

File No. 180433

Committee Item No. _____

Board Item No. 18

COMMITTEE/BOARD OF SUPERVISORS

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Board of Supervisors Meeting

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Prepared by: Jocelyn Wong
Prepared by: _____

Date: April 26, 2018
Date: _____

1 [Declaring Support for California State Senate Bill 1024 (Wilk) - Animal Welfare and Violence
2 Intervention Act of 2018]

3 **Resolution declaring support for California State Senate Bill 1024 (SB1024), the Animal**
4 **Welfare and Violence Prevention Act of 2018, authored by Senator Scott Wilk,**
5 **mandating defendants convicted of specified animal cruelty offenses to undergo**
6 **mental health evaluation, humane education courses, and, if deemed necessary by the**
7 **mental health professional, to undergo mandatory counseling.**

8
9 WHEREAS, Animal cruelty and abuse are serious crimes which can be injurious or
10 fatal for animals of all kinds and violence against animals has been found to be a predictor for
11 many people who later commit acts of violence against humans, including domestic violence,
12 child abuse, elder abuse or more heinous acts; and

13 WHEREAS, In 2016, the FBI starting tracking incidents of animal abuse as part of its
14 National Incident-Based Reporting System in light of documentation that animal cruelty can be
15 a harbinger for future violent crime against humans; and

16 WHEREAS, Individuals who mistreat, abuse, or kill domestic animals or wildlife often
17 extend that behavior to humans in the form of domestic violence, child abuse, and in certain
18 cases, murder; and

19 WHEREAS, 90 percent of the perpetrators of school shootings have had a history of
20 cruelty to animals, according to a study published in 2014 by Eric Madfis of the University of
21 Washington Tacoma and Arnold Arluke of Northeastern University; and

22 WHEREAS, Nikolas Cruz, the perpetrator of the February 14 shooting in Parkland,
23 Florida that took the lives of 17 students and faculty after having previously tortured and killed
24 squirrels, chickens and toads and tormented rabbits, dogs and pigs is only the most recent
25 highly visible example of this connection; and

1 WHEREAS, California State Penal Code Section 597 includes the current statutes
2 dealing with these crimes and specifying punishments including fines, jail time, probation,
3 forced animal surrender and, in the case of certain specified cases of animal cruelty, in the
4 instances when a defendant is granted probation, counseling designed to evaluate and treat
5 behavior or conduct disorders; and

6 WHEREAS, The link between animal abuse and future violence can be weakened by
7 early intervention with mental health services and education; and

8 WHEREAS, Law enforcement and human behavioral professionals alike have stated
9 that the perpetrators of crimes against animals not only deserve stiff punishment but also
10 need to have the underlying causes of their criminality examined and addressed; and

11 WHEREAS, Legislation is needed to address the concerns of the law enforcement,
12 mental health and animal welfare communities that current penalties are neither restorative
13 nor rehabilitative and that they do not sufficiently address the root causes of these crimes, nor
14 do they adequately reduce recidivism among offenders or the potential for escalation of
15 violent behavior by those offenders; and

16 WHEREAS, California State Senate Bill 1024 (SB1024), authored by Senator Scott
17 Wilk, focuses on retaining and enhancing appropriate punishments while adding provisions to
18 the California State Penal Code requiring convicted offenders under animal abuse statutes to
19 complete approved animal abuse education course; and

20 WHEREAS, SB1024 also requires that defendants convicted of specified animal abuse
21 or cruelty offenses with potential underlying psychological causes undergo a mental health
22 evaluation and, if deemed beneficial per the evaluation, ongoing up to one year of therapy
23 from a mental health professional; and

24 WHEREAS, The bill allows for an increase in fines levied for convictions to support the
25 state's costs relating to its provisions; now, therefore, be it

1 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
2 supports SB1024 as a strategy to reduce rates of recidivism among animal cruelty offenders
3 and prevent future acts of violence against animals and humans; and be it

4 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
5 Francisco urges our local delegation who represent San Francisco in the State Legislature to
6 support SB1024 - the Animal Welfare and Violence Intervention Act of 2018 - and further
7 urges the California State Legislature and Governor Jerry Brown to sign SB1024 into law; and
8 be it

9 FURTHER RESOLVED, That the Clerk of the Board be directed to send a copy of this
10 resolution to the office of Senator Scott Wilk; Senator Nancy Skinner and Assembly Member
11 Reginald Byron Jones-Sawyer, Sr., Chairs of the Senate and Assembly Public Safety
12 Committee Assembly; and Governor Jerry Brown.

AMENDED IN SENATE APRIL 2, 2018

SENATE BILL

No. 1024

Introduced by Senator Wilk

February 7, 2018

An act to amend ~~Section 597~~ of Sections 286.5, 596, 597, 597.1, 597f, and 600 of, and to add Sections 600.7 and 600.8 to, the Penal Code, relating to animal abuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 1024, as amended, Wilk. Animal ~~abuse~~: *abuse: responsible animal owner course: mandatory counseling.*

Existing law makes it a crime to maliciously and intentionally maim, mutilate, torture, wound, or kill a living animal. If a defendant is granted probation for a conviction under this provision, existing law requires the court to order the defendant to complete counseling designed to evaluate and treat behavior or conduct disorders.

