office of the appointing society is located, no separate notice is required under this subparagraph.
  - (F) The Department of Justice.
- (3) The humane society or society for the prevention of cruelty to animals shall file with the superior court in and for the county or city and county in which the principal office of the humane society is located a Petition for Order Confirming Appointment of a Humane Officer, and shall attach to the petition all of the following:

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- (A) A copy of the resolution appointing the person, duly certified to be correct by the president and secretary of the society and attested by its seal.
- (B) A copy of the criminal record offender information, if any, obtained regarding the person pursuant to paragraph (1).
- (C) Proof of the society's proper incorporation in compliance with Part 9 (commencing with Section 10400) of Division 2, including the date the articles of incorporation were filed with the Secretary of State.
- (D) A copy of the society's liability insurance policy for bodily injury or property damage in the amount of at least one million dollars (\$1,000,000).
- (E) Documentation establishing that the appointee has satisfactorily completed the training requirements set forth in this section.
- (F) Documentation establishing that the society has a written agreement with another entity, such as a public or private animal shelter or licensed veterinary clinic, that (i) provides for the humane care and treatment of any animals seized by the society, (ii) is capable of preserving evidence that may be used to prosecute an animal cruelty case, and (iii) is compliant with all applicable federal, state, and local laws, including licensing laws. Alternatively, the society may provide documentation that it is operating its own animal shelter that meets the requirements of clauses (i), (ii), and (iii).
- (G) If the society has not previously appointed a humane officer:
  - (i) An affidavit signed under penalty of perjury from the president of the society that demonstrates the society's competence to appoint a humane officer by providing information, including, but not limited to, the following:
    - (I) Partnerships or collaborations, if any, with other nonprofit or community agencies.
    - (II) Cash reserve on hand, if any, to pay for veterinary expenses, housing, food, and care of seized animals.
    - (III) Established donor base, if any.
    - (IV) Current or prior law enforcement, legal, or other relevant experience, if any, of persons who will supervise the appointee.
    - (V) Current or prior experience of managers, if any, in operating a society or other nonprofit organization.
    - (VI) Statement that each board member is in good standing in the community and has not been convicted of a misdemeanor or felony involving animals.
    - (VII) Ongoing training beyond the minimum required for appointment of the humane officer, if any.
    - (VIII) The need for a humane officer in the society's county.
    - (IX) Any other documentation demonstrating compliance with applicable federal, state, or local laws.

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- (ii) Affidavits, if any, from personnel of local animal control agencies, law enforcement agencies, or other societies pertaining to the appointee's fitness to act as a humane officer.
    - (H) As the last page, proof of service of a copy of the petition upon those parties required to be served.
  - (4) Any party described in paragraph (2) may file an opposition to the petition described in paragraph (3). All papers filed in opposition to the petition and in reply to the opposition shall conform to law and motion pleading requirements, pursuant to Rule 3.1113(d) of the California Rules of Court. An opposition shall not exceed 15 pages and a reply shall not exceed 10 pages, excluding exhibits and declarations. The opposition shall be limited to the competency of the society to appoint and supervise a humane officer and the qualifications, background, and fitness of the appointee that are specific to the work of a humane officer.
    - (A) Any opposition shall be filed no later than 15 court days after the petition is filed with the court. Any opposition shall be served on all parties indicated on the proof of service attached to the petition.
    - (B) The petitioner's reply, if any, to the opposition shall be filed within 10 court days after service of the opposition. The reply shall be served on all parties listed in the proof of service attached to the petition and to any other person who has filed an opposition.
    - (C) The court shall rule on the petition without a hearing unless the court notifies the parties of an intention to hold a hearing.
    - (D) The petitioner shall serve a certified copy of the court's order ruling on the petition on all parties listed in the proof of service attached to the petition and to any other person or entity who has filed an opposition.
- (c)
- (1) Upon receipt of the Petition for Order Confirming Appointment of a Humane Officer, the court shall first determine the society's date of incorporation, and the length of time between the date the society filed its articles of incorporation with the Secretary of State and the date it filed the petition described in paragraph (3) of subdivision (b) with the court. If the society was incorporated on or after January 1, 2011, then the following shall apply:
    - (A) For a petition to confirm appointment of a level 1 humane officer, the court shall issue an order denying confirmation of the appointment if a minimum of five years has not elapsed from the date the society filed its articles of incorporation with the Secretary of State to the date it filed the petition.
    - (B) For a petition to confirm appointment of a level 2 humane officer, the court shall issue an order denying confirmation of the appointment if a minimum of one year has not elapsed from the date the society filed its articles of incorporation with the Secretary of State to the date it filed the petition.



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- (C) For a petition to confirm appointment of either a level 1 or level 2 humane officer, the court shall issue an order denying confirmation of the appointment if the society has not established, through submission of appropriate documentation, that the society is either operating its own animal shelter or has a written agreement with another entity, in compliance with subparagraph (F) of paragraph (3) of subdivision (b).
- (2) If the court has not issued an order denying the petition pursuant to paragraph (1), then the court shall review the matter of the appointee's qualifications and fitness to act as a humane officer. The court shall also consider any documentation it has received in support of, or in opposition to, the confirmation of the person's appointment. If the court finds that the appointee is qualified and fit to act as a humane officer, the court shall issue an order confirming the appointment. The society shall thereupon file a certified copy of the court order in the office of the county clerk of the county or city and county in which the court is located. The appointee shall, at the same time, take and subscribe the oath of office prescribed for constables or other peace officers. The society shall also provide a copy of the Order Confirming Appointment to the State Humane Association of California and the Department of Justice. The Department of Justice may charge a reasonable fee sufficient to cover the costs of maintaining records of Orders Confirming Appointment. If the court does not find the appointee qualified and fit to act as a humane officer, the court shall issue an order denying confirmation of the appointment.
- (d) If the court grants the petition, the county clerk shall immediately enter in a book to be kept in his or her office and designated "Record of Humane Officers" the name of the officer, the name of the society appointing him or her, the number of his or her badge, the date of the filing, and the case number of the court order confirming the appointment. At the time of the filing, the county clerk shall collect from the society a fee of five dollars (\$5), which shall be full payment for all services to be performed by the county clerk under this section.
- (e) All appointments of humane officers shall automatically expire if the society disbands or legally dissolves.
- (f)
- (1) The society appointing an officer may revoke an appointment at any time by filing in the office of the county clerk in which the appointment of the officer is recorded a copy of the revocation in writing under the letterhead of the society and duly certified by its executive officer. Upon the filing the county clerk shall enter the fact of the revocation and the date of the filing thereof opposite the name of the officer in the record of humane officers.
- (2) Notwithstanding paragraph (1), any duly authorized sheriff or local police agency or the State Humane Association of California may initiate a revocation hearing by filing a petition to Revoke Appointment of a Humane Officer. The petition shall show cause why an appointment should be revoked and shall be made to the superior court in the jurisdiction of the appointment. Filing, service, and format of the petition



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and any oppositions and reply papers shall conform to the law and motion requirements under the Code of Civil Procedure, California Rules of Court, and this code. A proceeding pursuant to this paragraph shall be a special proceeding within the meaning of Section 23 of the Code of Civil Procedure.

- (A) Notice of the hearing date and a copy of the petition shall be served in the same manner as a summons upon the humane officer subject to the petition, the society that appointed the officer, the agencies and association described in paragraph (2) of subdivision (b); except the party filing the petition shall not be required to serve copies of those documents upon itself.
  - (B) Upon a finding of good cause, the court shall issue an order granting the petition to revoke the appointment. The county clerk shall immediately enter the revocation and the date of the court order opposite the name of the officer in the record of humane officers. The clerk of the superior court shall give notice of the order to the parties described in subparagraph (A) and to the county clerk-recorder.
- (g) The society appointing the humane officer shall pay the training expenses of the humane officer attending the training required pursuant to this section.
- (h)
- (1)
    - (A) *A level 1 humane officer is not a peace officer, but may exercise the powers of a peace officer at all places within the state in order to prevent the perpetration of any act of cruelty upon any animal and to that end may summon to his or her aid any bystander. A level 1 humane officer may use reasonable force necessary to prevent the perpetration of any act of cruelty upon any animal.*
    - (B) *A level 1 humane officer may make arrests for the violation of any penal law of this state relating to or affecting animals in the same manner as any peace officer and may serve search warrants.*
    - (C) *A level 1 humane officer is authorized to carry firearms while exercising the duties of a humane officer, upon satisfactory completion of the training specified in subparagraph (D), if the requirements in subparagraph (F) are met.*
    - (D) A level 1 humane officer shall, prior to appointment, provide evidence satisfactory to the appointing society that he or she has successfully completed the following requirements:
      - (i) At least 20 hours of a course of training in animal care sponsored or provided by an accredited postsecondary institution or any other provider approved by the California Veterinary Medical Association the focus of which shall be the identification of disease, injury, and neglect in domestic animals and livestock.
      - (ii) At least 40 hours of a course of training in the state humane laws relating to the powers and duties of a humane officer, sponsored

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- or provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California.
- (iii) The basic training for a level 1 reserve officer by the Commission on Peace Officer Standards and Training pursuant to paragraph (1) of subdivision (a) of Section 832.6 of the Penal Code.
- (E) A person shall not be appointed as a level 1 humane officer until he or she meets the criteria in Sections 1029, 1030, and 1031 of the Government Code. A humane society or society for the prevention of cruelty to animals shall complete a background investigation, using standards defined by the Commission on Peace Officer Standards and Training as guidelines for all level 1 humane officer appointments.
- (F)
- (i) Notwithstanding any other provision of this section, a level 1 humane officer may carry a firearm only if authorized by, and only under the terms and conditions specified by, his or her appointing society.
- (ii) Notwithstanding any other provision of this section, a level 1 humane officer shall not be authorized to carry a firearm unless and until his or her appointing society has adopted a policy on the use of deadly force by its officers and the officer has been instructed in that policy.
- (2)
- (A) A level 2 humane officer is not a peace officer, but may exercise the powers of a peace officer at all places within the state in order to prevent the perpetration of any act of cruelty upon any animal and to that end may summon to his or her aid any bystander. A level 2 humane officer may use reasonable force necessary to prevent the perpetration of any act of cruelty upon any animal.
- (B) A level 2 humane officer may make arrests for the violation of any penal law of this state relating to or affecting animals in the same manner as any peace officer and may serve search warrants during the course and within the scope of appointment, upon the successful completion of a course relating to the exercise of the police powers specified in Section 832 of the Penal Code, except the power to carry and use firearms.
- (C) A level 2 humane officer is not authorized to carry firearms.
- (D) A level 2 humane officer shall, prior to appointment, provide evidence satisfactory to the appointing society that he or she has successfully completed courses of training in the following subjects:
- (i) At least 20 hours of a course of training in animal care sponsored or provided by an accredited postsecondary institution or any other provider approved by the California Veterinary Medical

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Association, the focus of which is the identification of disease, injury, and neglect in domestic animals and livestock.

- (ii) At least 40 hours of a course of training in the state humane laws relating to the powers and duties of a humane officer, sponsored or provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California.
  - (E) A person shall not be appointed as a level 2 humane officer until he or she meets the criteria in Sections 1029, 1030, and 1031 of the Government Code. A humane society or society for the prevention of cruelty to animals shall complete a background investigation, using standards defined by the Commission on Peace Officer Standards and Training as guidelines, for all level 2 humane officer appointments.
- (3) During each three-year period following the date on which the certified copy of the court order confirming the appointment of a humane officer was filed with the county clerk, the humane officer shall complete 40 hours of continuing education and training relating to the powers and duties of a humane officer, which education and training shall be sponsored or provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California. A certificate of compliance shall be served no later than 21 days after the expiration of each three-year period on the Department of Justice with copies served on the superior court, agencies, and associations described in subparagraphs (A) through (E) of paragraph (2) of subdivision (b). The Department of Justice may charge a reasonable fee sufficient to cover the costs of maintaining records of certificates of compliance. The certificate of compliance shall also include documentation that the humane society or society for the prevention of cruelty to animals is in compliance with subparagraph (F) of paragraph (3) of subdivision (b). Service on the Department of Justice shall be in compliance with procedures set forth by the Department of Justice. The Department of Justice shall post the filing procedures, as they may be updated from time to time, on its Internet Web site. Failure to file the certificate of compliance with the Department of Justice no later than 21 days after the expiration of a three-year period shall result in immediate revocation of the appointment.
- (4) If the humane officer is authorized to carry a firearm, he or she shall complete ongoing weapons training and range qualifications at least every six months pursuant to subdivision (t) of Section 830.3 of the Penal Code. A certificate of compliance pursuant to this section shall be served no later than 21 days after the expiration of a six-month period on the Department of Justice with copies served on the superior court, and on the agencies and associations described in subparagraphs (A) through (E) of paragraph (2) of subdivision (b). The Department of Justice may charge a reasonable fee sufficient to cover the costs of maintaining records of certificates of compliance. The certificate of compliance shall also include documentation that the humane society or society for the prevention of cruelty to animals is in compliance with subparagraph (F) of paragraph (3) of subdivision (b). Service on the Department

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of Justice shall be in compliance with procedures set forth by the Department of Justice. The Department of Justice shall post the filing procedures, as they may be updated from time to time, on its Internet Web site. Failure to file the certificate of compliance with the Department of Justice no later than 21 days after the expiration of a six-month period shall result in immediate revocation of the appointment.

- (5)
- (A) A humane officer may carry a wooden club or baton if he or she has satisfactorily completed the course of instruction certified by the Commission on Peace Officer Standards and Training in the carrying and use of the club or baton pursuant to subdivision (g) of Section 22295 of the Penal Code.
  - (B) Notwithstanding subparagraph (A), a humane officer may carry a wooden club or baton only if authorized by, and only under the terms and conditions specified by, his or her appointing society.
- (i) Every humane officer shall, when making an arrest, exhibit and expose a suitable badge to be adopted by the society under this part of which he or she is an appointee which shall bear its name and a number. Uniforms worn by humane officers shall prominently display the name of the appointing society. Humane officer uniforms shall not display the words "state" or "California," except to the extent that one or both of those words are part of the appointing society's incorporated name.
  - (j) Any person resisting a humane officer in the performance of his or her duty as provided in this section is guilty of a misdemeanor. Any person who has not been appointed and qualified as a humane officer as provided in this section, or whose appointment has been revoked as provided in this section, or whose appointment, having expired, has not been renewed as provided in this section, who shall represent himself or herself to be or shall attempt to act as an officer shall be guilty of a misdemeanor.
  - (k) No humane officer shall serve a search warrant without providing prior notice to local law enforcement agencies operating within that jurisdiction.
  - (l) Any humane society, society for the prevention of cruelty to animals, or person, who knowingly provides a court with false or forged documentation for the appointment of a humane officer, is guilty of a misdemeanor and shall be punished by a fine of up to ten thousand dollars (\$10,000).
  - (m) Except as otherwise provided by this section, a humane officer shall serve only in the county in which the court that appointed him or her sits. A humane officer may serve in another county if the humane officer gives notice requesting consent to the sheriff of the county in which he or she intends to serve, and acquires consent from that sheriff of the county in which he or she intends to serve, or from a person authorized by the sheriff to give that consent. A sheriff shall promptly respond to any request by a humane officer to serve in his or her jurisdiction and any request shall not be unreasonably denied.

