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## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair  
2021 - 2022 Regular

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**Bill No:** AB 1290                      **Hearing Date:** June 28, 2022  
**Author:** Lee  
**Version:** June 15, 2022  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** SC

**Subject:** *Crimes: theft: animals*

### HISTORY

Source: Author

Prior Legislation: SB 224 (Grove), Ch. 119, Stats. 2019  
AB 924 (Bigelow), Ch. 618, Stats. 2013  
AB 316 (Carter), Ch. 317, Stats. 2011  
AB 1814 (Oropeza), Ch. 515, Stats. 2004  
AB 1491 (Martinez), Ch. 151, Stats. 1995

Support: Unknown

Opposition: None known

Assembly Floor Vote: Not relevant

*This Analysis Reflects the Bill as Proposed to be Amended*

### PURPOSE

*The purpose of this bill is to specify that personal property includes a companion animal, as defined, for purposes of theft.*

*Existing law* states that every person who steals, takes, carries, leads, or drives away the personal property of another, or who fraudulently appropriates property which has been entrusted to them, or who knowingly and designedly, by any false or fraudulent representation or pretense, defrauds any other person of money, labor or real or personal property, is guilty of theft. (Pen. Code, § 484, subd. (a).)

*Existing law* divides theft into two degrees, petty theft and grand theft. (Pen. Code, § 486.)

*Existing law* defines grand theft as when the money, labor, or real or personal property taken is of a value exceeding \$950 dollars, except as specified; other cases of theft are petty theft. (Pen. Code, §§ 487-488.)

*Existing law* punishes grand theft as an alternate felony-misdemeanor (“wobbler”). (Pen. Code, § 487.)

*Existing law* punishes petty theft as a misdemeanor. (Pen. Code, § 490.)

*Existing law* states that every person who feloniously steals, takes, or carries away a dog of another which is of a value not exceeding \$950 is guilty of petty theft. (Pen. Code, § 487f.)

*Existing law* states that every person who feloniously steals, takes, or carries away a dog of another which is of a value exceeding \$950 is guilty of grand theft. (Pen. Code, § 487e.)

*Existing law* provides that in determining the value of the property obtained, for the purposes of theft, the reasonable and fair market value shall be the test, and in determining the value of services received the contract price shall be the test. If there is no contract price, the reasonable and going wage for the service rendered shall govern. (Pen. Code, § 484, subd. (a).)

*Existing law* states that dogs are personal property, and their value is to be ascertained in the same manner as the value of other property. (Pen. Code, § 491.)

*Existing law* defines a “feral cat as “a cat without owner identification of any kind whose usual and consistent temperament is extreme fear and resistance to contact with people. A feral cat is totally unsocialized to people.” (Food & Ag. Code, § 31752.5.)

*This bill* provides that personal property includes but is not limited to companion animals.

*This bill* defines “companion animal” to mean “an animal including, but not limited to, a dog or a cat, that a person keeps and provides care for as a household pet or otherwise for the purpose of companionship, emotional support, service, or protection.”

*This bill* provides that a “companion animal” excludes feral cats, as defined in Food and Agriculture Code section 31752.5.

## COMMENTS

### 1. Need for This Bill

According to the author of this bill:

Existing law prohibits the theft of personal property. Current language only calls out dogs specifically as being considered personal property and that their value is to be ascertained in the same manner as the value of other property.

The deficiency with existing law is that it is only limited to a dog – not any other *companion animal* that may have a similar significance to a person who owns an animal, such as a cat.

What this bill seeks to do is expand the scope of this provision to capture any *companion animal* that a person keeps or provides care for as a household pet or otherwise for the purpose of companionship, emotional support, service, or protection.

## 2. Existing Law Theft Statutes

Theft is defined as stealing, taking, carrying, leading, or driving away the personal property of another, or fraudulently appropriating property which has been entrusted to the individual, or who knowingly and designedly, by any false or fraudulent representation or pretense, defrauding any other person of money, labor or real or personal property. (Pen. Code, § 484.) When the same act involves taking money, labor, real or personal property where the value of the time taken exceeds \$950, the crime is punishable as grand theft which may be charged as an alternate felony-misdemeanor. (Pen. Code, § 487.) All other theft which does not exceed \$950 in value is petty theft. (Pen. Code, § 488.)