~~This bill would make technical, nonsubstantive changes to these provisions:~~

This bill would delete the requirement that a defendant granted probation complete counseling and would instead require a defendant convicted of specified offenses against animals to undergo a mandatory mental health evaluation. The bill would require the defendant to undergo mandatory counseling if the mental health professional conducting the evaluation deems it necessary. The bill would require termination of any diversion program, probation, mandatory supervision, or postrelease community supervision for a failure to complete these requirements.

The bill would require a defendant convicted of specified offenses against animals to be ordered to complete a responsible animal owner

education course. The bill would require the State Department of Health Care Services to certify the course, as provided. The bill would require the course to, among other things, consist of 5 instructional hours on specified subjects and test the participant's mastery of the course.

The bill would increase the fines associated with specified offenses against animals, as provided.

By increasing the punishment for a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. This act shall be known, and may be cited, as the
2 Animal Cruelty and Violence Intervention Act of 2018.

3 SEC. 2. Section 286.5 of the Penal Code is amended to read:
4 286.5. Any person who sexually assaults any animal protected
5 by Section 597f for the purpose of arousing or gratifying the sexual
6 desire of the person is guilty of a ~~misdemeanor~~: *misdemeanor*,
7 punishable by imprisonment in a county jail not exceeding six
8 months, by a fine not exceeding two thousand dollars (\$2,000), or
9 by both that fine and imprisonment.

10 SEC. 3. Section 596 of the Penal Code is amended to read:
11 596. (a) Every person who, without the consent of the owner,
12 wilfully administers poison to any animal, the property of another,
13 or exposes any poisonous substance, with the intent that the same
14 shall be taken or swallowed by any such animal, is guilty of a
15 ~~misdemeanor~~: *misdemeanor*, punishable by imprisonment in a
16 county jail not exceeding six months, by a fine not exceeding two
17 thousand dollars (\$2,000), or by both that fine and imprisonment.

18 However,
19 (b) However, the provisions of this section shall not apply in
20 the case of a person who exposes poisonous substances upon
21 premises or property owned or controlled by him or her for the

1 purpose of controlling or destroying predatory animals or
2 livestock-killing dogs and if, prior to or during the placing out of
3 ~~such~~ *the* poisonous substances, he *or she* shall have posted upon
4 the property conspicuous signs located at intervals of distance not
5 greater than one-third of a mile apart, and in any case not less than
6 three ~~such~~ signs having words with letters at least one inch high
7 reading "Warning—Poisoned bait placed out on these premises,"
8 which signs shall be kept in place until the poisonous substances
9 have been removed. Whenever ~~such~~ *these* signs have been
10 conspicuously located upon the property or premises owned or
11 controlled by him ~~as hereinabove provided, such or her as required~~
12 *by this section, that* person shall not be charged with any civil
13 liability to another party in the event that any domestic animal
14 belonging to ~~such~~ *that* party becomes injured or killed by
15 trespassing or partaking of the poisonous substance or substances
16 so placed.

17 SECTION 1.

18 SEC. 4. Section 597 of the Penal Code is amended to read:

19 597. (a) Except as provided in subdivision (c) of this section
20 or Section 599c, every person who maliciously and intentionally
21 maims, mutilates, tortures, or wounds a living animal, or
22 maliciously and intentionally kills an animal, is guilty of a crime
23 punishable pursuant to subdivision (d).

24 (b) Except as otherwise provided in subdivision (a) or (c), every
25 person who overdrives, overloads, drives when overloaded,
26 overworks, tortures, torments, deprives of necessary sustenance,
27 drink, or shelter, cruelly beats, mutilates, or cruelly kills an animal,
28 or causes or procures an animal to be so overdriven, overloaded,
29 driven when overloaded, overworked, tortured, tormented, deprived
30 of necessary sustenance; drink, shelter, or to be cruelly beaten,
31 mutilated, or cruelly killed; and whoever, having the charge or
32 custody of an animal, either as owner or otherwise, subjects an
33 animal to needless suffering, or inflicts unnecessary cruelty upon
34 the animal, or in any manner abuses an animal, or fails to provide
35 the animal with proper food, drink, or shelter, or protection from
36 the weather, or who drives, rides, or otherwise uses the animal
37 when unfit for labor, is, for each offense, guilty of a crime
38 punishable pursuant to subdivision (d).

39 (c) Every person who maliciously and intentionally maims,
40 mutilates, or tortures a mammal, bird, reptile, amphibian, or fish,

1 as described in subdivision (e), is guilty of a crime punishable
2 pursuant to subdivision (d).

3 (d) A violation of subdivision (a), (b), or (c) is punishable as a
4 felony by imprisonment pursuant to subdivision (h) of Section
5 1170, or by a fine of not more than twenty thousand dollars
6 (\$20,000), or by both that fine and imprisonment, or alternatively,
7 as a misdemeanor by imprisonment in a county jail for not more
8 than one year, or by a fine of not more than twenty thousand dollars
9 (\$20,000), or by both that fine and imprisonment.

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

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

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

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

20 (D) Fully protected reptiles and amphibians described in Chapter
21 2 (commencing with Section 5050) of Division 5 of the Fish and
22 Game Code.

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

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

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

34 (g) (1) Upon the conviction of a person charged with a violation
35 of this section by causing or permitting an act of cruelty, as defined
36 in Section 599b, all animals lawfully seized and impounded with
37 respect to the violation by a peace officer, officer of a humane
38 society, or officer of a pound or animal regulation department of
39 a public agency shall be adjudged by the court to be forfeited and
40 shall thereupon be awarded to the impounding officer for proper

1 disposition. A person convicted of a violation of this section by
2 causing or permitting an act of cruelty, as defined in Section 599b,
3 shall be liable to the impounding officer for all costs of
4 impoundment from the time of seizure to the time of proper
5 disposition.