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### 10. SEIZURE

#### CAL. PENAL CODE § 597. Cruelty to animals.

- (a) Except as provided in subdivision (c) of this section or Section 599c, every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of a crime punishable pursuant to subdivision (d).
  - (b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for each offense, guilty of a crime punishable pursuant to subdivision (d).
  - (c) Every person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish, as described in subdivision (e), is guilty of a crime punishable pursuant to subdivision (d).
  - (d) A violation of subdivision (a), (b), or (c) is punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars (\$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 twenty thousand dollars (\$20,000), or by both that fine and imprisonment.
  - (e) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:
    - (1) Endangered species or threatened species as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.
    - (2) Fully protected birds described in Section 3511 of the Fish and Game Code.
    - (3) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.
    - (4) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.
    - (5) Fully protected fish as described in Section 5515 of the Fish and Game Code.
- (1) This subdivision does not supersede or affect any provisions of law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.

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- (f) For the purposes of subdivision (c), each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subdivision (e) is a separate offense. If any person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.
- (g)
- (1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.
  - (2) *Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.*
- (h) Notwithstanding any other provision of law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 9 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. This provision specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment pursuant to subdivision (h) of Section 1170 or county jail when that sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering custody. This subdivision shall not apply to cases involving police dogs or horses as described in Section 600.

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### CAL. PENAL CODE § 597f. Abandoned or neglected animals; Duties of public authorities; Euthanasia.

- (a) Every owner, driver, or possessor of any animal, who permits the animal to be in any building, enclosure, lane, street, square, or lot, of any city, city and county, or judicial district, without proper care and attention, shall, on conviction, be deemed guilty of a misdemeanor. *And it shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected and care for the animal until it is redeemed by the owner or claimant, and the cost of caring for the animal shall be a lien on the animal until the charges are paid.* Every sick, disabled, infirm, or crippled animal, except a dog or cat, which shall be abandoned in any city, city and county, or judicial district, may, if after due search no owner can be found therefor, be killed by the officer; and it shall be the duty of all peace officers, an officer of such society, or officer of a pound or animal regulation department of a public agency to cause the animal to be killed on information of such abandonment. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated; and, if the animal is not then in the custody of its owner, the officer shall give notice thereof to the owner, if known, and may provide suitable care for the animal until it is deemed to be in a suitable condition to be delivered to the owner, and any necessary expenses which may be incurred for taking care of and keeping the animal shall be a lien thereon, to be paid before the animal can be lawfully recovered.
- (b) It shall be the duty of all officers of pounds or humane societies, and animal regulation departments of public agencies to convey, and for police and sheriff departments, to cause to be conveyed all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer or agency to be a veterinarian that ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment. If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal; or, if the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal. Whenever any animal is transferred pursuant to this subdivision to a veterinarian in a clinic, such as an emergency clinic which is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility. If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services which are provided pending the owner's inquiry to the agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or if the animal is unlicensed the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's



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owner. No veterinarian shall be criminally or civilly liable for any decision which he or she makes or services which he or she provides pursuant to this section.

- (c) An animal control agency which takes possession of an animal pursuant to subdivision (b), shall keep records of the whereabouts of the animal for a 72- hour period from the time of possession and those records shall be available to inspection by the public upon request.
- (d) Notwithstanding any other provisions of this section, any officer of a pound or animal regulation department or humane society, or any officer of a police or sheriff's department may, with the approval of his or her immediate superior, humanely destroy any abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to dispose of the animal.

### **CAL. PENAL CODE § 597.1. Failure to care for animals; misdemeanor; powers and duties of local officers and veterinarians; hearings; liability for costs; forfeiture.**

- (a)
  - (1) Every owner, driver, or keeper of any animal who permits the animal to be in any building, enclosure, lane, street, square, or lot of any city, county, city and county, or judicial district without proper care and attention is guilty of a misdemeanor. *Any peace officer, humane society officer, or animal control officer shall take possession of the stray or abandoned animal and shall provide care and treatment for the animal until the animal is deemed to be in suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f).* In all other cases, the officer shall comply with the provisions of subdivision (g). The full cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid, if the seizure is upheld pursuant to this section.
  - (2) Notwithstanding any other law, if an animal control officer or humane officer, when necessary to protect the health and safety of a wild, stray, or abandoned animal or the health and safety of others, seeks to administer a tranquilizer that contains a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, to gain control of that animal, he or she may possess and administer that tranquilizer with direct or indirect supervision as determined by a licensed veterinarian, provided that the officer has met each of the following requirements:



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- (A) Has received training in the administration of tranquilizers from a licensed veterinarian. The training shall be approved by the California Veterinary Medical Board.
  - (B) Has successfully completed the firearms component of a course relating to the exercise of police powers, as set forth in Section 832.
  - (C) Is authorized by his or her agency or organization to possess and administer the tranquilizer in accordance with a policy established by the agency or organization and approved by the veterinarian who obtained the controlled substance.
  - (D) Has successfully completed the euthanasia training set forth in Section 2039 of Title 16 of the California Code of Regulations.
  - (E) Has completed a state and federal fingerprinting background check and does not have any drug- or alcohol-related convictions.
- (b) Every sick, disabled, infirm, or crippled animal, except a dog or cat, that is abandoned in any city, county, city and county, or judicial district may be killed by the officer if, after a reasonable search, no owner of the animal can be found. It shall be the duty of all peace officers, humane society officers, and animal control officers to cause the animal to be killed or rehabilitated and placed in a suitable home on information that the animal is stray or abandoned. *The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated, and provide care and treatment for the animal until it is deemed to be in a suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of an animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with subdivision (g).* The full cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid.
- (c)
- (1) Any peace officer, humane society officer, or animal control officer shall convey all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer to be a veterinarian who ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment.
  - (2) If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal. If the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal.

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- (3) Whenever any animal is transferred to a veterinarian in a clinic, such as an emergency clinic that is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.
- (4) If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services that are provided pending the owner's inquiry to the responsible agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or, if the animal is unlicensed, shall be paid by the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. The full cost of caring for and treating any animal seized under this subdivision shall constitute a lien on the animal and the animal shall not be returned to the owner until the charges are paid. No veterinarian shall be criminally or civilly liable for any decision that he or she makes or for services that he or she provides pursuant to this subdivision.
- (d) An animal control agency that takes possession of an animal pursuant to subdivision (c) shall keep records of the whereabouts of the animal from the time of possession to the end of the animal's impoundment, and those records shall be available for inspection by the public upon request for three years after the date the animal's impoundment ended.
- (e) Notwithstanding any other provision of this section, any peace officer, humane society officer, or any animal control officer may, with the approval of his or her immediate superior, humanely destroy any stray or abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to euthanize the animal.
- (f) *Whenever an officer authorized under this section seizes or impounds an animal based on a reasonable belief that prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall, prior to the commencement of any criminal proceedings authorized by this section, provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a postseizure hearing to determine the validity of the seizure or impoundment, or both.*
- (1) *The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice of the seizure or impoundment, or both, to the owner or keeper within 48 hours, excluding weekends and holidays. The notice shall include all of the following:*
- (A) *The name, business address, and telephone number of the officer providing the notice.*
- (B) *A description of the animal seized, including any identification upon the animal.*
- (C) *The authority and purpose for the seizure or impoundment, including the time, place, and circumstances under which the animal was seized.*

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- (D) *A statement that, in order to receive a postseizure hearing, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning an enclosed declaration of ownership or right to keep the animal to the agency providing the notice within 10 days, including weekends and holidays, of the date of the notice. The declaration may be returned by personal delivery or mail.*
- (E) *A statement that the full cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.*
- (2) *The postseizure hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who directed the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.*
- (3) *Failure of the owner or keeper, or of his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a postseizure hearing or right to challenge his or her liability for costs incurred.*
- (4) *The agency, department, or society employing the person who directed the seizure shall be responsible for the costs incurred for caring and treating the animal, if it is determined in the postseizure hearing that the seizing officer did not have reasonable grounds to believe very prompt action, including seizure of the animal, was required to protect the health or safety of the animal or the health or safety of others. If it is determined the seizure was justified, the owner or keeper shall be personally liable to the seizing agency for the full cost of the seizure and care of the animal. The charges for the seizure and care of the animal shall be a lien on the animal. The animal shall not be returned to its owner until the charges are paid and the owner demonstrates to the satisfaction of the seizing agency or the hearing officer that the owner can and will provide the necessary care for the animal.*
- (g) *Where the need for immediate seizure is not present and prior to the commencement of any criminal proceedings authorized by this section, the agency shall provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a hearing prior to any seizure or impoundment of the animal. The owner shall produce the animal at the time of the hearing unless, prior to the hearing, the owner has made arrangements with the agency to view the animal upon request of the agency, or unless the owner can provide verification that the animal was humanely destroyed. Any person who willfully fails to produce the animal or provide the verification is guilty of an infraction, punishable by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000).*

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- (1) *The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice stating the grounds for believing the animal should be seized under subdivision (a) or (b). The notice shall include all of the following:*
- (A) *The name, business address, and telephone number of the officer providing the notice.*
  - (B) *A description of the animal to be seized, including any identification upon the animal.*
  - (C) *The authority and purpose for the possible seizure or impoundment.*
  - (D) *A statement that, in order to receive a hearing prior to any seizure, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning the enclosed declaration of ownership or right to keep the animal to the officer providing the notice within two days, excluding weekends and holidays, of the date of the notice.*
  - (E) *A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal, that any animal seized shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in a conclusive determination that the animal may properly be seized and that the owner shall be liable for the charges.*
- (2) *The pre seizure hearing shall be conducted within 48 hours, excluding weekends and holidays, after receipt of the request. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who requests the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.*
- (3) *Failure of the owner or keeper, or his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a pre seizure hearing or right to challenge his or her liability for costs incurred pursuant to this section.*
- (4) *The hearing officer, after the hearing, may affirm or deny the owner's or keeper's right to custody of the animal and, if reasonable grounds are established, may order the seizure or impoundment of the animal for care and treatment.*
- (h) *If any animal is properly seized under this section or pursuant to a search warrant, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal. Further, if the charges for the seizure or impoundment and any other charges permitted under this section are not paid within 14 days of the seizure, or if the owner, within 14 days of notice of availability of the animal to be returned, fails to pay charges permitted under this section and take possession of the animal, the animal shall be deemed to have been abandoned and may be disposed of by the seizing agency.*
- (i) *If the animal requires veterinary care and the humane society or public agency is not assured, within 14 days of the seizure of the animal, that the owner will provide the*

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necessary care, the animal shall not be returned to its owner and shall be deemed to have been abandoned and may be disposed of by the seizing agency. A veterinarian may humanely destroy an impounded animal without regard to the prescribed holding period when it has been determined that the animal has incurred severe injuries or is incurably crippled. A veterinarian also may immediately humanely destroy an impounded animal afflicted with a serious contagious disease unless the owner or his or her agent immediately authorizes treatment of the animal by a veterinarian at the expense of the owner or agent.

(j) No animal properly seized under this section or pursuant to a search warrant shall be returned to its owner until the owner can demonstrate to the satisfaction of the seizing agency or hearing officer that the owner can and will provide the necessary care for the animal.

(k)

(1) In the case of cats and dogs, prior to the final disposition of any criminal charges, the seizing agency or prosecuting attorney may file a petition in a criminal action requesting that, prior to that final disposition, the court issue an order forfeiting the animal to the city, county, or seizing agency. The petitioner shall serve a true copy of the petition upon the defendant and the prosecuting attorney.

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

(3) The petitioner shall have the burden of establishing beyond a reasonable doubt that, even in the event of an acquittal of the criminal charges, the owner will not legally be permitted to retain the animal in question. If the court finds that the petitioner has met its burden, the court shall order the immediate forfeiture of the animal as sought by the petition.

(4) Nothing in this subdivision is intended to authorize a seizing agency or prosecuting attorney to file a petition to determine an owner's ability to legally retain an animal pursuant to paragraph (3) of subdivision (l) if a petition has previously been filed pursuant to this subdivision.

(l)

(1) Upon the conviction of a person charged with a violation of this section, or Section 597 or 597a, all animals lawfully seized and impounded with respect to the violation shall be adjudged by the court to be forfeited and shall thereupon be transferred to the impounding officer or appropriate public entity for proper adoption or other disposition. *A person convicted of a violation of this section shall be personally liable to the seizing agency for all costs of impoundment from the time of seizure to the time of proper disposition. Upon conviction, the court shall order the convicted person to make payment to the appropriate public entity for the costs incurred in the housing, care, feeding, and treatment of the seized or impounded animals. Each person convicted in connection with a particular animal may be held jointly and severally liable for restitution for that*

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*particular animal. The payment shall be in addition to any other fine or sentence ordered by the court.*

- (2) The court may also order, as a condition of probation, that the convicted person be prohibited from owning, possessing, caring for, or residing with, animals of any kind, and require the convicted person to immediately deliver all animals in his or her possession to a designated public entity for adoption or other lawful disposition or provide proof to the court that the person no longer has possession, care, or control of any animals. In the event of the acquittal or final discharge without conviction of the person charged, if the animal is still impounded, the animal has not been previously deemed abandoned pursuant to subdivision (h), the court has not ordered that the animal be forfeited pursuant to subdivision (k), the court shall, on demand, direct the release of seized or impounded animals to the defendant upon a showing of proof of ownership.
- (3) Any questions regarding ownership shall be determined in a separate hearing by the court where the criminal case was finally adjudicated and the court shall hear testimony from any persons who may assist the court in determining ownership of the animal. If the owner is determined to be unknown or the owner is prohibited or unable to retain possession of the animals for any reason, the court shall order the animals to be released to the appropriate public entity for adoption or other lawful disposition. This section is not intended to cause the release of any animal, bird, reptile, amphibian, or fish seized or impounded pursuant to any other statute, ordinance, or municipal regulation. This section shall not prohibit the seizure or impoundment of animals as evidence as provided for under any other provision of law.
- (m) It shall be the duty of all peace officers, humane society officers, and animal control officers to use all currently acceptable methods of identification, both electronic and otherwise, to determine the lawful owner or caretaker of any seized or impounded animal. It shall also be their duty to make reasonable efforts to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal and, upon the owner's and caretaker's initiation of recovery procedures, retain custody of the animal for a reasonable period of time to allow for completion of the recovery process. Efforts to locate or contact the owner or caretaker and communications with persons claiming to be the owner or caretaker shall be recorded and maintained and be made available for public inspection.