Existing statutes also specify various different items where the value of the items taken exceeds \$950 is grand theft (see Pen. Code, §§ 487h, 487j and 487k: cargo, copper materials, agricultural equipment) or where the value does not exceed \$950 yet the act is statutorily deemed grand theft (see Pen. Code, §§ 487, subd. (d), 487a, 487d: theft of a firearm, automobile, livestock or gold dust) and where a lower value will still count as grand theft (see Pen Code, § 487, subd. (b) domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops, or fish, shellfish, mollusks, crustaceans, kelp, algae, or other aqua cultural products are taken from a commercial or research operation.) Existing law contains specific statutes on dog stealing and states that when the value of the dog does not exceed \$950, the act is petty theft and if the value of the dog exceeds \$950, the act is grand theft. (Pen. Code, §§ 487e and 487f.) Existing law also declares that dogs are personal property and their value is to be ascertained in the same manner as the value of other property. (Pen. Code, § 491.)

This bill amends Penal Code section 484, which is that statute that defines theft, to provide that “personal property” includes, but is not limited to all companion animals. This bill’s defines “companion animal” as meaning an animal including, but is not limited to, a dog or a cat, that a person keeps and provides care for as a household pet or otherwise for the purpose of companionship, emotional support, service, or protection. This bill clarifies that “companion animal” does not include feral cats.

According to the author, this change is needed because currently the existing statute only declares dogs to be personal property. However, the lack of this declaration for other companion animals does not preclude the applicability of the general theft and grand theft statutes. It has acknowledged both by general society and by the courts that pets are the property of their owners. (*Kimes v. Grosser* (2011) 195 Cal. App. 4th 1556, 1559, citing *Dreyer v. Cyrian* (1931) 112 Cal. App. 279, 284 and *Ross v. Loeser* (1919) 41 Cal. App. 782, 784.)

In 1870, Penal Code section 491 was enacted to declare that dogs are personal property and that their value should be ascertained in the same manner as the value of other property. Almost 100 years later, in 1967, Penal Code section 487e and 487f were enacted to specifically provide different theft degrees for stealing a dog. Even though the Legislature chose to specifically create theft statutes pertaining to dogs, this does not mean that the theft of other companion animals are not covered.

In *People v. Sadowski* (1984) 155 Cal. App. 3d 332, the Court of Appeal upheld the defendant’s conviction for grand theft of a cat noting that the general theft and grand theft statutes provide adequate notice of conduct that taking of any personal property, including pets, is unlawful. The court noted that the theft of dogs was only specifically made a crime recently, but even before the statute was enacted, courts had held that a dog was property. (*People v. Sadowski, supra*, 155

Cal. App. 3d at 335.) The court reasoned that the fact that existing law “also denominates grand theft as the taking of animals of lesser value, or specified animals without regard to value, cannot be construed to exclude animals not mentioned and [Penal Code section 487] which applies to thefts of all property, animals or otherwise, not specified elsewhere. Any other construction would be unreasonable.” (*Id.* at p. 336.)

This bill would clarify that companion animals are personal property for purposes of theft.

### **3. Pets as Personal Property**

This bill declares companion animals as personal property. As discussed above, this has been commonly accepted even if it has not been specified in statute. However, over recent years, there has been a movement to recognize pets as more than personal property to be transferred or dealt the same way as an inanimate object.

AB 2274 (Quirk), Chapter 820, Statutes of 2018, provided that in divorce and legal separation proceedings a pet is more akin to a family member and should not be seen as equivalent to property, thus notwithstanding other requirements for dividing the community estate of the parties, a court is authorized to assign sole or joint ownership of a community property pet animal taking into consideration the care of the pet. According to the author of the bill: “In the eyes of the law animals are property. They are no difference than a house or vehicle that was mutually owned by a couple. This is unfortunate because pet owners do not share the same view. Pet ownership battles are often passionate and emotional.” Also, AB 1881 (Santiago), which is currently being considered by the Legislature, would establish a “Dog and Cat Bill of Rights” that, among other things, contain Legislative findings and declarations that provide that “[d]ogs and cats have the right to be respected as sentient beings that experience complex feelings that are common among living animals while being unique to each individual animal.”

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