6 (2) Mandatory seizure or impoundment shall not apply to
7 animals in properly conducted scientific experiments or
8 investigations performed under the authority of the faculty of a
9 regularly incorporated medical college or university of this state.

10 ~~(h) Notwithstanding any other law, if a defendant is granted
11 probation for a conviction under this section, the court shall order
12 the defendant to pay for, and successfully complete, counseling,
13 as determined by the court, designed to evaluate and treat behavior
14 or conduct disorders. If the court finds that the defendant is
15 financially unable to pay for that counseling, the court may develop
16 a sliding fee schedule based upon the defendant's ability to pay.
17 An indigent defendant may negotiate a deferred payment schedule,
18 but shall pay a nominal fee if the defendant has the ability to pay
19 the nominal fee. County mental health departments or Medi-Cal
20 shall be responsible for the costs of counseling required by this
21 section only for those persons who meet the medical necessity
22 criteria for mental health managed care pursuant to Section
23 1830.205 of Title 9 of the California Code of Regulations or the
24 targeted population criteria specified in Section 5600.3 of the
25 Welfare and Institutions Code. The counseling specified in this
26 subdivision shall be in addition to any other terms and conditions
27 of probation, including any term of imprisonment and any fine.
28 This provision specifies a mandatory additional term of probation
29 and is not to be utilized as an alternative in lieu of imprisonment
30 pursuant to subdivision (h) of Section 1170 or county jail when
31 that sentence is otherwise appropriate. If the court does not order
32 custody as a condition of probation for a conviction under this
33 section, the court shall specify on the court record the reason or
34 reasons for not ordering custody. This subdivision shall not apply
35 to cases involving police dogs or horses as described in Section
36 600.~~

37 *SEC. 5. Section 597.1 of the Penal Code is amended to read:*

38 597.1: (a) (1) Every owner, driver, or keeper of any animal
39 who permits the animal to be in any building, enclosure, lane,
40 street, square, or lot of any city, county, city and county, or judicial

1 district without proper care and attention is guilty of a
2 ~~misdemeanor~~. *misdemeanor, punishable by imprisonment in a*
3 *county jail not exceeding six months, by a fine not to exceed two*
4 *thousand dollars (\$2,000), or by both that fine and imprisonment.*

5 Any peace officer, humane society officer, or animal control officer
6 shall take possession of the stray or abandoned animal and shall
7 provide care and treatment for the animal until the animal is
8 deemed to be in suitable condition to be returned to the owner.

9 When the officer has reasonable grounds to believe that very
10 prompt action is required to protect the health or safety of the
11 animal or the health or safety of others, the officer shall
12 immediately seize the animal and comply with subdivision (f). In
13 all other cases, the officer shall comply with the provisions of
14 subdivision (g). The full cost of caring for and treating any animal
15 properly seized under this subdivision or pursuant to a search
16 warrant shall constitute a lien on the animal and the animal shall
17 not be returned to its owner until the charges are paid, if the seizure
18 is upheld pursuant to this section.

19 (2) Notwithstanding any other law, if an animal control officer
20 or humane officer, when necessary to protect the health and safety
21 of a wild, stray, or abandoned animal or the health and safety of
22 others, seeks to administer a tranquilizer that contains a controlled
23 substance, as defined in Division 10 (commencing with Section
24 11000) of the Health and Safety Code, to gain control of that
25 animal, he or she may possess and administer that tranquilizer with
26 direct or indirect supervision as determined by a licensed
27 veterinarian, provided that the officer has met each of the following
28 requirements:

29 (A) Has received training in the administration of tranquilizers
30 from a licensed veterinarian. The training shall be approved by
31 the California Veterinary Medical Board.

32 (B) Has successfully completed the firearms component of a
33 course relating to the exercise of police powers, as set forth in
34 Section 832.

35 (C) Is authorized by his or her agency or organization to possess
36 and administer the tranquilizer in accordance with a policy
37 established by the agency or organization and approved by the
38 veterinarian who obtained the controlled substance.

39 (D) Has successfully completed the euthanasia training set forth
40 in Section 2039 of Title 16 of the California Code of Regulations.

1 (E) Has completed a state and federal fingerprinting background
2 check and does not have any drug- or alcohol-related convictions.

3 (b) Every sick, disabled, infirm, or crippled animal, except a
4 dog or cat, that is abandoned in any city, county, city and county,
5 or judicial district may be killed by the officer if, after a reasonable
6 search, no owner of the animal can be found. It shall be the duty
7 of all peace officers, humane society officers, and animal control
8 officers to cause the animal to be killed or rehabilitated and placed
9 in a suitable home on information that the animal is stray or
10 abandoned. The officer may likewise take charge of any animal,
11 including a dog or cat, that by reason of lameness, sickness,
12 feebleness, or neglect, is unfit for the labor it is performing, or that
13 in any other manner is being cruelly treated, and provide care and
14 treatment for the animal until it is deemed to be in a suitable
15 condition to be returned to the owner. When the officer has
16 reasonable grounds to believe that very prompt action is required
17 to protect the health or safety of an animal or the health or safety
18 of others, the officer shall immediately seize the animal and comply
19 with subdivision (f). In all other cases, the officer shall comply
20 with subdivision (g). The full cost of caring for and treating any
21 animal properly seized under this subdivision or pursuant to a
22 search warrant shall constitute a lien on the animal and the animal
23 shall not be returned to its owner until the charges are paid.