### **CAL. PENAL CODE § 597.7. Animal endangerment; confinement in unattended motor vehicle; violations and penalties.**

- (a) A person shall not leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.



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- (b)
- (1) This section does not prevent a person from taking reasonable steps that are necessary to remove an animal from a motor vehicle if the person holds a reasonable belief that the animal's safety is in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.
  - (2) A person who removes an animal from a vehicle in accordance with paragraph (1) is not criminally liable for actions taken reasonably and in good faith if the person does all of the following:
    - (A) Determines the vehicle is locked or there is otherwise no reasonable manner for the animal to be removed from the vehicle.
    - (B) Has a good faith belief that forcible entry into the vehicle is necessary because the animal is in imminent danger of suffering harm if it is not immediately removed from the vehicle, and, based upon the circumstances known to the person at the time, the belief is a reasonable one.
    - (C) Has contacted a local law enforcement agency, the fire department, animal control, or the "911" emergency service prior to forcibly entering the vehicle.
    - (D) Remains with the animal in a safe location, out of the elements but reasonably close to the vehicle, until a peace officer, humane officer, animal control officer, or another emergency responder arrives.
    - (E) Used no more force to enter the vehicle and remove the animal from the vehicle than was necessary under the circumstances.
    - (F) Immediately turns the animal over to a representative from law enforcement, animal control, or another emergency responder who responds to the scene.
- (c) Unless the animal suffers great bodily injury, a first conviction for violation of this section is punishable by a fine not exceeding one hundred dollars (\$100) per animal. If the animal suffers great bodily injury, a violation of this section is punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment. Any subsequent violation of this section, regardless of injury to the animal, is also punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment.
- (d)
- (1) This section does not prevent a peace officer, firefighter, humane officer, animal control officer, or other emergency responder from removing an animal from a motor vehicle if the animal's safety appears to be in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

## ANIMAL PROTECTION LAWS OF CALIFORNIA

- (2) A peace officer, firefighter, humane officer, animal control officer, or other emergency responder who removes an animal from a motor vehicle, or who takes possession of an animal that has been removed from a motor vehicle, shall take it to an animal shelter or other place of safekeeping or, if the officer deems necessary, to a veterinary hospital for treatment. The owner of the animal removed from the vehicle may be required to pay for charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.
- (3) A peace officer, firefighter, humane officer, animal control officer, or other emergency responder is authorized to take all steps that are reasonably necessary for the removal of an animal from a motor vehicle, including, but not limited to, breaking into the motor vehicle, after a reasonable effort to locate the owner or other person responsible.
- (4) A peace officer, firefighter, humane officer, animal control officer, or other emergency responder who removes an animal from a motor vehicle or who receives an animal rescued from a vehicle from another person shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. The animal may be claimed by the owner only after payment of all charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.
- (5) Except as provided in subdivision (b), this section does not affect in any way existing liabilities or immunities in current law, or create any new immunities or liabilities.
- (e) Nothing in this section shall preclude prosecution under both this section and Section 597 or any other provision of law, including city or county ordinances.
- (f) Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, pigs, sheep, poultry, or other agricultural animals in motor vehicles designed to transport such animals for agricultural purposes

### CAL. PENAL CODE § 599a. Issuance of arrest warrants.

*When complaint is made, on oath, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that any provision of law relating to, or in any way affecting, dumb animals or birds, is being, or is about to be violated in any particular building or place, the magistrate must issue and deliver immediately a warrant directed to any sheriff, police or peace officer or officer of any incorporated association qualified as provided by law, authorizing him to enter and search that building or place, and to arrest any person there present violating, or attempting to violate, any law relating to, or in any way affecting, dumb animals or birds, and to bring that person before some court or magistrate of competent jurisdiction, within the city, city and county, or judicial district within which the offense has been committed or attempted, to be dealt with according to law, and the attempt must be held to be a violation of Section 597.*



**ANIMAL PROTECTION LAWS OF CALIFORNIA****CAL. PENAL CODE § 599aa. Seizure of fighting animals and birds, paraphernalia, etc.; affidavit of officer; custody of seized property; forfeiture and destruction or redelivery.**

- (b) *Any authorized officer making an arrest under Section 597.5 shall, and any authorized officer making an arrest under Section 597b, 597c, 597j, or 599a may, lawfully take possession of all birds or animals and all paraphernalia, implements, or other property or things used or employed, or about to be employed, in the violation of any of the provisions of this code relating to the fighting of birds or animals that can be used in animal or bird fighting, in training animals or birds to fight, or to inflict pain or cruelty upon animals or birds with respect to animal or bird fighting.*
- (c) *Upon taking possession, the officer shall inventory the items seized and question the persons present as to the identity of the owner or owners of the items. The inventory list shall identify the location where the items were seized, the names of the persons from whom the property was seized, and the names of any known owners of the property. Any person claiming ownership or possession of any item shall be provided with a signed copy of the inventory list, which shall identify the seizing officer and his or her employing agency. If no person claims ownership or possession of the items, a copy of the inventory list shall be left at the location from which the items were seized.*
- (d) *The officer shall file with the magistrate before whom the complaint against the arrested person is made, a copy of the inventory list and an affidavit stating the affiant's basis for his or her belief that the property and items taken were in violation of this code. On receipt of the affidavit, the magistrate shall order the items seized to be held until the final disposition of any charges filed in the case subject to subdivision (e).*
- (e) *All animals and birds seized shall, at the discretion of the seizing officer, be taken promptly to an appropriate animal storage facility. For purposes of this subdivision, an appropriate animal storage facility is one in which the animals or birds may be stored humanely. However, if an appropriate animal storage facility is not available, the officer may cause the animals or birds used in committing or possessed for the purpose of the alleged offenses to remain at the location at which they were found. In determining whether it is more humane to leave the animals or birds at the location at which they were found than to take the animals or birds to an animal storage facility, the officer shall, at a minimum, consider the difficulty of transporting the animals or birds and the adequacy of the available animal storage facility. When the officer does not seize and transport all animals or birds to a storage facility, he or she shall do both of the following:*
- (1) *Seize a representative sample of animals or birds for evidentiary purposes from the animals or birds found at the site of the alleged offenses. The animals or birds seized as a representative sample shall be transported to an appropriate animal storage facility.*
  - (2) *Cause all animals or birds used in committing or possessed for the purpose of the alleged offenses to be banded, tagged, or marked by microchip, and photographed or video recorded for evidentiary purposes.*

**ANIMAL PROTECTION LAWS OF CALIFORNIA**

(f)

- (1) *If ownership of the seized animals or birds cannot be determined after reasonable efforts, the officer or other person named and designated in the order as custodian of the animals or birds may, after holding the animals and birds for a period of not less than 10 days, petition the magistrate for permission to humanely destroy or otherwise dispose of the animals or birds. The petition shall be published for three successive days in a newspaper of general circulation. The magistrate shall hold a hearing on the petition not less than 10 days after seizure of the animals or birds, after which he or she may order the animals or birds to be humanely destroyed or otherwise disposed of, or to be retained by the officer or person with custody until the conviction or final discharge of the arrested person. No animal or bird may be destroyed or otherwise disposed of until four days after the order.*
- (2) *Paragraph (1) shall apply only to those animals and birds seized under any of the following circumstances:*
  - (A) *After having been used in violation of any of the provisions of this code relating to the fighting of birds or animals.*
  - (B) *At the scene or site of a violation of any of the provisions of this code relating to the fighting of birds or animals.*

*Upon the conviction of the arrested person, all property seized shall be adjudged by the court to be forfeited and shall then be destroyed or otherwise disposed of as the court may order. Upon the conviction of the arrested person, the court may order the person to make payment to the appropriate public entity for the costs incurred in the housing, care, feeding, and treatment of the animals or birds. Each person convicted in connection with a particular animal or bird, excluding any person convicted as a spectator pursuant to Section 597b or 597c, or subdivision (b) of Section 597.5, may be held jointly and severally liable for restitution pursuant to this subdivision. This payment shall be in addition to any other fine or other sentence ordered by the court. The court shall specify in the order that the public entity shall not enforce the order until the defendant satisfies all other outstanding fines, penalties, assessments, restitution fines, and restitution orders. The court may relieve any convicted person of the obligation to make payment pursuant to this subdivision for good cause but shall state the reasons for that decision in the record. In the event of the acquittal or final discharge without conviction of the arrested person, the court shall, on demand, direct the delivery of the property held in custody to the owner. If the owner is unknown, the court shall order the animals or birds to be humanely destroyed or otherwise disposed of.*

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**ANIMAL PROTECTION LAWS OF CALIFORNIA**

**11. COURTROOM ANIMAL ADVOCATE PROGRAM**

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## ANIMAL PROTECTION LAWS OF CALIFORNIA

### 12. PROTECTION ORDERS

#### **CAL. FAM. CODE ANN. § 6320. Ex parte order enjoining contact, credibly or falsely impersonating, or destroying personal property; protection for companion animals.**

- (a) *The court may issue an ex parte order enjoining a party from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, credibly impersonating as described in Section 528.5 of the Penal Code, falsely personating as described in Section 529 of the Penal Code, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the other party, and, in the discretion of the court, on a showing of good cause, of other named family or household members.*
- (b) *On a showing of good cause, the court may include in a protective order a grant to the petitioner of the exclusive care, possession, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent. The court may order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.*
- (c) *This section shall become operative on July 1, 2014.*

#### **CAL. CIV. PROC. CODE § 527.6. Temporary restraining order and order after hearing prohibiting harassment.**

- (a)
  - (1) A person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order and an order after hearing prohibiting harassment as provided in this section.
  - (2) A minor, under 12 years of age, accompanied by a duly appointed and acting guardian ad litem, shall be permitted to appear in court without counsel for the limited purpose of requesting or opposing a request for a temporary restraining order or order after hearing or both, under this section as provided in Section 374.
- (b) For purposes of this section:
  - (1) "Course of conduct" is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an individual, making harassing telephone calls to an individual, or sending harassing correspondence to an individual by any means, including, but not limited to, the use of public or private mails, interoffice mail, facsimile, or computer email.

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Constitutionally protected activity is not included within the meaning of "course of conduct."

- (2) "Credible threat of violence" is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.
- (3) "Harassment" is unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be that which would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner.
- (4) "Petitioner" means the person to be protected by the temporary restraining order and order after hearing and, if the court grants the petition, the protected person.
- (5) "Respondent" means the person against whom the temporary restraining order and order after hearing are sought and, if the petition is granted, the restrained person.
- (6) "Temporary restraining order" and "order after hearing" mean orders that include any of the following restraining orders, whether issued ex parte or after notice and hearing:
  - (A) An order enjoining a party from harassing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, abusing, telephoning, including, but not limited to, making annoying telephone calls, as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of, the petitioner. *On a showing of good cause, in an order issued pursuant to this subparagraph in connection with an animal owned, possessed, leased, kept, or held by the petitioner, or residing in the residence or household of the petitioner, the court may do either or both of the following:*
    - (i) *Grant the petitioner exclusive care, possession, or control of the animal.*
    - (ii) *Order the respondent to stay away from the animal and refrain from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.*
  - (B) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in subparagraph (A).
- (7) "Unlawful violence" is any assault or battery, or stalking as prohibited in Section 646.9 of the Penal Code, but does not include lawful acts of self-defense or defense of others.

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- (c) In the discretion of the court, on a showing of good cause, a temporary restraining order or order after hearing issued under this section may include other named family or household members.
- (d) Upon filing a petition for orders under this section, the petitioner may obtain a temporary restraining order in accordance with Section 527, except to the extent this section provides an inconsistent rule. The temporary restraining order may include any of the restraining orders described in paragraph (6) of subdivision (b). A temporary restraining order may be issued with or without notice, based on a declaration that, to the satisfaction of the court, shows reasonable proof of harassment of the petitioner by the respondent, and that great or irreparable harm would result to the petitioner.
- (e) A request for the issuance of a temporary restraining order without notice under this section shall be granted or denied on the same day that the petition is submitted to the court. If the petition is filed too late in the day to permit effective review, the order shall be granted or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.
- (f) A temporary restraining order issued under this section shall remain in effect, at the court's discretion, for a period not to exceed 21 days, or, if the court extends the time for hearing under subdivision (g), not to exceed 25 days, unless otherwise modified or terminated by the court.
- (g) Within 21 days, or, if good cause appears to the court, 25 days from the date that a petition for a temporary order is granted or denied, a hearing shall be held on the petition. If a request for a temporary order is not made, the hearing shall be held within 21 days, or, if good cause appears to the court, 25 days, from the date that the petition is filed.
- (h) The respondent may file a response that explains, excuses, justifies, or denies the alleged harassment or may file a cross-petition under this section.
- (i) At the hearing, the judge shall receive any testimony that is relevant, and may make an independent inquiry. If the judge finds by clear and convincing evidence that unlawful harassment exists, an order shall issue prohibiting the harassment.
- (j)
  - (1) In the discretion of the court, an order issued after notice and hearing under this section may have a duration of no more than five years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The order may be renewed, upon the request of a party, for a duration of no more than five additional years, without a showing of any further harassment since the issuance of the original order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. A request for renewal may be brought any time within the three months before the order expires.
  - (2) The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

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- (3) If an action is filed for the purpose of terminating or modifying a protective order before the expiration date specified in the order by a party other than the protected party, the party who is protected by the order shall be given notice, pursuant to subdivision (b) of Section 1005, of the proceeding by personal service or, if the protected party has satisfied the requirements of Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, by service on the Secretary of State. If the party who is protected by the order cannot be notified before the hearing for modification or termination of the protective order, the court shall deny the motion to modify or terminate the order without prejudice or continue the hearing until the party who is protected can be properly noticed and may, upon a showing of good cause, specify another method for service of process that is reasonably designed to afford actual notice to the protected party. The protected party may waive his or her right to notice if he or she is physically present in court and does not challenge the sufficiency of the notice.
- (k) This section does not preclude either party from representation by private counsel or from appearing on the party's own behalf.
- (l) In a proceeding under this section, if there are allegations of unlawful violence or credible threats of violence, a support person may accompany a party in court and, if the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and the party's attorney. The support person is present to provide moral and emotional support for a person who alleges he or she is a victim of violence. The support person is not present as a legal adviser and may not provide legal advice. The support person may assist the person who alleges he or she is a victim of violence in feeling more confident that he or she will not be injured or threatened by the other party during the proceedings if the person who alleges he or she is a victim of violence and the other party are required to be present in close proximity. This subdivision does not preclude the court from exercising its discretion to remove the support person from the courtroom if the court believes the support person is prompting, swaying, or influencing the party assisted by the support person.
- (m) Upon the filing of a petition under this section, the respondent shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition. Service shall be made at least five days before the hearing. The court may for good cause, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.
- (n) A notice of hearing under this section shall notify the respondent that if he or she does not attend the hearing, the court may make orders against him or her that could last up to five years.
- (o) The respondent shall be entitled, as a matter of course, to one continuance, for a reasonable period, to respond to the petition.
- (p)
- (1) Either party may request a continuance of the hearing, which the court shall grant on a showing of good cause. The request may be made in writing before or



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at the hearing or orally at the hearing. The court may also grant a continuance on its own motion.

