

TRANSMITTAL

To: **THE COUNCIL**

Date: **07/19/19**

From: **THE MAYOR**

TRANSMITTED FOR YOUR CONSIDERATION. PLEASE SEE ATTACHED.

A handwritten signature in blue ink, appearing to be 'Eric Garcetti', written in a cursive style.

(Ana Guerrero) for

ERIC GARCETTI
Mayor

**BOARD OF
ANIMAL SERVICES
COMMISSIONERS**

LARRY GROSS
PRESIDENT

OLIVIA E. GARCIA
VICE PRESIDENT

COMMISSIONERS

ALISA FINSTEN

JOSE SANDOVAL

ROGER WOLFSON

City of Los Angeles
CALIFORNIA



ERIC GARCETTI
MAYOR

**DEPARTMENT OF
ANIMAL SERVICES**
221 N. Figueroa Street
6TH Floor, Suite #600
Los Angeles, CA 90012

(888) 452-7381
FAX (213) 482-9511

BRENDA F. BARNETTE
GENERAL MANAGER

TAMMY WATSON
ASSISTANT GENERAL MANAGER
Administration

MELISSA WEBBER
ASSISTANT GENERAL MANAGER
Lifesaving

DR. JEREMY PRUPAS
CHIEF VETERINARIAN

May 30, 2019

The Honorable Eric Garcetti
Mayor, City of Los Angeles
200 N. Spring Street, Room 303
Los Angeles, CA 90012

Attention: Ms. Mandy Morales, Office of the Mayor

**RE: RECOMMENDATION TO SUPPORT ASSEMBLY BILL NO. 611 (NAZARIAN) –
PROHIBITION ON THE SEXUAL ABUSE OF ANIMALS**

Recommendation for Council Action, subject to the approval of the Mayor:

SUPPORT State Assembly Bill No. 611 (Nazarian) – Sexual Abuse of Animals.

At its meeting on April 23, 2019, the Board of Animal Services Commissioners considered and approved a recommendation of support for State Assembly Bill No. 611 (Nazarian). Additional information concerning the Board's recommendation can be found in the attached approved board report.

If you have any questions with regards to the recommendation, please contact LaTonya Dean, Commission Executive Assistant at (213) 482-9597 or via e-mail at LaTonya.Dean@lacity.org.

Respectfully submitted,

Brenda F. Barnette

Brenda F. Barnette
General Manager

Attachment: April 23, 2019 Board Report – Assembly Bill No. 611 (Nazarian)

cc: Bryan Oh, Office of the City Administrative Officer

Attachments

"Creating a Humane LA"

AN EQUAL OPPORTUNITY EMPLOYER

Visit our website at www.LAAnimalServices.com

**BOARD OF
ANIMAL SERVICES
COMMISSIONERS**

LARRY GROSS
PRESIDENT

OLIVIA E. GARCIA
VICE PRESIDENT

COMMISSIONERS

ALISA FINSTEN

JOSE SANDOVAL

ROGER WOLFSON

City of Los Angeles

CALIFORNIA



**ERIC GARCETTI
MAYOR**

**DEPARTMENT OF
ANIMAL SERVICES**
221 N. Figueroa Street
6TH Floor, Suite #600
Los Angeles, CA 90012

(888) 452-7381
FAX (213) 482-9511

BRENDA F. BARNETTE
GENERAL MANAGER

TAMMY WATSON
ASSISTANT GENERAL MANAGER
Administration

MELISSA WEBBER
ASSISTANT GENERAL MANAGER
Lifesaving

DR. JEREMY PRUPAS
CHIEF VETERINARIAN

Report to the Board of Animal Services Commissioners

MEETING DATE: April 9, 2019 and April 23, 2019 **PREPARED BY:** Brenda Barnette

REPORT DATE: April 1, 2019 **TITLE:** General Manager

**SUBJECT: RECOMMENDATION TO SUPPORT ASSEMBLY BILL NO. 611 (NAZARIAN) –
PROHIBITION ON THE SEXUAL ABUSE OF ANIMALS**

BOARD ACTION RECOMMENDED:

1. **SUPPORT** State Assembly Bill No. 611 (Nazarian) – Sexual Abuse of Animal; and
2. **AUTHORIZE** staff to transmit this recommendation to the Mayor and City Council for consideration of adoption in the form of a Resolution by the City Council with the concurrence of the Mayor.

BACKGROUND:

In February 2019, Assemblymember Adrin Nazarian introduced Assembly Bill (AB 611) which would amend sections of the Business and Professions Code and amend and repeal sections of the Penal Code related to the sexual abuse of animals.

SUMMARY:

Although there are current laws in place prohibiting the sexual abuse of certain animals, AB 611 broadens the State's reach to protect all animals from this type of abuse. It also provides other provisions to help protect the welfare of animals that may be victims of sexual abuse, including:

- Authorization to seize and impound animals that are victims of sexual abuse;
- Expansion of reporting requirements for veterinarians who have a reasonable cause to believe an animal has been a victim of sexual abuse; and

"Creating a Humane LA"

AN EQUAL OPPORTUNITY EMPLOYER

Visit our website at www.LAAnimalServices.com

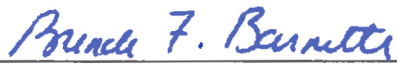
- The addition of animal sexual abuse to the list of offenses which would result in the prohibition of those convicted of the crime, from owning, possessing or maintaining an animal for a specified period of time.