24 (c) (1) Any peace officer, humane society officer, or animal
25 control officer shall convey all injured cats and dogs found without
26 their owners in a public place directly to a veterinarian known by
27 the officer to be a veterinarian who ordinarily treats dogs and cats
28 for a determination of whether the animal shall be immediately
29 and humanely destroyed or shall be hospitalized under proper care
30 and given emergency treatment.

31 (2) If the owner does not redeem the animal within the locally
32 prescribed waiting period, the veterinarian may personally perform
33 euthanasia on the animal. If the animal is treated and recovers from
34 its injuries, the veterinarian may keep the animal for purposes of
35 adoption, provided the responsible animal control agency has first
36 been contacted and has refused to take possession of the animal.

37 (3) Whenever any animal is transferred to a veterinarian in a
38 clinic, such as an emergency clinic that is not in continuous
39 operation, the veterinarian may, in turn, transfer the animal to an
40 appropriate facility.

1 (4) If the veterinarian determines that the animal shall be
2 hospitalized under proper care and given emergency treatment,
3 the costs of any services that are provided pending the owner's
4 inquiry to the responsible agency, department, or society shall be
5 paid from the dog license fees, fines, and fees for impounding dogs
6 in the city, county, or city and county in which the animal was
7 licensed or, if the animal is unlicensed, shall be paid by the
8 jurisdiction in which the animal was found, subject to the provision
9 that this cost be repaid by the animal's owner. The full cost of
10 caring for and treating any animal seized under this subdivision
11 shall constitute a lien on the animal and the animal shall not be
12 returned to the owner until the charges are paid. No veterinarian
13 shall be criminally or civilly liable for any decision that he or she
14 makes or for services that he or she provides pursuant to this
15 subdivision.

16 (d) An animal control agency that takes possession of an animal
17 pursuant to subdivision (c) shall keep records of the whereabouts
18 of the animal from the time of possession to the end of the animal's
19 impoundment, and those records shall be available for inspection
20 by the public upon request for three years after the date the animal's
21 impoundment ended.

22 (e) Notwithstanding any other provision of this section, any
23 peace officer, humane society officer, or any animal control officer
24 may, with the approval of his or her immediate superior, humanely
25 destroy any stray or abandoned animal in the field in any case
26 where the animal is too severely injured to move or where a
27 veterinarian is not available and it would be more humane to
28 euthanize the animal.

29 (f) Whenever an officer authorized under this section seizes or
30 impounds an animal based on a reasonable belief that prompt action
31 is required to protect the health or safety of the animal or the health
32 or safety of others, the officer shall, prior to the commencement
33 of any criminal proceedings authorized by this section, provide
34 the owner or keeper of the animal, if known or ascertainable after
35 reasonable investigation, with the opportunity for a postseizure
36 hearing to determine the validity of the seizure or impoundment,
37 or both.

38 (1) The agency shall cause a notice to be affixed to a
39 conspicuous place where the animal was situated or personally
40 deliver a notice of the seizure or impoundment, or both, to the

1 owner or keeper within 48 hours, excluding weekends and holidays.
2 The notice shall include all of the following:

3 (A) The name, business address, and telephone number of the
4 officer providing the notice.

5 (B) A description of the animal seized, including any
6 identification upon the animal.

7 (C) The authority and purpose for the seizure or impoundment,
8 including the time, place, and circumstances under which the
9 animal was seized.

10 (D) A statement that, in order to receive a postseizure hearing,
11 the owner or person authorized to keep the animal, or his or her
12 agent, shall request the hearing by signing and returning an
13 enclosed declaration of ownership or right to keep the animal to
14 the agency providing the notice within 10 days, including weekends
15 and holidays, of the date of the notice. The declaration may be
16 returned by personal delivery or mail.

17 (E) A statement that the full cost of caring for and treating any
18 animal properly seized under this section is a lien on the animal
19 and that the animal shall not be returned to the owner until the
20 charges are paid, and that failure to request or to attend a scheduled
21 hearing shall result in liability for this cost.

22 (2) The postseizure hearing shall be conducted within 48 hours
23 of the request, excluding weekends and holidays. The seizing
24 agency may authorize its own officer or employee to conduct the
25 hearing if the hearing officer is not the same person who directed
26 the seizure or impoundment of the animal and is not junior in rank
27 to that person. The agency may utilize the services of a hearing
28 officer from outside the agency for the purposes of complying with
29 this section.

30 (3) Failure of the owner or keeper, or of his or her agent, to
31 request or to attend a scheduled hearing shall result in a forfeiture
32 of any right to a postseizure hearing or right to challenge his or
33 her liability for costs incurred.

34 (4) The agency, department, or society employing the person
35 who directed the seizure shall be responsible for the costs incurred
36 for caring and treating the animal, if it is determined in the
37 postseizure hearing that the seizing officer did not have reasonable
38 grounds to believe very prompt action, including seizure of the
39 animal, was required to protect the health or safety of the animal
40 or the health or safety of others. If it is determined the seizure was

1 justified, the owner or keeper shall be personally liable to the
2 seizing agency for the full cost of the seizure and care of the
3 animal. The charges for the seizure and care of the animal shall
4 be a lien on the animal. The animal shall not be returned to its
5 owner until the charges are paid and the owner demonstrates to
6 the satisfaction of the seizing agency or the hearing officer that
7 the owner can and will provide the necessary care for the animal.