- (2) If the court grants a continuance, any temporary restraining order that has been granted shall remain in effect until the end of the continued hearing, unless otherwise ordered by the court. In granting a continuance, the court may modify or terminate a temporary restraining order.
- (q)
- (1) If a respondent named in a restraining order issued after a hearing has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, additional proof of service is not required for enforcement of the order.
  - (2) If the respondent named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based on the temporary restraining order, but the respondent does not appear at the hearing, either personally or by an attorney, and the terms and conditions of the restraining order or protective order issued at the hearing are identical to the temporary restraining order, except for the duration of the order, the restraining order or protective order issued at the hearing may be served on the respondent by first-class mail sent to the respondent at the most current address for the respondent available to the court.
  - (3) The Judicial Council form for temporary orders issued pursuant to this subdivision shall contain a statement in substantially the following form: [Click here to view form](#)
  - (4) If information about a minor has been made confidential pursuant to subdivision (v), the notice shall identify the information, specifically, that has been made confidential and shall include a statement that disclosure or misuse of that information is punishable as a contempt of court.
- (r)
- (1) Information on a temporary restraining order or order after hearing relating to civil harassment issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with either paragraph (2) or (3).
  - (2) The court shall order the petitioner or the attorney for the petitioner to deliver a copy of an order issued under this section, or reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by the close of the business day on which the order, reissuance, extension, modification, or termination was made, to a law enforcement agency having jurisdiction over the residence of the petitioner and to any additional law enforcement agencies within the court's discretion as are requested by the petitioner.
  - (3) Alternatively, the court or its designee shall transmit, within one business day, to law enforcement personnel all information required under subdivision (b) of Section 6380 of the Family Code regarding any order issued under this section,



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or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by either one of the following methods:

- (A) Transmitting a physical copy of the order or proof of service to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).
  - (B) With the approval of the Department of Justice, entering the order or proof of service into CLETS directly.
- (4) Each appropriate law enforcement agency shall make available information as to the existence and current status of orders issued under this section to law enforcement officers responding to the scene of reported harassment.
  - (5) An order issued under this section shall, on request of the petitioner, be served on the respondent, whether or not the respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported harassment involving the parties to the proceeding. The petitioner shall provide the officer with an endorsed copy of the order and a proof of service that the officer shall complete and send to the issuing court.
  - (6) Upon receiving information at the scene of an incident of harassment that a protective order has been issued under this section, or that a person who has been taken into custody is the subject of an order, if the protected person cannot produce a certified copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.
  - (7) If the law enforcement officer determines that a protective order has been issued but not served, the officer shall immediately notify the respondent of the terms of the order and shall at that time also enforce the order. Verbal notice of the terms of the order shall constitute service of the order and is sufficient notice for purposes of this section and for purposes of Section 29825 of the Penal Code. Verbal notice shall include the information required pursuant to paragraph (4) of subdivision (q).
  - (s) The prevailing party in an action brought pursuant to this section may be awarded court costs and attorney's fees, if any.
  - (t) Willful disobedience of a temporary restraining order or order after hearing granted pursuant to this section is punishable pursuant to Section 273.6 of the Penal Code.
  - (u)
    - (1) A person subject to a protective order issued pursuant to this section shall not own, possess, purchase, receive, or attempt to purchase or receive a firearm or ammunition while the protective order is in effect.
    - (2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9.
    - (3) A person who owns, possesses, purchases, or receives, or attempts to purchase or receive, a firearm or ammunition while the protective order is in effect is punishable pursuant to Section 29825 of the Penal Code.

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- (v)
- (1) A minor or the minor's legal guardian may petition the court to have information regarding the minor obtained when issuing an order pursuant to this section, including, but not limited to, the minor's name, address, and the circumstances surrounding the protective order with respect to that minor, be kept confidential.
  - (2) The court may order the information specified in paragraph (1) be kept confidential if the court expressly finds all of the following:
    - (A) The minor's right to privacy overcomes the right of public access to the information.
    - (B) There is a substantial probability that the minor's interest will be prejudiced if the information is not kept confidential.
    - (C) The order to keep the information confidential is narrowly tailored.
    - (D) No less restrictive means exist to protect the minor's privacy.
  - (3) If the request is granted, except as provided in paragraph (4), information regarding the minor shall be maintained in a confidential case file and shall not become part of the public file in the proceeding or any other civil proceeding. Disclosure or misuse of that information is punishable as civil contempt of court with a fine of up to one thousand dollars (\$1,000). An order of civil contempt under this paragraph shall not include imprisonment.
  - (4)
    - (A) Confidential information about a minor who is protected by an order issued pursuant to this section shall be made available to law enforcement pursuant to subdivision (r), to the extent necessary and only for the purpose of enforcing the order.
    - (B) To the extent necessary for the enforcement of the order and to allow the respondent to comply with and respond to the order, confidential information shall be included in the notice sent to the respondent pursuant to this section.
- (w) This section does not apply to any action or proceeding covered by Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code or by Division 10 (commencing with Section 6200) of the Family Code. This section does not preclude a petitioner from using other existing civil remedies.
- (x)
- (1) The Judicial Council shall develop forms, instructions, and rules relating to matters governed by this section. The petition and response forms shall be simple and concise, and their use by parties in actions brought pursuant to this section is mandatory.
  - (2) A temporary restraining order or order after hearing relating to civil harassment issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section

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was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

- (y) There is no filing fee for a petition that alleges that a person has inflicted or threatened violence against the petitioner, stalked the petitioner, or acted or spoken in any other manner that has placed the petitioner in reasonable fear of violence, and that seeks a protective or restraining order restraining stalking, future violence, or threats of violence, in an action brought pursuant to this section. A fee shall not be paid for a subpoena filed in connection with a petition alleging these acts. A fee shall not be paid for filing a response to a petition alleging these acts.
- (z)
  - (1) Subject to paragraph (4) of subdivision (b) of Section 6103.2 of the Government Code, there shall not be a fee for the service of process by a sheriff or marshal of a protective or restraining order to be issued, if either of the following conditions apply:
    - (A) The protective or restraining order issued pursuant to this section is based upon stalking, as prohibited by Section 646.9 of the Penal Code.
    - (B) The protective or restraining order issued pursuant to this section is based upon unlawful violence or a credible threat of violence.
  - (2) The Judicial Council shall prepare and develop forms for persons who wish to avail themselves of the services described in this subdivision.

### CAL. WEL. & INST. CODE § 15657.03. Protective order for elder or dependent adult who has suffered abuse.

- (a)
  - (1) An elder or dependent adult who has suffered abuse, as defined in Section 15610.07, may seek protective orders as provided in this section.
  - (2) A petition may be brought on behalf of an abused elder or dependent adult by a conservator or a trustee of the elder or dependent adult, an attorney-in-fact of an elder or dependent adult who acts within the authority of a power of attorney, a person appointed as a guardian ad litem for the elder or dependent adult, or other person legally authorized to seek the relief.
  - (3)
    - (A) A petition under this section may be brought on behalf of an elder or dependent adult by a county adult protective services agency in either of the following circumstances:
      - (i) If the elder or dependent adult has suffered abuse as defined in subdivision (b) and has an impaired ability to appreciate and understand the circumstances that place him or her at risk of harm.

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- (ii) If the elder or dependent adult has provided written authorization to a county adult protective services agency to act on his or her behalf.
  - (B) In the case of a petition filed pursuant to clause (i) of subparagraph (A) by a county adult protective services agency, a referral shall be made to the public guardian consistent with Section 2920 of the Probate Code prior to or concurrent with the filing of the petition, unless a petition for appointment of a conservator has already been filed with the probate court by the public guardian or another party.
  - (C) A county adult protective services agency shall be subject to any confidentiality restrictions that otherwise apply to its activities under law and shall disclose only those facts as necessary to establish reasonable cause for the filing of the petition, including, in the case of a petition filed pursuant to clause (i) of subparagraph (A), to establish the agency's belief that the elder or dependent adult has suffered abuse and has an impaired ability to appreciate and understand the circumstances that place him or her at risk, and as may be requested by the court in determining whether to issue an order under this section.
- (b) For purposes of this section:
- (1) "Abuse" has the meaning set forth in Section 15610.07.
  - (2) "Conservator" means the legally appointed conservator of the person or estate of the petitioner, or both.
  - (3) "Petitioner" means the elder or dependent adult to be protected by the protective orders and, if the court grants the petition, the protected person.
  - (4) "Protective order" means an order that includes any of the following restraining orders, whether issued ex parte, after notice and hearing, or in a judgment:
    - (A) An order enjoining a party from abusing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of, the petitioner, and, in the discretion of the court, on a showing of good cause, of other named family or household members or a conservator, if any, of the petitioner. *On a showing of good cause, in an order issued pursuant to this subparagraph in connection with an animal owned, possessed, leased, kept, or held by the petitioner, or residing in the residence or household of the petitioner, the court may do either or both of the following:*
      - (i) *Grant the petitioner exclusive care, possession, or control of the animal.*
      - (ii) *Order the respondent to stay away from the animal and refrain from taking, transferring, encumbering, concealing,*

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*molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.*

- (B) An order excluding a party from the petitioner's residence or dwelling, except that this order shall not be issued if legal or equitable title to, or lease of, the residence or dwelling is in the sole name of the party to be excluded, or is in the name of the party to be excluded and any other party besides the petitioner.
- (C) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in subparagraph (A) or (B).
  - (1) "Respondent" means the person against whom the protective orders are sought and, if the petition is granted, the restrained person.
- (c) An order may be issued under this section, with or without notice, to restrain any person for the purpose of preventing a recurrence of abuse, if a declaration shows, to the satisfaction of the court, reasonable proof of a past act or acts of abuse of the petitioning elder or dependent adult.
- (d) Upon filing a petition for protective orders under this section, the petitioner may obtain a temporary restraining order in accordance with Section 527 of the Code of Civil Procedure, except to the extent this section provides a rule that is inconsistent. The temporary restraining order may include any of the protective orders described in paragraph (4) of subdivision (b). However, the court may issue an ex parte order excluding a party from the petitioner's residence or dwelling only on a showing of all of the following:
  - (1) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.
  - (2) That the party to be excluded has assaulted or threatens to assault the petitioner, other named family or household member of the petitioner, or a conservator of the petitioner.
  - (3) That physical or emotional harm would otherwise result to the petitioner, other named family or household member of the petitioner, or a conservator of the petitioner.
- (e) A request for the issuance of a temporary restraining order without notice under this section shall be granted or denied on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective review, in which case the order shall be granted or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.
- (f) Within 21 days, or, if good cause appears to the court, 25 days, from the date that a request for a temporary restraining order is granted or denied, a hearing shall be held on the petition. If no request for temporary orders is made, the hearing shall be held within 21 days, or, if good cause appears to the court, 25 days, from the date that the petition is filed.
- (g) The respondent may file a response that explains or denies the alleged abuse.

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- (h) The court may issue, upon notice and a hearing, any of the orders set forth in paragraph (4) of subdivision (b). The court may issue, after notice and hearing, an order excluding a person from a residence or dwelling if the court finds that physical or emotional harm would otherwise result to the petitioner, other named family or household member of the petitioner, or conservator of the petitioner.
- (i)
- (1) In the discretion of the court, an order issued after notice and a hearing under this section may have a duration of not more than five years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. These orders may be renewed upon the request of a party, either for five years or permanently, without a showing of any further abuse since the issuance of the original order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The request for renewal may be brought at any time within the three months before the expiration of the order.
  - (2) The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.
  - (3) If an action is filed for the purpose of terminating or modifying a protective order prior to the expiration date specified in the order by a party other than the protected party, the party who is protected by the order shall be given notice, pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure, of the proceeding by personal service or, if the protected party has satisfied the requirements of Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, by service on the Secretary of State. If the party who is protected by the order cannot be notified prior to the hearing for modification or termination of the protective order, the court shall deny the motion to modify or terminate the order without prejudice or continue the hearing until the party who is protected can be properly noticed and may, upon a showing of good cause, specify another method for service of process that is reasonably designed to afford actual notice to the protected party. The protected party may waive his or her right to notice if he or she is physically present in court and does not challenge the sufficiency of the notice.
- (j) In a proceeding under this section, a support person may accompany a party in court and, if the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and the party's attorney. The support person is present to provide moral and emotional support for a person who alleges he or she is a victim of abuse. The support person is not present as a legal adviser and may not provide legal advice.
- The support person may assist the person who alleges he or she is a victim of abuse in feeling more confident that he or she will not be injured or threatened by the other party during the proceedings if the person who alleges he or she is a victim of abuse and the other party are required to be present in close proximity. This subdivision does not

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preclude the court from exercising its discretion to remove the support person from the courtroom if the court believes the support person is prompting, swaying, or influencing the party assisted by the support person.

