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AB-2774 Animal shelters: adoption application: crimes. (2017-2018)

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Assembly Bill No. 2774

CHAPTER 877

An act to amend Section 597.9 of the Penal Code, relating to animal abuse.

[Approved by Governor September 28, 2018. Filed with Secretary of State September 28, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2774, Limón. Animal shelters: adoption application: crimes.

Existing law prohibits a person who has been convicted of a misdemeanor violation of specified animal cruelty provisions, within 5 years after the conviction, from owning, possessing, maintaining, having custody of, residing with, or caring for any animal. Existing law prohibits a person who has been convicted of a felony for animal cruelty or animal fighting, as specified, within 10 years after the conviction, from owning, possessing, maintaining, having custody of, residing with, or caring for any animal.

This bill would clarify that an animal shelter administered by a public animal control agency or specified nonprofit entities 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 or possessing an animal based on those prohibitions.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 597.9 of the Penal Code is amended to read:

597.9. (a) Except as provided in subdivision (c) or (d), a 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), a 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.

(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.