Under AB 611, 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 a person who is attempting to adopt an animal from that entity whether the person is prohibited from owning, possessing, maintaining, having custody of, or residing with an animal.

FISCAL IMPACT:

The support of AB 611 does not impact the General Fund.

Approved:



Brenda Barnette, General Manager

Attachment: AB 611

BOARD ACTION:

_____	Passed	Disapproved	_____
	Passed with noted modifications <i>(see attachment)</i>	Continued	_____
_____	Tabled	New Date	_____



BOARD OF ANIMAL SERVICES COMMISSIONERS
CITY OF LOS ANGELES

MINUTES EXCERPT
TUESDAY, April 23, 2019 at 7:00 PM



- 6A. Recommendation to Support Assembly Bill No. 611 (Nazarian) – Prohibition on the Sexual Abuse of Animals.

Commissioner Gross made a motion to approve the recommendation to support AB 611 with the proviso that the Board strongly urge the City Council in adopting support for this, to also provide information or urge Assembly Member Nazarian as well as the State Legislature to amend the bill to remove any exemptions. **Commissioner Sandoval** seconded and the motion was approved by a unanimous vote of 5-0.

Ayes: Finsten, García, Gross, Sandoval and Wolfson

Noes: None.

Absent: None.

ASSEMBLY BILL

No. 611

Introduced by Assembly Member Nazarian

February 14, 2019

An act to amend Section 4830.7 of the Business and Professions Code, and to amend Section 597.9 of, and to repeal and add Section 286.5 of, the Penal Code, relating to sexual abuse of animals.

LEGISLATIVE COUNSEL'S DIGEST

AB 611, as introduced, Nazarian. Sexual abuse of animals.

Existing law makes it a misdemeanor to sexually assault certain animals for the purpose of gratifying the sexual desires of a person.

This bill would repeal that provision and would instead prohibit sexual contact, as defined, with any animal. The bill would make a violation of these provisions punishable as a misdemeanor. The bill would also authorize the seizure of an animal used in the violation of this offense.

Existing law makes it a misdemeanor for persons convicted of certain animal abuse crimes to own, possess, maintain, care for, reside with, or have custody of an animal for a specified period after conviction.

This bill would add animal sexual abuse to the list of offenses which result in that prohibition.

Existing law requires a veterinarian that has reasonable cause to believe an animal under their care has been a victim of animal abuse or cruelty to promptly report the abuse or cruelty to the appropriate law enforcement authorities of the county, city, or city and county in which it occurred. Existing law makes a violation of these provisions a misdemeanor.

This bill would expand that reporting requirement to include when the veterinarian has reasonable cause to believe an animal has been a

victim of sexual abuse or kept without proper care and attention, as specified.

By creating new crimes, 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: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 4830.7 of the Business and Professions
2 Code is amended to read:

3 4830.7. Whenever any licensee under this chapter has
4 reasonable cause to believe an animal under its care has been a
5 victim of animal abuse or cruelty, as prescribed in ~~Section~~ Sections
6 597 and 597.1 of the Penal Code, or of sexual abuse, as prescribed
7 in Section 286.5 of the Penal Code, it shall be the duty of the
8 licensee to promptly report it to the appropriate law enforcement
9 authorities of the county, city, or city and county in which it
10 occurred. No licensee shall incur any civil liability as a result of
11 making any report pursuant to this section or as a result of making
12 any report of a violation of Section 286.5, subdivisions (a), (b),
13 and (c) of Section ~~597~~ 597, or Section 597.1, of the Penal Code.

14 SEC. 2. Section 286.5 of the Penal Code is repealed.

15 ~~286.5. Any person who sexually assaults any animal protected~~
16 ~~by Section 597f for the purpose of arousing or gratifying the sexual~~
17 ~~desire of the person is guilty of a misdemeanor.~~

18 SEC. 3. Section 286.5 is added to the Penal Code, to read:

19 286.5. (a) Every person who has sexual contact with an animal
20 is guilty of a misdemeanor.

21 (b) This section does not apply to any lawful and accepted
22 practice related to veterinary medicine performed by a licensed
23 veterinarian or a certified veterinary technician under the guidance
24 of a licensed veterinarian, any artificial insemination of animals
25 for reproductive purposes, any accepted animal husbandry practices
26 such as raising, breeding, or assisting with the birthing process of

1 animals or any other practice that provides care for an animal, or
2 to any generally accepted practices related to the judging of breed
3 conformation.

4 (c) As used in this section, the following terms have the
5 following meanings:

6 (1) "Animal" means any nonhuman creature, whether alive or
7 dead.

8 (2) "Sexual contact" means any act, committed for the purpose
9 of sexual arousal or gratification, abuse, or financial gain, between
10 a person and an animal involving contact between the sex organs
11 or anus of one and the mouth, sex organs, or anus of the other, or,
12 without a bona fide veterinary or animal husbandry purpose, the
13 insertion, however slight, of any part of the body of a person or
14 any object into the vaginal or anal opening of an animal, or the
15 insertion of any part of the body of an animal into the vaginal or
16 anal opening of a person.