- (k) Upon the filing of a petition for protective orders under this section, the respondent shall be personally served with a copy of the petition, notice of the hearing or order to show cause, temporary restraining order, if any, and any declarations in support of the petition. Service shall be made at least five days before the hearing. The court may, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.
- (l) A notice of hearing under this section shall notify the respondent that if he or she does not attend the hearing, the court may make orders against him or her that could last up to five years.
- (m) The respondent shall be entitled, as a matter of course, to one continuance, for a reasonable period, to respond to the petition.
- (n)
  - (1) Either party may request a continuance of the hearing, which the court shall grant on a showing of good cause. The request may be made in writing before or at the hearing or orally at the hearing. The court may also grant a continuance on its own motion.
  - (2) If the court grants a continuance, any temporary restraining order that has been granted shall remain in effect until the end of the continued hearing, unless otherwise ordered by the court. In granting a continuance, the court may modify or terminate a temporary restraining order.
- (o)
  - (1) If a respondent, named in an order issued under this section after a hearing, has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.
  - (2) If the respondent named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based on the temporary restraining order, but the respondent does not appear at the hearing, either personally or by an attorney, and the terms and conditions of the restraining order or protective order issued at the hearing are identical to the temporary restraining order, except for the duration of the order, then the restraining order or protective order issued at the hearing may be served on the respondent by first-class mail sent to the respondent at the most current address for the respondent that is available to the court.
  - (3) The Judicial Council form for temporary orders issued pursuant to this subdivision shall contain a statement in substantially the following form: "If you have been personally served with a temporary restraining order and notice of hearing, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this temporary restraining order



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except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the following address: If that address is not correct or you wish to verify that the temporary restraining order was converted to a restraining order at the hearing without substantive change and to find out the duration of that order, contact the clerk of the court."

(p)

- (1) Information on a protective order relating to elder or dependent adult abuse issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with either paragraph (2) or (3).
- (2) The court shall order the petitioner or the attorney for the petitioner to deliver a copy of an order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by the close of the business day on which the order, reissuance, extension, modification, or termination was made, to each law enforcement agency having jurisdiction over the residence of the petitioner, and to any additional law enforcement agencies within the court's discretion as are requested by the petitioner.
- (3) Alternatively, the court or its designee shall transmit, within one business day, to law enforcement personnel all information required under subdivision (b) of Section 6380 of the Family Code regarding any order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by either one of the following methods:
  - (i) Transmitting a physical copy of the order or proof of service to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).
  - (ii) With the approval of the Department of Justice, entering the order or proof of service into CLETS directly.
- (4) Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported abuse.
- (5) An order issued under this section shall, on request of the petitioner, be served on the respondent, whether or not the respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported abuse involving the parties to the proceeding. The petitioner shall provide the officer with an endorsed copy of the order and a proof of service, which the officer shall complete and send to the issuing court.
- (6) Upon receiving information at the scene of an incident of abuse that a protective order has been issued under this section, or that a person who has been taken into custody is the respondent to that order, if the protected person cannot produce an endorsed copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

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- (7) If the law enforcement officer determines that a protective order has been issued but not served, the officer shall immediately notify the respondent of the terms of the order and where a written copy of the order can be obtained, and the officer shall at that time also enforce the order. The law enforcement officer's verbal notice of the terms of the order shall constitute service of the order and is sufficient notice for the purposes of this section and for the purposes of Section 273.6 of the Penal Code.
- (q) Nothing in this section shall preclude either party from representation by private counsel or from appearing on the party's own behalf.
- (r) There is no filing fee for a petition, response, or paper seeking the reissuance, modification, or enforcement of a protective order filed in a proceeding brought pursuant to this section.
- (s) Pursuant to paragraph (4) of subdivision (b) of Section 6103.2 of the Government Code, a petitioner shall not be required to pay a fee for law enforcement to serve an order issued under this section.
- (t) The prevailing party in an action brought under this section may be awarded court costs and attorney's fees, if any.
- (u)
- (1) A person subject to a protective order under this section shall not own, possess, purchase, receive, or attempt to receive a firearm or ammunition while the protective order is in effect.
  - (2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9 of the Code of Civil Procedure.
  - (3) Every person who owns, possesses, purchases, or receives, or attempts to purchase or receive a firearm or ammunition while subject to a protective order issued under this section is punishable pursuant to Section 29825 of the Penal Code.
  - (4) This subdivision does not apply in a case in which a protective order issued under this section was made solely on the basis of financial abuse unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.
- (v) In a proceeding brought under paragraph (3) of subdivision (a), all of the following apply:
- (1) Upon the filing of a petition for a protective order, the elder or dependent adult on whose behalf the petition has been filed shall receive a copy of the petition, a notice of the hearing, and any declarations submitted in support of the petition. The elder or dependent adult shall receive this information at least five days before the hearing. The court may, on motion of the petitioner or on its own motion, shorten the time for provision of this information to the elder or dependent adult.
  - (2) The adult protective services agency shall make reasonable efforts to assist the elder or dependent adult to attend the hearing and provide testimony to the

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court, if he or she wishes to do so. If the elder or dependent adult does not attend the hearing, the agency shall provide information to the court at the hearing regarding the reasons why the elder or dependent adult is not in attendance.

- (3) Upon the filing of a petition for a protective order and upon issuance of an order granting the petition, the county adult protective services agency shall take all reasonable steps to provide for the safety of the elder or dependent adult, pursuant to Chapter 13 (commencing with Section 15750), which may include, but are not limited to, facilitating the location of alternative accommodations for the elder or dependent adult, if needed.
- (w) Any willful disobedience of any temporary restraining order or restraining order after hearing granted under this section is punishable pursuant to Section 273.6 of the Penal Code.
- (x) This section does not apply to any action or proceeding governed by Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code, Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, or Division 10 (commencing with Section 6200) of the Family Code. Nothing in this section shall preclude a petitioner's right to use other existing civil remedies.
- (y) The Judicial Council shall develop forms, instructions, and rules relating to matters governed by this section. The petition and response forms shall be simple and concise, and shall be used by parties in actions brought pursuant to this section.
- (z) This section shall become operative on July 1, 2016.

**ANIMAL PROTECTION LAWS OF CALIFORNIA****13. RESTITUTION****CAL. PENAL CODE § 597. Cruelty to animals.**

- (a) Except as provided in subdivision (c) of this section or Section 599c, every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of a crime punishable pursuant to subdivision (d).
- (b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for each offense, guilty of a crime punishable pursuant to subdivision (d).
- (c) Every person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish, as described in subdivision (e), is guilty of a crime punishable pursuant to subdivision (d).
- (d) A violation of subdivision (a), (b), or (c) is punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars (\$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 twenty thousand dollars (\$20,000), or by both that fine and imprisonment.
- (e) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:
  - (1) Endangered species or threatened species as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.
  - (2) Fully protected birds described in Section 3511 of the Fish and Game Code.
  - (3) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.
  - (4) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.
  - (5) Fully protected fish as described in Section 5515 of the Fish and Game Code.This subdivision does not supersede or affect any provisions of law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.

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- (f) For the purposes of subdivision (c), each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subdivision (e) is a separate offense. If any person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.
- (g)
- (1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. *A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.*
  - (2) Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.
- (h) Notwithstanding any other provision of law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 9 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. This provision specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment pursuant to subdivision (h) of Section 1170 or county jail when that sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering custody. This subdivision shall not apply to cases involving police dogs or horses as described in Section 600.

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### **CAL. PENAL CODE § 597a. Cruelty to animals; transportation; care of animals by arresting officer; expense.**

Whoever carries or causes to be carried in or upon any vehicle or otherwise any domestic animal in a cruel or inhuman manner, or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering, or cruelty of any kind, is guilty of a misdemeanor; and whenever any such person is taken into custody therefor by any officer, such officer must take charge of such vehicle and its contents, together with the horse or team attached to such vehicle, and deposit the same in some place of custody; *and any necessary expense incurred for taking care of and keeping the same, is a lien thereon, to be paid before the same can be lawfully recovered; and if such expense, or any part thereof, remains unpaid, it may be recovered, by the person incurring the same, of the owner of such domestic animal, in an action therefor.*

### **CAL. PENAL CODE § 597e. Liability for care of impounded domestic animal.**

Any person who impounds, or causes to be impounded in any pound, any domestic animal, shall supply it during such confinement with a sufficient quantity of good and wholesome food and water, and in default thereof, is guilty of a misdemeanor. In case any domestic animal is at any time so impounded and continues to be without necessary food and water for more than 12 consecutive hours, it is lawful for any person, from time to time, as may be deemed necessary, to enter into and upon any pound in which the animal is confined, and supply it with necessary food and water so long as it remains so confined. *Such person is not liable for the entry and may collect the reasonable cost of the food and water from the owner of the animal, and the animal is subject to enforcement of a money judgment for the reasonable cost of such food and water.*

### **CAL. PENAL CODE § 597f. Abandoned or neglected animals; Duties of public authorities; Euthanasia.**

(a) Every owner, driver, or possessor of any animal, who permits the animal to be in any building, enclosure, lane, street, square, or lot, of any city, city and county, or judicial district, without proper care and attention, shall, on conviction, be deemed guilty of a misdemeanor. And it shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected and care for the animal until it is redeemed by the owner or claimant, and the cost of caring for the animal shall be a lien on the animal until the charges are paid.

(1) Every sick, disabled, infirm, or crippled animal, except a dog or cat, which shall be abandoned in any city, city and county, or judicial district, may, if after due search no owner can be found therefor, be killed by the officer; and it shall be

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the duty of all peace officers, an officer of such society, or officer of a pound or animal regulation department of a public agency to cause the animal to be killed on information of such abandonment.

- (2) The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated; and, if the animal is not then in the custody of its owner, the officer shall give notice thereof to the owner, if known, and may provide suitable care for the animal until it is deemed to be in a suitable condition to be delivered to the owner, and *any necessary expenses which may be incurred for taking care of and keeping the animal shall be a lien thereon, to be paid before the animal can be lawfully recovered.*
- (b) It shall be the duty of all officers of pounds or humane societies, and animal regulation departments of public agencies to convey, and for police and sheriff departments, to cause to be conveyed all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer or agency to be a veterinarian that ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment. If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal; or, if the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal. Whenever any animal is transferred pursuant to this subdivision to a veterinarian in a clinic, such as an emergency clinic which is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.  
*If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services which are provided pending the owner's inquiry to the agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or if the animal is unlicensed the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner.* No veterinarian shall be criminally or civilly liable for any decision which he or she makes or services which he or she provides pursuant to this section.
- (c) An animal control agency which takes possession of an animal pursuant to subdivision (b), shall keep records of the whereabouts of the animal for a 72- hour period from the time of possession and those records shall be available to inspection by the public upon request.
- (d) Notwithstanding any other provisions of this section, any officer of a pound or animal regulation department or humane society, or any officer of a police or sheriff's department may, with the approval of his or her immediate superior, humanely destroy any abandoned animal in the field in any case where the animal is too severely injured



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to move or where a veterinarian is not available and it would be more humane to dispose of the animal.

### CAL. PENAL CODE § 597.1. Failure to care for animals; misdemeanor; powers and duties of local officers and veterinarians; hearings; liability for costs; forfeiture.

(a)

- (1) Every owner, driver, or keeper of any animal who permits the animal to be in any building, enclosure, lane, street, square, or lot of any city, county, city and county, or judicial district without proper care and attention is guilty of a misdemeanor. Any peace officer, humane society officer, or animal control officer shall take possession of the stray or abandoned animal and shall provide care and treatment for the animal until the animal is deemed to be in suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with the provisions of subdivision (g). *The full cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid, if the seizure is upheld pursuant to this section.*
- (2) Notwithstanding any other law, if an animal control officer or humane officer, when necessary to protect the health and safety of a wild, stray, or abandoned animal or the health and safety of others, seeks to administer a tranquilizer that contains a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, to gain control of that animal, he or she may possess and administer that tranquilizer with direct or indirect supervision as determined by a licensed veterinarian, provided that the officer has met each of the following requirements:
  - (A) Has received training in the administration of tranquilizers from a licensed veterinarian. The training shall be approved by the California Veterinary Medical Board.
  - (B) Has successfully completed the firearms component of a course relating to the exercise of police powers, as set forth in Section 832.
  - (C) Is authorized by his or her agency or organization to possess and administer the tranquilizer in accordance with a policy established by the agency or organization and approved by the veterinarian who obtained the controlled substance.
  - (D) Has successfully completed the euthanasia training set forth in Section 2039 of Title 16 of the California Code of Regulations.

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- (E) Has completed a state and federal fingerprinting background check and does not have any drug- or alcohol-related convictions.
- (b) Every sick, disabled, infirm, or crippled animal, except a dog or cat, that is abandoned in any city, county, city and county, or judicial district may be killed by the officer if, after a reasonable search, no owner of the animal can be found. It shall be the duty of all peace officers, humane society officers, and animal control officers to cause the animal to be killed or rehabilitated and placed in a suitable home on information that the animal is stray or abandoned. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated, and provide care and treatment for the animal until it is deemed to be in a suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of an animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with subdivision (g). *The full cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid.*
- (c)
- (1) Any peace officer, humane society officer, or animal control officer shall convey all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer to be a veterinarian who ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment.
  - (2) If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal. If the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal.
  - (3) Whenever any animal is transferred to a veterinarian in a clinic, such as an emergency clinic that is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.
  - (4) If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services that are provided pending the owner's inquiry to the responsible agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or, if the animal is unlicensed, shall be paid by the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. *The full cost of caring for and treating any animal seized under this subdivision shall constitute a lien on the animal and the animal shall not be returned to the owner until the charges are paid.* No veterinarian shall be criminally or civilly

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liable for any decision that he or she makes or for services that he or she provides pursuant to this subdivision.

- (d) An animal control agency that takes possession of an animal pursuant to subdivision (c) shall keep records of the whereabouts of the animal from the time of possession to the end of the animal's impoundment, and those records shall be available for inspection by the public upon request for three years after the date the animal's impoundment ended.
- (e) Notwithstanding any other provision of this section, any peace officer, humane society officer, or any animal control officer may, with the approval of his or her immediate superior, humanely destroy any stray or abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to euthanize the animal.
- (f) Whenever an officer authorized under this section seizes or impounds an animal based on a reasonable belief that prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall, prior to the commencement of any criminal proceedings authorized by this section, provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a postseizure hearing to determine the validity of the seizure or impoundment, or both.
  - (3) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice of the seizure or impoundment, or both, to the owner or keeper within 48 hours, excluding weekends and holidays. The notice shall include all of the following:
    - (A) The name, business address, and telephone number of the officer providing the notice.
    - (B) A description of the animal seized, including any identification upon the animal.
    - (C) The authority and purpose for the seizure or impoundment, including the time, place, and circumstances under which the animal was seized.
    - (D) A statement that, in order to receive a postseizure hearing, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning an enclosed declaration of ownership or right to keep the animal to the agency providing the notice within 10 days, including weekends and holidays, of the date of the notice. The declaration may be returned by personal delivery or mail.
    - (E) A statement that the full cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.
  - (4) The postseizure hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The seizing agency may authorize its own

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officer or employee to conduct the hearing if the hearing officer is not the same person who directed the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.