8 (g) Where the need for immediate seizure is not present and
9 prior to the commencement of any criminal proceedings authorized
10 by this section, the agency shall provide the owner or keeper of
11 the animal, if known or ascertainable after reasonable investigation,
12 with the opportunity for a hearing prior to any seizure or
13 impoundment of the animal. The owner shall produce the animal
14 at the time of the hearing unless, prior to the hearing, the owner
15 has made arrangements with the agency to view the animal upon
16 request of the agency, or unless the owner can provide verification
17 that the animal was humanely destroyed. Any person who willfully
18 fails to produce the animal or provide the verification is guilty of
19 an infraction, punishable by a fine of not less than two hundred
20 fifty dollars (\$250) nor more than one thousand dollars (\$1,000).

21 (1) The agency shall cause a notice to be affixed to a
22 conspicuous place where the animal was situated or personally
23 deliver a notice stating the grounds for believing the animal should
24 be seized under subdivision (a) or (b). The notice shall include all
25 of the following:

26 (A) The name, business address, and telephone number of the
27 officer providing the notice.

28 (B) A description of the animal to be seized, including any
29 identification upon the animal.

30 (C) The authority and purpose for the possible seizure or
31 impoundment.

32 (D) A statement that, in order to receive a hearing prior to any
33 seizure, the owner or person authorized to keep the animal, or his
34 or her agent, shall request the hearing by signing and returning the
35 enclosed declaration of ownership or right to keep the animal to
36 the officer providing the notice within two days, excluding
37 weekends and holidays, of the date of the notice.

38 (E) A statement that the cost of caring for and treating any
39 animal properly seized under this section is a lien on the animal,
40 that any animal seized shall not be returned to the owner until the

1 charges are paid, and that failure to request or to attend a scheduled
2 hearing shall result in a conclusive determination that the animal
3 may properly be seized and that the owner shall be liable for the
4 charges.

5 (2) The preseizure hearing shall be conducted within 48 hours,
6 excluding weekends and holidays, after receipt of the request. The
7 seizing agency may authorize its own officer or employee to
8 conduct the hearing if the hearing officer is not the same person
9 who requests the seizure or impoundment of the animal and is not
10 junior in rank to that person. The agency may utilize the services
11 of a hearing officer from outside the agency for the purposes of
12 complying with this section.

13 (3) Failure of the owner or keeper, or his or her agent, to request
14 or to attend a scheduled hearing shall result in a forfeiture of any
15 right to a preseizure hearing or right to challenge his or her liability
16 for costs incurred pursuant to this section.

17 (4) The hearing officer, after the hearing, may affirm or deny
18 the owner's or keeper's right to custody of the animal and, if
19 reasonable grounds are established, may order the seizure or
20 impoundment of the animal for care and treatment.

21 (h) If any animal is properly seized under this section or pursuant
22 to a search warrant, the owner or keeper shall be personally liable
23 to the seizing agency for the cost of the seizure and care of the
24 animal. Further, if the charges for the seizure or impoundment and
25 any other charges permitted under this section are not paid within
26 14 days of the seizure, or if the owner, within 14 days of notice of
27 availability of the animal to be returned, fails to pay charges
28 permitted under this section and take possession of the animal, the
29 animal shall be deemed to have been abandoned and may be
30 disposed of by the seizing agency.

31 (i) If the animal requires veterinary care and the humane society
32 or public agency is not assured, within 14 days of the seizure of
33 the animal, that the owner will provide the necessary care, the
34 animal shall not be returned to its owner and shall be deemed to
35 have been abandoned and may be disposed of by the seizing
36 agency. A veterinarian may humanely destroy an impounded
37 animal without regard to the prescribed holding period when it has
38 been determined that the animal has incurred severe injuries or is
39 incurably crippled. A veterinarian also may immediately humanely
40 destroy an impounded animal afflicted with a serious contagious

1 disease unless the owner or his or her agent immediately authorizes
2 treatment of the animal by a veterinarian at the expense of the
3 owner or agent.

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

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

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

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

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

30 (l) (1) Upon the conviction of a person charged with a violation
31 of this section, or Section 597 or 597a, all animals lawfully seized
32 and impounded with respect to the violation shall be adjudged by
33 the court to be forfeited and shall thereupon be transferred to the
34 impounding officer or appropriate public entity for proper adoption
35 or other disposition. A person convicted of a violation of this
36 section shall be personally liable to the seizing agency for all costs
37 of impoundment from the time of seizure to the time of proper
38 disposition. Upon conviction, the court shall order the convicted
39 person to make payment to the appropriate public entity for the
40 costs incurred in the housing, care, feeding, and treatment of the

1 seized or impounded animals. Each person convicted in connection
2 with a particular animal may be held jointly and severally liable
3 for restitution for that particular animal. The payment shall be in
4 addition to any other fine or sentence ordered by the court.