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

1 (e) (1) Any authorized officer investigating a violation of this
2 section may seize an animal that has been used in the commission
3 of an offense to protect the health or safety of the animal or the
4 health or safety of others, and to obtain evidence of the offense.

5 (2) Any animal seized pursuant to this subdivision shall be
6 promptly taken to a shelter facility or veterinary clinic to be
7 examined by a veterinarian for evidence of sexual contact.

8 (3) Upon the conviction of a person charged with a violation of
9 this section, all animals lawfully seized and impounded with respect
10 to the violation shall be adjudged by the court to be forfeited and
11 shall thereupon be transferred to the impounding officer or
12 appropriate public entity for proper adoption or other disposition.
13 A person convicted of a violation of this section shall be personally
14 liable to the seizing agency for all costs of impoundment from the
15 time of seizure to the time of proper disposition. Upon conviction,
16 the court shall order the convicted person to make payment to the
17 appropriate public entity for the costs incurred in the housing, care,
18 feeding, and treatment of the seized or impounded animals. Each
19 person convicted in connection with a particular animal may be
20 held jointly and severally liable for restitution for that particular
21 animal. The payment shall be in addition to any other fine or
22 sentence ordered by the court.

23 (4) Except as otherwise specified in this section, if an animal
24 is seized pursuant to paragraph (1), the disposition, care, or the
25 responsibility for the financial cost of animals seized shall be in
26 accordance with the provisions of Section 597.1.

27 SEC. 4. Section 597.9 of the Penal Code is amended to read:

28 597.9. (a) Except as provided in subdivision (c) or (d), a person
29 who has been convicted of a misdemeanor violation of *Section*
30 *286.5*, subdivision (a) or (b) of Section 597, or Section 597a, 597b,
31 597h, 597j, 597s, or 597.1, and who, within five years after the
32 conviction, owns, possesses, maintains, has custody of, resides
33 with, or cares for any animal is guilty of a public offense,
34 punishable by a fine of one thousand dollars (\$1,000).

35 (b) Except as provided in subdivision (c) or (d), a person who
36 has been convicted of a felony violation of subdivision (a) or (b)
37 of Section 597, or Section 597b or 597.5, and who, within 10 years
38 after the conviction, owns, possesses, maintains, has custody of,
39 resides with, or cares for any animal is guilty of a public offense,
40 punishable by a fine of one thousand dollars (\$1,000).

1 (c) (1) In cases of owners of livestock, as defined in Section
2 14205 of the Food and Agricultural Code, a court may, in the
3 interest of justice, exempt a defendant from the injunction required
4 under subdivision (a) or (b), as it would apply to livestock, if the
5 defendant files a petition with the court to establish, and does
6 establish by a preponderance of the evidence, that the imposition
7 of the provisions of this section would result in substantial or undue
8 economic hardship to the defendant's livelihood and that the
9 defendant has the ability to properly care for all livestock in ~~his~~
10 ~~or her~~ *their* possession.

11 (2) Upon receipt of a petition from the defendant, the court shall
12 set a hearing to be conducted within 30 days after the filing of the
13 petition. The petitioner shall serve a copy of the petition upon the
14 prosecuting attorney 10 calendar days prior to the requested
15 hearing. The court shall grant the petition for exemption from
16 subdivision (a) or (b) unless the prosecuting attorney shows by a
17 preponderance of the evidence that either or both of the criteria
18 for exemption under this subdivision are untrue.

19 (d) (1) A defendant may petition the court to reduce the duration
20 of the mandatory ownership prohibition. Upon receipt of a petition
21 from the defendant, the court shall set a hearing to be conducted
22 within 30 days after the filing of the petition. The petitioner shall
23 serve a copy of the petition upon the prosecuting attorney 10
24 calendar days prior to the requested hearing. At the hearing, the
25 petitioner shall have the burden of establishing by a preponderance
26 of the evidence all of the following:

27 (A) ~~He or she~~ *The petitioner* does not present a danger to
28 animals.

29 (B) ~~He or she~~ *The petitioner* has the ability to properly care for
30 all animals in ~~his or her~~ *their* possession.

31 (C) ~~He or she~~ *The petitioner* has successfully completed all
32 classes or counseling ordered by the court.

33 (2) If the petitioner has met ~~his or her~~ *their* burden, the court
34 may reduce the mandatory ownership prohibition and may order
35 that the defendant comply with reasonable and unannounced
36 inspections by animal control agencies or law enforcement.

37 (e) An animal shelter administered by a public animal control
38 agency, a humane society, or any society for the prevention of
39 cruelty to animals, and an animal rescue or animal adoption
40 organization may ask ~~an individual~~ *a person* who is attempting to

1 adopt an animal from that entity whether ~~he or she~~ *the person* is
2 prohibited from owning, possessing, maintaining, having custody
3 of, or residing with an animal pursuant to this section.
4 SEC. 5. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.