- (5) Failure of the owner or keeper, or of his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a postseizure hearing or right to challenge his or her liability for costs incurred.
- (6) The agency, department, or society employing the person who directed the seizure shall be responsible for the costs incurred for caring and treating the animal, if it is determined in the postseizure hearing that the seizing officer did not have reasonable grounds to believe very prompt action, including seizure of the animal, was required to protect the health or safety of the animal or the health or safety of others. *If it is determined the seizure was justified, the owner or keeper shall be personally liable to the seizing agency for the full cost of the seizure and care of the animal. The charges for the seizure and care of the animal shall be a lien on the animal.* The animal shall not be returned to its owner until the charges are paid and the owner demonstrates to the satisfaction of the seizing agency or the hearing officer that the owner can and will provide the necessary care for the animal.
- (g) Where the need for immediate seizure is not present and prior to the commencement of any criminal proceedings authorized by this section, the agency shall provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a hearing prior to any seizure or impoundment of the animal. The owner shall produce the animal at the time of the hearing unless, prior to the hearing, the owner has made arrangements with the agency to view the animal upon request of the agency, or unless the owner can provide verification that the animal was humanely destroyed. Any person who willfully fails to produce the animal or provide the verification is guilty of an infraction, punishable by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000).
  - (1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice stating the grounds for believing the animal should be seized under subdivision (a) or (b). The notice shall include all of the following:
    - (A) The name, business address, and telephone number of the officer providing the notice.
    - (B) A description of the animal to be seized, including any identification upon the animal.
    - (C) The authority and purpose for the possible seizure or impoundment.
    - (D) A statement that, in order to receive a hearing prior to any seizure, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning the enclosed declaration of ownership or right to keep the animal to the officer

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providing the notice within two days, excluding weekends and holidays, of the date of the notice.

- (E) *A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal, that any animal seized shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in a conclusive determination that the animal may properly be seized and that the owner shall be liable for the charges.*
- (2) The preseizure hearing shall be conducted within 48 hours, excluding weekends and holidays, after receipt of the request. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who requests the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.
- (3) Failure of the owner or keeper, or his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a preseizure hearing or right to challenge his or her liability for costs incurred pursuant to this section.
- (4) The hearing officer, after the hearing, may affirm or deny the owner's or keeper's right to custody of the animal and, if reasonable grounds are established, may order the seizure or impoundment of the animal for care and treatment.
- (h) *If any animal is properly seized under this section or pursuant to a search warrant, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal.* Further, if the charges for the seizure or impoundment and any other charges permitted under this section are not paid within 14 days of the seizure, or if the owner, within 14 days of notice of availability of the animal to be returned, fails to pay charges permitted under this section and take possession of the animal, the animal shall be deemed to have been abandoned and may be disposed of by the seizing agency.
- (i) If the animal requires veterinary care and the humane society or public agency is not assured, within 14 days of the seizure of the animal, that the owner will provide the necessary care, the animal shall not be returned to its owner and shall be deemed to have been abandoned and may be disposed of by the seizing agency. A veterinarian may humanely destroy an impounded animal without regard to the prescribed holding period when it has been determined that the animal has incurred severe injuries or is incurably crippled. A veterinarian also may immediately humanely destroy an impounded animal afflicted with a serious contagious disease unless the owner or his or her agent immediately authorizes treatment of the animal by a veterinarian at the expense of the owner or agent.
- (j) No animal properly seized under this section or pursuant to a search warrant shall be returned to its owner until the owner can demonstrate to the satisfaction of the seizing agency or hearing officer that the owner can and will provide the necessary care for the animal.

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(k)

- (1) In the case of cats and dogs, prior to the final disposition of any criminal charges, the seizing agency or prosecuting attorney may file a petition in a criminal action requesting that, prior to that final disposition, the court issue an order forfeiting the animal to the city, county, or seizing agency. The petitioner shall serve a true copy of the petition upon the defendant and the prosecuting attorney.
- (2) Upon receipt of the petition, the court shall set a hearing on the petition. The hearing shall be conducted within 14 days after the filing of the petition, or as soon as practicable.
- (3) The petitioner shall have the burden of establishing beyond a reasonable doubt that, even in the event of an acquittal of the criminal charges, the owner will not legally be permitted to retain the animal in question. If the court finds that the petitioner has met its burden, the court shall order the immediate forfeiture of the animal as sought by the petition.
- (4) Nothing in this subdivision is intended to authorize a seizing agency or prosecuting attorney to file a petition to determine an owner's ability to legally retain an animal pursuant to paragraph (3) of subdivision (l) if a petition has previously been filed pursuant to this subdivision.

(l)

- (1) Upon the conviction of a person charged with a violation of this section, or Section 597 or 597a, all animals lawfully seized and impounded with respect to the violation shall be adjudged by the court to be forfeited and shall thereupon be transferred to the impounding officer or appropriate public entity for proper adoption or other disposition. A person convicted of a violation of this section shall be personally liable to the seizing agency for all costs of impoundment from the time of seizure to the time of proper disposition. Upon conviction, the court shall order the convicted person to make payment to the appropriate public entity for the costs incurred in the housing, care, feeding, and treatment of the seized or impounded animals. Each person convicted in connection with a particular animal may be held jointly and severally liable for restitution for that particular animal. The payment shall be in addition to any other fine or sentence ordered by the court.
- (2) The court may also order, as a condition of probation, that the convicted person be prohibited from owning, possessing, caring for, or residing with, animals of any kind, and require the convicted person to immediately deliver all animals in his or her possession to a designated public entity for adoption or other lawful disposition or provide proof to the court that the person no longer has possession, care, or control of any animals. In the event of the acquittal or final discharge without conviction of the person charged, if the animal is still impounded, the animal has not been previously deemed abandoned pursuant to subdivision (h), the court has not ordered that the animal be forfeited pursuant to subdivision (k), the court shall, on demand, direct the release of seized or impounded animals to the defendant upon a showing of proof of ownership.



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- (3) Any questions regarding ownership shall be determined in a separate hearing by the court where the criminal case was finally adjudicated and the court shall hear testimony from any persons who may assist the court in determining ownership of the animal. If the owner is determined to be unknown or the owner is prohibited or unable to retain possession of the animals for any reason, the court shall order the animals to be released to the appropriate public entity for adoption or other lawful disposition. This section is not intended to cause the release of any animal, bird, reptile, amphibian, or fish seized or impounded pursuant to any other statute, ordinance, or municipal regulation. This section shall not prohibit the seizure or impoundment of animals as evidence as provided for under any other provision of law.
- (m) It shall be the duty of all peace officers, humane society officers, and animal control officers to use all currently acceptable methods of identification, both electronic and otherwise, to determine the lawful owner or caretaker of any seized or impounded animal. It shall also be their duty to make reasonable efforts to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal and, upon the owner's and caretaker's initiation of recovery procedures, retain custody of the animal for a reasonable period of time to allow for completion of the recovery process. Efforts to locate or contact the owner or caretaker and communications with persons claiming to be the owner or caretaker shall be recorded and maintained and be made available for public inspection.

### **CAL. CIV. PROC. CODE § 1208.5. Lien arising from prevention of cruelty to animals, and proceedings thereon.**

*Any person having a lien upon any animal or animals under the provisions of Section 597a or 597f of the Penal Code may satisfy the lien as follows: If the lien is not discharged and satisfied, by the person responsible, within three days after the obligation becomes due, then the person holding the lien may resort to the proper court to satisfy the claim; or may, three days after the charges against the property become due, sell the property, or an undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property; or, if there is no newspaper published in the county, then by posting notices of the sale in three of the most public places in the town or county for three days previous to the sale. The notices shall contain an accurate description of the property to be sold, together with the terms of sale, which must be for cash, payable on the consummation of the sale. The proceeds of the sale shall be applied to the discharge of the lien and the costs of sale; the remainder, if any, shall be paid over to the owner, if known, and if not known shall be paid into the treasury of the humane society of the county, or city and county, wherein the sale takes place; if no humane society exists in the county, then the remainder shall be paid into the county treasury.*



**ANIMAL PROTECTION LAWS OF CALIFORNIA****14. FORFEITURE & POSSESSION BANS****CAL. PENAL CODE § 597. Cruelty to animals.**

- (a) Except as provided in subdivision (c) of this section or Section 599c, every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of an offense punishable by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars (\$20,000), or by both the fine and imprisonment, or by imprisonment in a county jail for not more than one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment.
- (b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for every such offense, guilty of a crime punishable as a misdemeanor or by imprisonment pursuant to subdivision (h) of Section 1170, or by that imprisonment and by a fine of not more than twenty thousand dollars (\$20,000).
- (c) Every person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish as described in subdivision (d), is guilty of an offense punishable by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars (\$20,000), or by both the fine and imprisonment, or by imprisonment in the county jail for not more than one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment.
- (d) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:
  - (1) Endangered species or threatened species as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.
  - (2) Fully protected birds described in Section 3511 of the Fish and Game Code.
  - (3) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.
  - (4) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.
  - (5) Fully protected fish as described in Section 5515 of the Fish and Game Code.

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- (1) This subdivision does not supersede or affect any provisions of law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.
- (e) For the purposes of subdivision (c), each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subdivision (d) is a separate offense. If any person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.
- (f)
- (1) *Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.*
- (2) Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.
- (g) Notwithstanding any other provision of law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 7 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. This provision specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment pursuant to subdivision (h) of Section 1170 or county jail when such a sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering custody. This subdivision shall not apply to cases involving police dogs or horses as described in Section 600.

## ANIMAL PROTECTION LAWS OF CALIFORNIA

### CAL. PENAL CODE § 598.1. Forfeiture of certain property obtained by animal fighting.

- (a) *The prosecuting agency in a criminal proceeding in which the defendant has been charged with the commission of any of the crimes listed in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b may, in conjunction with the criminal proceeding, file a petition for forfeiture as provided in subdivision (c). If the prosecuting agency has filed a petition for forfeiture pursuant to subdivision (c) and the defendant is convicted of any of the crimes described in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b, the assets listed in subdivision (b) shall be subject to forfeiture upon proof of the elements of subdivision (b) and in accordance with this section.*
- (b)
- (1) *Any property interest, whether tangible or intangible, that was acquired through the commission of any of the crimes listed in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b shall be subject to forfeiture, including both personal and real property, profits, proceeds, and the instrumentalities acquired, accumulated, or used by cockfighting or dogfighting participants, organizers, transporters of animals and equipment, breeders and trainers of fighting birds or fighting dogs, and persons who steal or illegally obtain dogs or other animals for fighting, including bait and sparring animals.*
  - (2) *Notwithstanding paragraph (1), the following property shall not be subject to forfeiture under this section:*
    - (A) *Property solely owned by a bona fide purchaser for value, who was without knowledge that the property was intended to be used for a purpose which would subject it to forfeiture under this section, or is subject to forfeiture under this section.*
    - (B) *Property used as a family residence and owned by two or more inhabitants, one of whom had no knowledge of its unlawful use.*
- (c)
- (1) *If the prosecuting agency proceeds under subdivision (a), that agency shall, in conjunction with the criminal proceeding, file a petition for forfeiture with the superior court of the county in which the defendant has been charged with the commission of any of the crimes listed in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b, that shall allege that the defendant has committed those crimes and the property is forfeitable pursuant to subdivision (a).*
  - (2) *The prosecuting agency shall make service of process of a notice regarding that petition upon every individual who may have a property interest in the alleged proceeds, and that notice shall state that any interested party may file a verified claim with the superior court stating the amount of the party's claimed interest and an affirmation or denial of the prosecuting agency's allegation.*
  - (3) *If the notices cannot be served by registered mail or personal delivery, the notices shall be published for at least three consecutive weeks in a newspaper of general circulation in the county where the property is located.*

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- (4) *If the property alleged to be subject to forfeiture is real property, the prosecuting agency shall, at the time of filing the petition for forfeiture, record a lis pendens in each county in which real property alleged to be subject to forfeiture is located.*
- (5) *The judgment of forfeiture shall not affect the interest of any third party in real property that was acquired prior to the recording of the lis pendens.*
- (6) *All notices shall set forth the time within which a claim of interest in the property seized is required to be filed pursuant to this section.*
- (d) *Any person claiming an interest in the property or proceeds seized may, at any time within 30 days from the date of the first publication of the notice of seizure, or within 30 days after receipt of the actual notice, file with the superior court of the county in which the action is pending a verified claim stating his or her interest in the property or proceeds. A verified copy of the claim shall be given by the claimant to the Attorney General, or the district or city attorney, whichever is the prosecuting agency of the underlying crime.*
- (e)
  - (1) *If, at the end of the time set forth in subdivision (d), an interested person, other than the defendant, has not filed a claim, the court, upon a motion, shall declare that the person has defaulted upon his or her alleged interest, and that interest shall be subject to forfeiture upon proof of the elements of subdivision (b).*
  - (2) *The defendant may admit or deny that the property is subject to forfeiture pursuant to this section. If the defendant fails to admit or deny, or fails to file a claim of interest in the property or proceeds, the court shall enter a response of denial on behalf of the defendant.*
- (f)
  - (1) *The forfeiture proceeding shall be set for hearing in the superior court in which the underlying criminal offense will be tried.*
  - (2) *If the defendant is found guilty of the underlying offense, the issue of forfeiture shall be promptly tried, either before the same jury or before a new jury in the discretion of the court, unless waived by the consent of all parties.*
- (g) *At the forfeiture hearing, the prosecuting agency shall have the burden of establishing beyond a reasonable doubt that the defendant was engaged in any of the crimes described in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b and that the property comes within the provisions of subdivision (b).*
- (h) *Concurrent with, or subsequent to, the filing of the petition, the prosecuting agency may move the superior court for the following pendent lite orders to preserve the status quo of the property alleged in the petition of forfeiture:*
  - (1) *An injunction to restrain all interested parties and enjoin them from transferring, encumbering, hypothecating, or otherwise disposing of that property.*
  - (2) *Appointment of a receiver to take possession of, care for, manage, and operate the assets and properties so that the property may be maintained and preserved.*
- (i)
  - (1) *No preliminary injunction may be granted or receiver appointed without notice to the interested parties and a hearing to determine that the order is necessary to*