5 (2) The court may also order, as a condition of probation, that
6 the convicted person be prohibited from owning, possessing, caring
7 for, or residing with, animals of any kind, and require the convicted
8 person to immediately deliver all animals in his or her possession
9 to a designated public entity for adoption or other lawful disposition
10 or provide proof to the court that the person no longer has
11 possession, care, or control of any animals. In the event of the
12 acquittal or final discharge without conviction of the person
13 charged, if the animal is still impounded, the animal has not been
14 previously deemed abandoned pursuant to subdivision (h), the
15 court has not ordered that the animal be forfeited pursuant to
16 subdivision (k), the court shall, on demand, direct the release of
17 seized or impounded animals to the defendant upon a showing of
18 proof of ownership.

19 (3) Any questions regarding ownership shall be determined in
20 a separate hearing by the court where the criminal case was finally
21 adjudicated and the court shall hear testimony from any persons
22 who may assist the court in determining ownership of the animal.
23 If the owner is determined to be unknown or the owner is
24 prohibited or unable to retain possession of the animals for any
25 reason, the court shall order the animals to be released to the
26 appropriate public entity for adoption or other lawful disposition.
27 This section is not intended to cause the release of any animal,
28 bird, reptile, amphibian, or fish seized or impounded pursuant to
29 any other statute, ordinance, or municipal regulation. This section
30 shall not prohibit the seizure or impoundment of animals as
31 evidence as provided for under any other provision of law.

32 (m) It shall be the duty of all peace officers, humane society
33 officers, and animal control officers to use all currently acceptable
34 methods of identification, both electronic and otherwise, to
35 determine the lawful owner or caretaker of any seized or
36 impounded animal. It shall also be their duty to make reasonable
37 efforts to notify the owner or caretaker of the whereabouts of the
38 animal and any procedures available for the lawful recovery of the
39 animal and, upon the owner's and caretaker's initiation of recovery
40 procedures, retain custody of the animal for a reasonable period

1 of time to allow for completion of the recovery process. Efforts to
2 locate or contact the owner or caretaker and communications with
3 persons claiming to be the owner or caretaker shall be recorded
4 and maintained and be made available for public inspection.

5 *SEC. 6. Section 597f of the Penal Code is amended to read:*

6 597f. (a) Every owner, driver, or possessor of any animal, who
7 permits the animal to be in any building, enclosure, lane, street,
8 square, or lot, of any city, city and county, or judicial district,
9 without proper care and attention, shall, on conviction, be deemed
10 guilty of a ~~misdemeanor~~; *misdemeanor, punishable by*
11 *imprisonment in a county jail not exceeding six months, by a fine*
12 *not exceeding two thousand dollars (\$2,000), or by both that fine*
13 *and imprisonment.* And it shall be the duty of any peace officer,
14 officer of the humane society, or officer of a pound or animal
15 regulation department of a public agency, to take possession of
16 the animal so abandoned or neglected and care for the animal until
17 it is redeemed by the owner or claimant, and the cost of caring for
18 the animal shall be a lien on the animal until the charges are paid.
19 Every sick, disabled, infirm, or crippled animal, except a dog or
20 cat, which shall be abandoned in any city, city and county, or
21 judicial district, may, if after due search no owner can be found
22 therefor, be killed by the ~~officer~~; *and it officer.* It shall be the duty
23 of all peace officers, an officer of such society, or officer of a
24 pound or animal regulation department of a public agency to cause
25 the animal to be killed on information of ~~such~~ abandonment. The
26 officer may likewise take charge of any animal, including a dog
27 or cat, that by reason of lameness, sickness, feebleness, or neglect,
28 is unfit for the labor it is performing, or that in any other manner
29 is being ~~cruelly treated~~; *treated* and, if the animal is not then in
30 the custody of its owner, the officer shall give notice thereof to
31 the owner, if known, and may provide suitable care for the animal
32 until it is deemed to be in a suitable condition to be delivered to
33 ~~the owner~~; *and any owner.* Any necessary expenses which may be
34 incurred for taking care of and keeping the animal shall be a lien
35 thereon, to be paid before the animal can be lawfully recovered.

36 (b) (1) It shall be the duty of all officers of pounds or humane
37 societies, and animal regulation departments of public agencies to
38 convey, and for police and sheriff departments, to cause to be
39 conveyed all injured cats and dogs found without their owners in
40 a public place directly to a veterinarian known by the officer or

1 agency to be a veterinarian that ordinarily treats dogs and cats for
2 a determination of whether the animal shall be immediately and
3 humanely destroyed or shall be hospitalized under proper care and
4 given emergency treatment.

5 If

6 (2) *If* the owner does not redeem the animal within the locally
7 prescribed waiting period, the veterinarian may personally perform
8 euthanasia on the animal; *animal*, or, if the animal is treated and
9 recovers from its injuries, the veterinarian may keep the animal
10 for purposes of adoption, provided the responsible animal control
11 agency has first been contacted and has refused to take possession
12 of the animal.

13 Whenever

14 (3) *Whenever* any animal is transferred pursuant to this
15 subdivision to a veterinarian in a clinic, such as an emergency
16 clinic which is not in continuous operation, the veterinarian may,
17 in turn, transfer the animal to an appropriate facility.

18 If

19 (4) *If* the veterinarian determines that the animal shall be
20 hospitalized under proper care and given emergency treatment,
21 the costs of any services which are provided pending the owner's
22 inquiry to the agency, department, or society shall be paid from
23 the dog license fees, fines, and fees for impounding dogs in the
24 city, county, or city and county in which the animal was licensed
25 or if the animal is unlicensed the jurisdiction in which the animal
26 was found, subject to the provision that this cost be repaid by the
27 animal's owner. No veterinarian shall be criminally or civilly liable
28 for any decision which he or she makes or services which he or
29 she provides pursuant to this section.

