
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 2774 **Hearing Date:** June 12, 2018
Author: Limón
Version: June 6, 2018
Urgency: No **Fiscal:** No
Consultant: EC

Subject: *Municipal Animal Shelters: Adoption Application: Crimes*

HISTORY

Source: Author

Prior Legislation: AB 485 (O'Donnell), Chapter 740, Statutes of 2017
AB 243 (Nava), 2010, vetoed by the Governor

Support: California District Attorneys Association; Santa Barbara Women's
Political Committee

Opposition: None known

Assembly Floor Vote: 75 - 0

PURPOSE

The purpose of this bill is to authorize an animal shelter, humane society, society for the prevention of cruelty to animals, animal rescue, or animal adoption organization to ask an individual who is attempting to adopt an animal if they are prohibited from owning or possessing an animal based on a violation of animal cruelty.

Existing law makes any 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 by an alternative felony/misdemeanor. (Pen. Code, § 597, subd. (a).)

Existing law makes any 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, guilty of a crime punishable by an alternative felony/misdemeanor. (Pen. Code, § 597.9, subd. (b).)

Existing law states that a person who has been convicted of a misdemeanor violation 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. (Pen. Code, § 597.9, subd. (a).)

Existing law makes any person guilty of a felony if a person owns, possesses, keeps, or trains any dog, with the intent that the dog shall be engaged in an exhibition of fighting with another dog. (Pen. Code, § 597.5, subd. (a)(1).)

Existing law makes any person guilty of a felony if a person, for amusement or gain, causes any dog to fight with another dog, or causes any dogs to injure each other. (Pen. Code. § 597.5, subd. (a)(2).)

Existing law states that a person who has been convicted of a felony violation 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. (Pen. Code §, subd. (b).)

Existing law states that individuals who own livestock or petition the court may reduce the duration of the mandatory ownership prohibition after being convicted of a misdemeanor or felony violation for animal abuse. (Pen. Code , § 597.9, subd. (c) & (d).)

This bill states that an animal shelter administered by a public animal control agency, humane society, any society for the prevention of cruelty to animals, an animal rescue, or animal adoption organization may ask an individual who is attempting to adopt an animal from that facility whether they are prohibited from owning or possessing an animal due to animal abuse related misdemeanor or felony violations.

COMMENTS

1. Need for This Bill

The author states:

In California, existing law prohibits persons convicted of certain animal abuse crimes from owning or caring for an animal for a specified period of time – five years for a misdemeanor conviction and 10 years for a felony conviction. However, existing law provides no method of monitoring to ensure that this prohibition is enforced.

Typical misdemeanor probationary periods, if probation is granted, only apply for three years and current law does not permit probation to monitor a person convicted of a felony offense for 10 years. Accordingly, the only currently available method of enforcing existing law is self-reporting on the part of an offender, which would subject them to substantial financial penalties.

No legitimate mechanism exists to enforce this post-conviction no contact ban. This bill aims to help prevent animals from being adopted by people previously convicted of animal abuse by making it clear in statute that animal control agencies, animal shelters, animal adoption centers, and animal rescue groups can ask a person seeking to adopt an animal, whether they are legally prohibited from owning or caring for a pet based upon existing prohibitions.

2. Animal Abuse

Individuals convicted of animal cruelty, who then own, live with, or care for an animal within five years of their misdemeanor violation, are guilty of an offense punishable by a \$1,000 fine. (Pen. Code, § 597.9, subd. (a).) Those who are convicted of a felony violation of animal cruelty,

who then own, live with, or care for an animal within ten years of their crime, are guilty of an offense punishable by a \$1,000 fine. (Pen. Code §, subd. (b).)

3. Adoption Policies

The general procedure for pet adoption at a municipal animal shelter is as follows: taking an initial survey, visiting the shelter, filling out the adoption form, providing a valid form of government-issued identification with a photo, and paying the adoption fee.¹ From the documents published online, the initial survey and the adoption form do not include questions about prior animal abuse convictions.² Thus, those with criminal convictions for animal cruelty are able to adopt pets because there is no mechanism in municipal animal shelters to identify a person convicted of these crimes.

As noted in the author statement, this bill also affects animal control agencies and animal rescue groups. The Association of Shelter Veterinarians state that animal control facilities are usually governmentally operated at the city or county level, or through joint powers of authority between two or more municipalities.³

This bill helps prevent animals from being adopted by individuals previously convicted of animal abuse. AB 2774 allows municipal animal shelters to ask a person if they are prohibited from owning a pet during the pet adoption process.

3. Current Legislation

In this legislative session, Assemblymember Nazarian introduced AB 3040 which makes sexual contact with any animal a misdemeanor and authorizes the seizure of the animal used in the violation. As it pertains to this bill, Nazarian's AB 3040 also makes it a misdemeanor for a person convicted a certain animal abuse crimes to own, possess, maintain, and care for, reside with, or have custody of an animal for a specified period after conviction.

Senator Wilk introduced SB 1024 this session which deletes the requirement that a defendant complete counseling when they are granted probation for committing specified offenses against animals. Instead, the bill requires the court to consider requiring defendants to undergo a mandatory mental health evaluation by an evaluator of the court when they are granted probation for those specified offenses.

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¹ "Adopt a Pet | Los Angeles Animal Services," accessed May 8, 2018, <http://www.laanimalservices.com/adopt/adoption-fees/>.

² "Adoption Process," accessed May 8, 2018, <http://www.animalcare.saccounty.net/Adoption/Pages/AdoptionProcess.aspx>.

³ "Shelter Terminology" (Association of Shelter Veterinarians, February 2017).