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*preserve the property, pending the outcome of the criminal proceedings, and that there is probable cause to believe that the property alleged in the forfeiture proceedings are proceeds or property interests forfeitable under subdivision (a). However, a temporary restraining order may issue pending that hearing pursuant to the provisions of Section 527 of the Code of Civil Procedure.*

- (2) *Notwithstanding any other provision of law, the court, when granting or issuing these orders may order a surety bond or undertaking to preserve the property interests of the interested parties. The court shall, in making its orders, seek to protect the interest of those who may be involved in the same enterprise as the defendant, but who are not involved in any of the crimes described in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b.*
- (j) *If the trier of fact at the forfeiture hearing finds that the alleged property or proceeds are forfeitable pursuant to subdivision (a), and that the defendant was convicted of a crime listed in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b, the court shall declare that property or proceeds forfeited to the state or local governmental entity, subject to distribution as provided in subdivision (l).*
- (k)
- (1) *If the trier of fact at the forfeiture hearing finds that the alleged property is forfeitable pursuant to subdivision (a) but does not find that a person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract acquired that interest with actual knowledge that the property was to be used for a purpose for which forfeiture is permitted, and the amount due to that person is less than the appraised value of the property, that person may pay to the state or the local governmental entity that initiated the forfeiture proceeding the amount of the registered owner's equity, which shall be deemed to be the difference between the appraised value and the amount of the lien, mortgage, security interest, or interest under a conditional sales contract. Upon that payment, the state or local governmental entity shall relinquish all claims to the property.*
  - (2) *If the holder of the interest elects not to make that payment to the state or local governmental entity, the property shall be deemed forfeited to the state or local governmental entity.*
  - (3) *The appraised value shall be determined as of the date judgment is entered either by agreement between the legal owner and the governmental entity involved, or if they cannot agree, then by a court-appointed appraiser for the county in which the action is brought.*
  - (4) *If the amount due to a person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract is less than the value of the property and the person elects not to make payment to the governmental entity, the property shall be sold at public auction by the Department of General Services or by the local governmental entity which shall provide notice of that sale by one publication in a newspaper published and circulated in the city, community, or*

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*locality where the sale is to take place. Proceeds of the sale shall be distributed pursuant to subdivision (l).*

- (l) *Notwithstanding that no response or claim has been filed pursuant to subdivision (d), in all cases where property is forfeited pursuant to this section and is sold by the Department of General Services or a local governmental entity, the property forfeited or the proceeds of the sale shall be distributed by the state or local governmental entity, as follows:*
- (1) *To the bona fide or innocent purchaser, conditional sales vendor, or holder of a valid lien, mortgage, or security interest, if any, up to the amount of his or her interest in the property or proceeds, when the court declaring the forfeiture orders a distribution to that person. The court shall endeavor to discover all those lienholders and protect their interests and may, at its discretion, order the proceeds placed in escrow for a period not to exceed 60 additional days to ensure that all valid claims are received and processed.*
  - (2) *To the Department of General Services or local governmental entity for all expenditures made or incurred by it in connection with the sale of the property, including expenditures for any necessary repairs, storage, or transportation of any property seized under this section.*
  - (3) *To local nonprofit organizations exempt under Section 501(c)(3) of the Internal Revenue Code, the primary activities of which include ongoing rescue, foster, or other care of animals that are the victims of cockfighting or dogfighting, and to law enforcement entities, including multiagency task forces, that actively investigate and prosecute animal fighting crimes.*
  - (4) *Any remaining funds not fully distributed to organizations or entities pursuant to paragraph (3) shall be deposited in an escrow account or restricted fund to be distributed as soon as possible in accordance with paragraph (3).*

### **CAL. PENAL CODE § 597.1. Failure to care for animals; misdemeanor; powers and duties of local officers and veterinarians; hearings; liability for costs; forfeiture.**

- (a)
- (1) Every owner, driver, or keeper of any animal who permits the animal to be in any building, enclosure, lane, street, square, or lot of any city, county, city and county, or judicial district without proper care and attention is guilty of a misdemeanor. Any peace officer, humane society officer, or animal control officer shall take possession of the stray or abandoned animal and shall provide care and treatment for the animal until the animal is deemed to be in suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with the provisions of subdivision (g). The full cost of caring for and



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treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid, if the seizure is upheld pursuant to this section.

- (2) Notwithstanding any other law, if an animal control officer or humane officer, when necessary to protect the health and safety of a wild, stray, or abandoned animal or the health and safety of others, seeks to administer a tranquilizer that contains a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, to gain control of that animal, he or she may possess and administer that tranquilizer with direct or indirect supervision as determined by a licensed veterinarian, provided that the officer has met each of the following requirements:
- (A) Has received training in the administration of tranquilizers from a licensed veterinarian. The training shall be approved by the California Veterinary Medical Board.
  - (B) Has successfully completed the firearms component of a course relating to the exercise of police powers, as set forth in Section 832.
  - (C) Is authorized by his or her agency or organization to possess and administer the tranquilizer in accordance with a policy established by the agency or organization and approved by the veterinarian who obtained the controlled substance.
  - (D) Has successfully completed the euthanasia training set forth in Section 2039 of Title 16 of the California Code of Regulations.
  - (E) Has completed a state and federal fingerprinting background check and does not have any drug- or alcohol-related convictions.
- (b) Every sick, disabled, infirm, or crippled animal, except a dog or cat, that is abandoned in any city, county, city and county, or judicial district may be killed by the officer if, after a reasonable search, no owner of the animal can be found. It shall be the duty of all peace officers, humane society officers, and animal control officers to cause the animal to be killed or rehabilitated and placed in a suitable home on information that the animal is stray or abandoned. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated, and provide care and treatment for the animal until it is deemed to be in a suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of an animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with subdivision (g). The full cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid.
- (c)



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- (1) Any peace officer, humane society officer, or animal control officer shall convey all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer to be a veterinarian who ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment.
  - (2) *If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal. If the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal.*
  - (3) Whenever any animal is transferred to a veterinarian in a clinic, such as an emergency clinic that is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.
  - (4) If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services that are provided pending the owner's inquiry to the responsible agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or, if the animal is unlicensed, shall be paid by the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. *The full cost of caring for and treating any animal seized under this subdivision shall constitute a lien on the animal and the animal shall not be returned to the owner until the charges are paid.* No veterinarian shall be criminally or civilly liable for any decision that he or she makes or for services that he or she provides pursuant to this subdivision.
- (d) An animal control agency that takes possession of an animal pursuant to subdivision (c) shall keep records of the whereabouts of the animal from the time of possession to the end of the animal's impoundment, and those records shall be available for inspection by the public upon request for three years after the date the animal's impoundment ended.
  - (e) Notwithstanding any other provision of this section, any peace officer, humane society officer, or any animal control officer may, with the approval of his or her immediate superior, humanely destroy any stray or abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to euthanize the animal.
  - (f) Whenever an officer authorized under this section seizes or impounds an animal based on a reasonable belief that prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall, prior to the commencement of any criminal proceedings authorized by this section, provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a postseizure hearing to determine the validity of the seizure or impoundment, or both.

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- (1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice of the seizure or impoundment, or both, to the owner or keeper within 48 hours, excluding weekends and holidays. The notice shall include all of the following:
  - (A) The name, business address, and telephone number of the officer providing the notice.
  - (B) A description of the animal seized, including any identification upon the animal.
  - (C) The authority and purpose for the seizure or impoundment, including the time, place, and circumstances under which the animal was seized.
  - (D) A statement that, in order to receive a postseizure hearing, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning an enclosed declaration of ownership or right to keep the animal to the agency providing the notice within 10 days, including weekends and holidays, of the date of the notice. The declaration may be returned by personal delivery or mail.
  - (E) A statement that the full cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.
- (2) The postseizure hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who directed the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.
- (3) Failure of the owner or keeper, or of his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a postseizure hearing or right to challenge his or her liability for costs incurred.
- (4) The agency, department, or society employing the person who directed the seizure shall be responsible for the costs incurred for caring and treating the animal, if it is determined in the postseizure hearing that the seizing officer did not have reasonable grounds to believe very prompt action, including seizure of the animal, was required to protect the health or safety of the animal or the health or safety of others. *If it is determined the seizure was justified, the owner or keeper shall be personally liable to the seizing agency for the full cost of the seizure and care of the animal. The charges for the seizure and care of the animal shall be a lien on the animal.* The animal shall not be returned to its owner until the charges are paid and the owner demonstrates to the satisfaction of the seizing agency or the hearing officer that the owner can and will provide the necessary care for the animal.

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- (g) Where the need for immediate seizure is not present and prior to the commencement of any criminal proceedings authorized by this section, the agency shall provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a hearing prior to any seizure or impoundment of the animal. The owner shall produce the animal at the time of the hearing unless, prior to the hearing, the owner has made arrangements with the agency to view the animal upon request of the agency, or unless the owner can provide verification that the animal was humanely destroyed. Any person who willfully fails to produce the animal or provide the verification is guilty of an infraction, punishable by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000).
- (1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice stating the grounds for believing the animal should be seized under subdivision (a) or (b). The notice shall include all of the following:
    - (A) The name, business address, and telephone number of the officer providing the notice.
    - (B) A description of the animal to be seized, including any identification upon the animal.
    - (C) The authority and purpose for the possible seizure or impoundment.
    - (D) A statement that, in order to receive a hearing prior to any seizure, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning the enclosed declaration of ownership or right to keep the animal to the officer providing the notice within two days, excluding weekends and holidays, of the date of the notice.
    - (E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal, that any animal seized shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in a conclusive determination that the animal may properly be seized and that the owner shall be liable for the charges.
  - (2) The pre-seizure hearing shall be conducted within 48 hours, excluding weekends and holidays, after receipt of the request. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who requests the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.
  - (3) Failure of the owner or keeper, or his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a pre-seizure hearing or right to challenge his or her liability for costs incurred pursuant to this section.
  - (4) The hearing officer, after the hearing, may affirm or deny the owner's or keeper's right to custody of the animal and, if reasonable grounds are

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established, may order the seizure or impoundment of the animal for care and treatment.

- (h) If any animal is properly seized under this section or pursuant to a search warrant, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal. *Further, if the charges for the seizure or impoundment and any other charges permitted under this section are not paid within 14 days of the seizure, or if the owner, within 14 days of notice of availability of the animal to be returned, fails to pay charges permitted under this section and take possession of the animal, the animal shall be deemed to have been abandoned and may be disposed of by the seizing agency.*
- (i) *If the animal requires veterinary care and the humane society or public agency is not assured, within 14 days of the seizure of the animal, that the owner will provide the necessary care, the animal shall not be returned to its owner and shall be deemed to have been abandoned and may be disposed of by the seizing agency. A veterinarian may humanely destroy an impounded animal without regard to the prescribed holding period when it has been determined that the animal has incurred severe injuries or is incurably crippled. A veterinarian also may immediately humanely destroy an impounded animal afflicted with a serious contagious disease unless the owner or his or her agent immediately authorizes treatment of the animal by a veterinarian at the expense of the owner or agent.*
- (j) *No animal properly seized under this section or pursuant to a search warrant shall be returned to its owner until the owner can demonstrate to the satisfaction of the seizing agency or hearing officer that the owner can and will provide the necessary care for the animal.*
- (k)
  - (1) *In the case of cats and dogs, prior to the final disposition of any criminal charges, the seizing agency or prosecuting attorney may file a petition in a criminal action requesting that, prior to that final disposition, the court issue an order forfeiting the animal to the city, county, or seizing agency. The petitioner shall serve a true copy of the petition upon the defendant and the prosecuting attorney.*
  - (2) *Upon receipt of the petition, the court shall set a hearing on the petition. The hearing shall be conducted within 14 days after the filing of the petition, or as soon as practicable.*
  - (3) *The petitioner shall have the burden of establishing beyond a reasonable doubt that, even in the event of an acquittal of the criminal charges, the owner will not legally be permitted to retain the animal in question. If the court finds that the petitioner has met its burden, the court shall order the immediate forfeiture of the animal as sought by the petition.*
  - (4) *Nothing in this subdivision is intended to authorize a seizing agency or prosecuting attorney to file a petition to determine an owner's ability to legally retain an animal pursuant to paragraph (3) of subdivision (l) if a petition has previously been filed pursuant to this subdivision.*
- (l)

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- (1) *Upon the conviction of a person charged with a violation of this section, or Section 597 or 597a, all animals lawfully seized and impounded with respect to the violation shall be adjudged by the court to be forfeited and shall thereupon be transferred to the impounding officer or appropriate public entity for proper adoption or other disposition. A person convicted of a violation of this section shall be personally liable to the seizing agency for all costs of impoundment from the time of seizure to the time of proper disposition. Upon conviction, the court shall order the convicted person to make payment to the appropriate public entity for the costs incurred in the housing, care, feeding, and treatment of the seized or impounded animals. Each person convicted in connection with a particular animal may be held jointly and severally liable for restitution for that particular animal. The payment shall be in addition to any other fine or sentence ordered by the court.*
- (2) *The court may also order, as a condition of probation, that the convicted person be prohibited from owning, possessing, caring for, or residing with, animals of any kind, and require the convicted person to immediately deliver all animals in his or her possession to a designated public entity for adoption or other lawful disposition or provide proof to the court that the person no longer has possession, care, or control of any animals. In the event of the acquittal or final discharge without conviction of the person charged, if the animal is still impounded, the animal has not been previously deemed abandoned pursuant to subdivision (h), the court has not ordered that the animal be forfeited pursuant to subdivision (k), the court shall, on demand, direct the release of seized or impounded animals to the defendant upon a showing of proof of ownership.*
- (3) Any questions regarding ownership shall be determined in a separate hearing by the court where the criminal case was finally adjudicated and the court shall hear testimony from any persons who may assist the court in determining ownership of the animal. If the owner is determined to be unknown or the owner is prohibited or unable to retain possession of the animals for any reason, the court shall order the animals to be released to the appropriate public entity for adoption or other lawful disposition. This section is not intended to cause the release of any animal, bird, reptile, amphibian, or fish seized or impounded pursuant to any other statute, ordinance, or municipal regulation. This section shall not prohibit the seizure or impoundment of animals as evidence as provided for under any other provision of law.
- (m) It shall be the duty of all peace officers, humane society officers, and animal control officers to use all currently acceptable methods of identification, both electronic and otherwise, to determine the lawful owner or caretaker of any seized or impounded animal. It shall also be their duty to make reasonable efforts to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal and, upon the owner's and caretaker's initiation of recovery procedures, retain custody of the animal for a reasonable period of time to allow for completion of the recovery process. Efforts to locate or contact the owner or caretaker

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and communications with persons claiming to be the owner or caretaker shall be recorded and maintained and be made available for public inspection.