30 (c) An animal control agency which takes possession of an
31 animal pursuant to subdivision (b), shall keep records of the
32 whereabouts of the animal for a 72-hour period from the time of
33 possession and those records shall be available to inspection by
34 the public upon request.

35 (d) Notwithstanding any other provisions of this section, any
36 officer of a pound or animal regulation department or humane
37 society, or any officer of a police or sheriff's department may,
38 with the approval of his or her immediate superior, humanely
39 destroy any abandoned animal in the field in any case where the
40 animal is too severely injured to move or where a veterinarian is

1 not available and it would be more humane to dispose of the
2 animal.

3 *SEC. 7. Section 600 of the Penal Code is amended to read:*

4 600. (a) Any person who willfully and maliciously and with
5 no legal justification strikes, beats, kicks, cuts, stabs, shoots with
6 a firearm, administers any poison or other harmful or stupefying
7 substance to, or throws, hurls, or projects at, or places any rock,
8 object, or other substance which is used in such a manner as to be
9 capable of producing injury and likely to produce injury, on or in
10 the path of, a horse being used by, or a dog under the supervision
11 of, a peace officer in the discharge or attempted discharge of his
12 or her duties, or a volunteer who is acting under the direct
13 supervision of a peace officer in the discharge or attempted
14 discharge of his or her assigned volunteer duties, is guilty of a
15 public offense. If the injury inflicted is a serious injury, as
16 described in subdivision (c), the person shall be punished by
17 imprisonment pursuant to subdivision (h) of Section 1170 for 16
18 months, two or three years, or in a county jail for not exceeding
19 one year, or by a fine not exceeding two thousand dollars (\$2,000),
20 or by both a fine and imprisonment. If the injury inflicted is not a
21 serious injury, the person shall be punished by imprisonment in
22 the county jail for not exceeding one year, or by a fine not
23 exceeding ~~one thousand dollars (\$1,000)~~, *two thousand dollars*
24 *(\$2,000)*, or by both a fine and imprisonment.

25 (b) Any person who willfully and maliciously and with no legal
26 justification interferes with or obstructs a horse or dog being used
27 by a peace officer in the discharge or attempted discharge of his
28 or her duties, or a volunteer who is acting under the direct
29 supervision of a peace officer in the discharge or attempted
30 discharge of his or her assigned volunteer duties, by frightening,
31 teasing, agitating, harassing, or hindering the horse or dog shall
32 be punished by imprisonment in a county jail for not exceeding
33 one year, or by a fine not exceeding ~~one thousand dollars (\$1,000)~~,
34 *two thousand dollars (\$2,000)*, or by both a fine and imprisonment.

35 (c) Any person who, in violation of this section, and with intent
36 to inflict that injury or death, personally causes the death,
37 destruction, or serious physical injury including bone fracture, loss
38 or impairment of function of any bodily member, wounds requiring
39 extensive suturing, or serious crippling, of a horse or dog, shall,
40 upon conviction of a felony under this section, in addition and

1 consecutive to the punishment prescribed for the felony, be
2 punished by an additional term of imprisonment pursuant to
3 subdivision (h) of Section 1170 for one year.

4 (d) Any person who, in violation of this section, and with the
5 intent to inflict that injury, personally causes great bodily injury,
6 as defined in Section 12022.7, to any person not an accomplice,
7 shall, upon conviction of a felony under this section, in addition
8 and consecutive to the punishment prescribed for the felony, be
9 punished by an additional term of imprisonment in the state prison
10 for two years unless the conduct described in this subdivision is
11 an element of any other offense of which the person is convicted
12 or receives an enhancement under Section 12022.7.

13 (e) A defendant convicted of a violation of this section shall be
14 ordered to make restitution to the agency owning the animal and
15 employing the peace officer, to a volunteer who is acting under
16 the direct supervision of a peace officer who is using his or her
17 horse or supervising his or her dog in the performance of his or
18 her assigned duties, or to the agency that provides, or the individual
19 who provides, veterinary health care coverage or veterinary care
20 for a horse or dog being used by, or under the supervision of, a
21 volunteer who is acting under the direct supervision of a peace
22 officer for any veterinary bills, replacement costs of the animal if
23 it is disabled or killed, and, if applicable, the salary of the peace
24 officer for the period of time his or her services are lost to the
25 agency.

26 *SEC. 8. Section 600.7 is added to the Penal Code, to read:*

27 *600.7. (a) Every defendant who is convicted of an offense*
28 *specified in subdivision (c) shall be ordered to pay for and*
29 *complete the responsible animal owner education course described*
30 *in subdivision (b). If the court finds that the defendant is financially*
31 *unable to pay for the course, the court may develop a sliding fee*
32 *schedule based upon the defendant's ability to pay. An indigent*
33 *defendant may negotiate a deferred payment schedule, but shall*
34 *pay a nominal fee if the defendant has the ability to pay the nominal*
35 *fee.*

36 *(b) (1) The responsible animal owner education course for*
37 *persons convicted of an offense specified in subdivision (c) may*
38 *be conducted online or in person, or in a combination of both, and*
39 *shall consist of all of the following:*

40 *(A) A minimum of five instructional hours.*

1 (B) Mechanisms to ensure the minimum hours of instruction
2 have been completed by the participant.