### CAL. PENAL CODE § 597.9. Mandatory ownership prohibition.

- (a) *Except as provided in subdivision (c) or (d), any person who has been convicted of a misdemeanor violation of subdivision (a) or (b) of Section 597, or Section 597a, 597b, 597h, 597j, 597s, or 597.1, and who, within five years after the conviction, owns, possesses, maintains, has custody of, resides with, or cares for any animal is guilty of a public offense, punishable by a fine of one thousand dollars (\$1,000).*
- (b) *Except as provided in subdivision (c) or (d), any person who has been convicted of a felony violation of subdivision (a) or (b) of Section 597, or Section 597b or 597.5, and who, within 10 years after the conviction, owns, possesses, maintains, has custody of, resides with, or cares for any animal is guilty of a public offense, punishable by a fine of one thousand dollars (\$1,000).*
- (c)
  - (1) *In cases of owners of livestock, as defined in Section 14205 of the Food and Agricultural Code, a court may, in the interest of justice, exempt a defendant from the injunction required under subdivision (a) or (b), as it would apply to livestock, if the defendant files a petition with the court to establish, and does establish by a preponderance of the evidence, that the imposition of the provisions of this section would result in substantial or undue economic hardship to the defendant's livelihood and that the defendant has the ability to properly care for all livestock in his or her possession.*
  - (2) *Upon receipt of a petition from the defendant, the court shall set a hearing to be conducted within 30 days after the filing of the petition. The petitioner shall serve a copy of the petition upon the prosecuting attorney 10 calendar days prior to the requested hearing. The court shall grant the petition for exemption from subdivision (a) or (b) unless the prosecuting attorney shows by a preponderance of the evidence that either or both of the criteria for exemption under this subdivision are untrue.*
- (d)
  - (1) *A defendant may petition the court to reduce the duration of the mandatory ownership prohibition. Upon receipt of a petition from the defendant, the court shall set a hearing to be conducted within 30 days after the filing of the petition. The petitioner shall serve a copy of the petition upon the prosecuting attorney 10 calendar days prior to the requested hearing. At the hearing, the petitioner shall have the burden of establishing by a preponderance of the evidence all of the following:*
    - (A) *He or she does not present a danger to animals.*
    - (B) *He or she has the ability to properly care for all animals in his or her possession.*



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- (C) *He or she has successfully completed all classes or counseling ordered by the court.*
- (2) *If the petitioner has met his or her burden, the court may reduce the mandatory ownership prohibition and may order that the defendant comply with reasonable and unannounced inspections by animal control agencies or law enforcement.*
- (e) *An animal shelter administered by a public animal control agency, a humane society, or any society for the prevention of cruelty to animals, and an animal rescue or animal adoption organization may ask an individual who is attempting to adopt an animal from that entity whether he or she is prohibited from owning, possessing, maintaining, having custody of, or residing with an animal pursuant to this section.*

### **CAL. PENAL CODE § 599aa. Seizure of fighting animals and birds, paraphernalia, etc.; affidavit of officer; custody of seized property; forfeiture and destruction or redelivery.**

- (a) *Any authorized officer making an arrest under Section 597.5 shall, and any authorized officer making an arrest under Section 597b, 597c, 597j, or 599a may, lawfully take possession of all birds or animals and all paraphernalia, implements, or other property or things used or employed, or about to be employed, in the violation of any of the provisions of this code relating to the fighting of birds or animals that can be used in animal or bird fighting, in training animals or birds to fight, or to inflict pain or cruelty upon animals or birds with respect to animal or bird fighting.*
- (b) *Upon taking possession, the officer shall inventory the items seized and question the persons present as to the identity of the owner or owners of the items. The inventory list shall identify the location where the items were seized, the names of the persons from whom the property was seized, and the names of any known owners of the property. Any person claiming ownership or possession of any item shall be provided with a signed copy of the inventory list, which shall identify the seizing officer and his or her employing agency. If no person claims ownership or possession of the items, a copy of the inventory list shall be left at the location from which the items were seized.*
- (c) *The officer shall file with the magistrate before whom the complaint against the arrested person is made, a copy of the inventory list and an affidavit stating the affiant's basis for his or her belief that the property and items taken were in violation of this code. On receipt of the affidavit, the magistrate shall order the items seized to be held until the final disposition of any charges filed in the case subject to subdivision (e).*
- (d) *All animals and birds seized shall, at the discretion of the seizing officer, be taken promptly to an appropriate animal storage facility. For purposes of this subdivision, an appropriate animal storage facility is one in which the animals or birds may be stored humanely. However, if an appropriate animal storage facility is not available, the officer may cause the animals or birds used in committing or possessed for the purpose of the alleged offenses to remain at the location at which they were found. In determining whether it is more humane to leave the animals or birds at the location at which they were found than to take the animals or birds to an animal storage facility, the officer*



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*shall, at a minimum, consider the difficulty of transporting the animals or birds and the adequacy of the available animal storage facility. When the officer does not seize and transport all animals or birds to a storage facility, he or she shall do both of the following:*

- (3) *Seize a representative sample of animals or birds for evidentiary purposes from the animals or birds found at the site of the alleged offenses. The animals or birds seized as a representative sample shall be transported to an appropriate animal storage facility.*
  - (4) *Cause all animals or birds used in committing or possessed for the purpose of the alleged offenses to be banded, tagged, or marked by microchip, and photographed or video recorded for evidentiary purposes.*
- (e)
- (3) *If ownership of the seized animals or birds cannot be determined after reasonable efforts, the officer or other person named and designated in the order as custodian of the animals or birds may, after holding the animals and birds for a period of not less than 10 days, petition the magistrate for permission to humanely destroy or otherwise dispose of the animals or birds. The petition shall be published for three successive days in a newspaper of general circulation. The magistrate shall hold a hearing on the petition not less than 10 days after seizure of the animals or birds, after which he or she may order the animals or birds to be humanely destroyed or otherwise disposed of, or to be retained by the officer or person with custody until the conviction or final discharge of the arrested person. No animal or bird may be destroyed or otherwise disposed of until four days after the order.*
  - (4) *Paragraph (1) shall apply only to those animals and birds seized under any of the following circumstances:*
    - (A) *After having been used in violation of any of the provisions of this code relating to the fighting of birds or animals.*
    - (B) *At the scene or site of a violation of any of the provisions of this code relating to the fighting of birds or animals.*

*Upon the conviction of the arrested person, all property seized shall be adjudged by the court to be forfeited and shall then be destroyed or otherwise disposed of as the court may order. Upon the conviction of the arrested person, the court may order the person to make payment to the appropriate public entity for the costs incurred in the housing, care, feeding, and treatment of the animals or birds. Each person convicted in connection with a particular animal or bird, excluding any person convicted as a spectator pursuant to Section 597b or 597c, or subdivision (b) of Section 597.5, may be held jointly and severally liable for restitution pursuant to this subdivision. This payment shall be in addition to any other fine or other sentence ordered by the court. The court shall specify in the order that the public entity shall not enforce the order until the defendant satisfies all other outstanding fines, penalties, assessments, restitution fines, and restitution orders. The court may relieve any convicted person of the obligation to make payment pursuant to this subdivision for good cause but shall state the reasons for that decision*

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*in the record. In the event of the acquittal or final discharge without conviction of the arrested person, the court shall, on demand, direct the delivery of the property held in custody to the owner. If the owner is unknown, the court shall order the animals or birds to be humanely destroyed or otherwise disposed of.*

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### 15. COURT-ORDERED TREATMENT

#### CAL. PENAL CODE § 597. Cruelty to animals.

- (a) Except as provided in subdivision (c) of this section or Section 599c, every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of a crime punishable pursuant to subdivision (d).
- (b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for each offense, guilty of a crime punishable pursuant to subdivision (d).
- (c) Every person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish, as described in subdivision (e), is guilty of a crime punishable pursuant to subdivision (d).
- (d) A violation of subdivision (a), (b), or (c) is punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars (\$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 twenty thousand dollars (\$20,000), or by both that fine and imprisonment.
- (e) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:
  - (1) Endangered species or threatened species as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.
  - (2) Fully protected birds described in Section 3511 of the Fish and Game Code.
  - (3) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.
  - (4) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.
  - (5) Fully protected fish as described in Section 5515 of the Fish and Game Code.
 This subdivision does not supersede or affect any provisions of law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.

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- (f) For the purposes of subdivision (c), each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subdivision (e) is a separate offense. If any person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.
- (g)
- (1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.
  - (2) Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.
- (h) *Notwithstanding any other provision of law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 9 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. This provision specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment pursuant to subdivision (h) of Section 1170 or county jail when that sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering custody. This subdivision shall not apply to cases involving police dogs or horses as described in Section 600.*

**ANIMAL PROTECTION LAWS OF CALIFORNIA****16. HOT CARS****CAL. CIV. CODE §43.100. Personal rights.**

- (a) There shall not be any civil liability on the part of, and no cause of action shall accrue against, a person for property damage or trespass to a motor vehicle, if the damage was caused while the person was rescuing an animal in accordance with subdivision (b) of Section 597.7 of the Penal Code.
- (b) The immunity from civil liability for property damage to a motor vehicle that is established by subdivision (a) does not affect a person's civil liability or immunity from civil liability for rendering aid to an animal.

**CAL. PENAL CODE § 597.7. Animal endangerment; confinement in unattended motor vehicle; violations and penalties.**

- (a) A person shall not leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.
- (b)
  - (1) This section does not prevent a person from taking reasonable steps that are necessary to remove an animal from a motor vehicle if the person holds a reasonable belief that the animal's safety is in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.
  - (2) A person who removes an animal from a vehicle in accordance with paragraph (1) is not criminally liable for actions taken reasonably and in good faith if the person does all of the following:
    - i. Determines the vehicle is locked or there is otherwise no reasonable manner for the animal to be removed from the vehicle.
    - ii. Has a good faith belief that forcible entry into the vehicle is necessary because the animal is in imminent danger of suffering harm if it is not immediately removed from the vehicle, and, based upon the circumstances known to the person at the time, the belief is a reasonable one.
    - iii. Has contacted a local law enforcement agency, the fire department, animal control, or the "911" emergency service prior to forcibly entering the vehicle.
    - iv. Remains with the animal in a safe location, out of the elements but reasonably close to the vehicle, until a peace officer, humane officer, animal control officer, or another emergency responder arrives.

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- v. Used no more force to enter the vehicle and remove the animal from the vehicle than was necessary under the circumstances.
  - vi. Immediately turns the animal over to a representative from law enforcement, animal control, or another emergency responder who responds to the scene.
- (c) Unless the animal suffers great bodily injury, a first conviction for violation of this section is punishable by a fine not exceeding one hundred dollars (\$100) per animal. If the animal suffers great bodily injury, a violation of this section is punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment. Any subsequent violation of this section, regardless of injury to the animal, is also punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment.
- (d)
- (1) This section does not prevent a peace officer, firefighter, humane officer, animal control officer, or other emergency responder from removing an animal from a motor vehicle if the animal's safety appears to be in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.
  - (2) A peace officer, firefighter, humane officer, animal control officer, or other emergency responder who removes an animal from a motor vehicle, or who takes possession of an animal that has been removed from a motor vehicle, shall take it to an animal shelter or other place of safekeeping or, if the officer deems necessary, to a veterinary hospital for treatment. The owner of the animal removed from the vehicle may be required to pay for charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.
  - (3) A peace officer, firefighter, humane officer, animal control officer, or other emergency responder is authorized to take all steps that are reasonably necessary for the removal of an animal from a motor vehicle, including, but not limited to, breaking into the motor vehicle, after a reasonable effort to locate the owner or other person responsible.
  - (4) A peace officer, firefighter, humane officer, animal control officer, or other emergency responder who removes an animal from a motor vehicle or who receives an animal rescued from a vehicle from another person shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. The animal may be claimed by the owner only after payment of all charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.

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- (5) Except as provided in subdivision (b), this section does not affect in any way existing liabilities or immunities in current law, or create any new immunities or liabilities.
- (e) Nothing in this section shall preclude prosecution under both this section and Section 597 or any other provision of law, including city or county ordinances.
- (f) Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, pigs, sheep, poultry, or other agricultural animals in motor vehicles designed to transport such animals for agricultural purposes



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**ANIMAL PROTECTION LAWS OF CALIFORNIA****17. CIVIL NUISANCE ABATEMENT****CAL. CIV. CODE § 3482.8. Property used for dogfighting or cockfighting is a public nuisance.**

Any building or property used for the purpose of willfully conducting dogfighting in violation of Section 597.5 of the Penal Code or cockfighting in violation of subdivision (b) of Section 597b of the Penal Code is a public nuisance.

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**18. AG-GAG LAWS**

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**ANIMAL PROTECTION LAWS OF CALIFORNIA****19. BREED SPECIFIC LEGISLATION****Cal. Food & Agric. Code § 31683. Local programs.**

Nothing in this chapter shall be construed to prevent a city or county from adopting or enforcing its own program for the control of potentially dangerous or vicious dogs that may incorporate all, part, or none of this chapter, or that may punish a violation of this chapter as a misdemeanor or may impose a more restrictive program to control potentially dangerous or vicious dogs. Except as provided in Section 122331 of the Health and Safety Code, no program regulating any dog shall be specific as to breed.

**Cal. Health & Safety Code § 122331. Local regulation of spay/neuter programs and breeding requirements; statistical effect on dog bites**

- (a) *Cities and counties may enact dog breed-specific ordinances pertaining only to mandatory spay or neuter programs and breeding requirements, provided that no specific dog breed, or mixed dog breed, shall be declared potentially dangerous or vicious under those ordinances.*
- (b) Jurisdictions that implement programs described in subdivision (a) shall measure the effect of those programs by compiling statistical information on dog bites. The information shall, at a minimum, identify dog bites by severity, the breed of the dog involved, whether the dog was altered, and whether the breed of dog was subject to a program established pursuant to subdivision (a). These statistics shall be submitted quarterly to the State Public Health Veterinarian.