3 (C) Attendance shall be verified. If the course is completed
4 online, the course provider shall maintain a system to validate the
5 identity of the person taking the course.

6 (D) The course provider shall incorporate a validation process
7 that verifies participant comprehension of course material related
8 to the educational objectives as follows:

9 (i) The course provider shall test the participant's mastery of
10 the course content by asking at least two questions from each major
11 unit or section. The questions shall be multiple choice.

12 (ii) The questions shall be difficult enough that the answer may
13 not be easily determined without having viewed the contents of the
14 major unit or section.

15 (2) The educational objectives of the responsible animal owner
16 course shall include, but not be limited to, promotion of all of the
17 following:

18 (A) Responsible care concepts for animals, both livestock and
19 nonlivestock, including instruction on providing for the health,
20 safety, and welfare of livestock and nonlivestock animals and
21 wildlife, including appropriate shelter and housing, the importance
22 of spaying and neutering, and the proper tethering and
23 transportation of animals.

24 (B) Responsible pet ownership, including, but not limited to,
25 ensuring the safety of both the community and the animal and bite
26 prevention.

27 (C) Respect and observance of federal and state laws that
28 protect livestock and nonlivestock animals and wildlife.

29 (D) An overview of state and federal laws related to cruelty to
30 livestock and nonlivestock animals and animal fighting.

31 (E) Appropriate training and discipline tactics for livestock and
32 nonlivestock animals.

33 (3) All responsible owner education courses for persons
34 convicted of an offense specified in subdivision (c) shall be
35 reviewed and certified by the State Department of Health Care
36 Services. Each application for course certification shall be
37 accompanied by a course outline that identifies the educational
38 objectives outlined in paragraph (2) and the amount of time allotted
39 for each educational objective.

1 (c) *This section applies to a conviction for any of the following*
2 *offenses:*

3 (1) *Section 286.5.*

4 (2) *Section 596.*

5 (3) *Section 596.5.*

6 (4) *Subdivision (a), (b), or (c) of Section 597.*

7 (5) *Paragraph (1) of subdivision (a) of Section 597.1.*

8 (6) *Subdivision (a) or (b) of Section 597.5.*

9 (7) *Section 597.6.*

10 (8) *Section 597.7.*

11 (9) *Section 597a.*

12 (10) *Section 597b.*

13 (11) *Section 597c.*

14 (12) *Section 597f.*

15 (13) *Section 597g.*

16 (14) *Section 597h.*

17 (15) *Section 597i.*

18 (16) *Section 597j.*

19 (17) *Section 597k.*

20 (18) *Section 597m.*

21 (19) *Section 597n.*

22 (20) *Section 597s.*

23 (21) *Section 597t.*

24 (22) *Section 597u.*

25 (23) *Section 597v.*

26 (24) *Section 597x.*

27 (25) *Section 597z.*

28 (26) *Section 599f.*

29 (27) *Subdivision (a), (b), or (c) of Section 600.*

30 (28) *Section 600.2.*

31 (29) *Section 600.5.*

32 *SEC. 9. Section 600.8 is added to the Penal Code, to read:*

33 *600.8. (a) (1) Every defendant who is convicted of an offense*
34 *specified in subdivision (b) shall be subject to a mandatory mental*
35 *health evaluation. Upon evaluation, if the evaluating mental health*
36 *professional deems it necessary, the defendant shall complete*
37 *mandatory counseling. Mental health evaluations and any*
38 *subsequent treatment shall be paid for by the defendant. If the*
39 *court finds that the defendant is financially unable to pay for that*
40 *counseling, the court may develop a sliding fee schedule based*

1 upon the defendant's ability to pay. An indigent defendant may
2 negotiate a deferred payment schedule, but shall pay a nominal
3 fee if the defendant has the ability to pay the nominal fee.

4 (2) Mental health evaluation shall be completed within 90 days
5 of the conviction or at the soonest time deemed appropriate by the
6 court, unless the defendant is sentenced to imprisonment, in which
7 case the mental health evaluation shall be completed within 90
8 days of release or at the soonest time deemed appropriate by the
9 court. If the offender is referred to counseling, he or she shall
10 begin counseling within 90 days or at the soonest time deemed
11 appropriate by the court and shall submit proof of completion to
12 the court.

13 (3) Failure to complete these requirements shall result in the
14 termination of any diversion program, probation, mandatory
15 supervision, or postrelease community supervision.

16 (b) This section applies to a conviction for any of the following
17 offenses:

18 (1) Section 286.5.

19 (2) Section 596.

20 (3) Subdivision (a), (b), or (c) of Section 597.

21 (4) Paragraph (1) of subdivision (a) of Section 597.1.

22 (5) Section 597f.

23 (6) Subdivision (a), (b), or (c) of Section 600.

24 (7) Section 600.2.

25 (8) Section 600.5.

26 SEC. 10. No reimbursement is required by this act pursuant
27 to Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.

O.

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

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I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

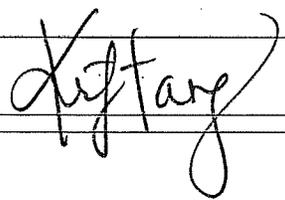
Katy Tang

Subject:

Resolution declaring support for California State Senate Bill 1024 (Wilk) – Animal Welfare and Violence Intervention Act of 2018

The text is listed below or attached:

Please see attached.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

