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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair  
2021 - 2022 Regular

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**Bill No:** AB 253                      **Hearing Date:** June 28, 2022  
**Author:** Patterson  
**Version:** January 14, 2021  
**Urgency:** No                                      **Fiscal:** No  
**Consultant:** MK

**Subject:** *Animal welfare*

## HISTORY

**Source:** California State Sheriffs' Association

**Prior Legislation:** AB 3035 (Patterson), Failed Senate Public Safety Committee 2020  
AB 1553 (Fong), Ch. 7, Stats. 2019  
SB 196 (Knight), Ch. 422, Stats. 1997

**Support:** American Society for the Prevention of Cruelty to Animals; Fresno County Sheriff

**Opposition:** California Black Media; California News Publishers Association; ACLU of California; ACLU California Action

**Assembly Floor Vote:** 50 - 11

**This analysis reflects author's amendments to be offered in Committee.**

## PURPOSE

*The purpose of this bill is to modernize the process of notifying the public about the euthanizing or disposal of animals seized by law enforcement during illegal animal fighting by allowing it to be published on a county website.*

*Existing law* allows an officer making an arrest for offenses related to animal fighting to lawfully take possession of the animals. (Penal Code § 599aa(a).)

*Existing law* establishes that upon taking possession of the animals, the officer shall inventory the animals seized and question the persons present as to the identity of the owner or owners and requires that the inventory list identify the location where the animals were seized, the names of the persons from whom the animals were seized, and the names of any known owners of the animals. (Penal Code § 599aa(b)(1).)

*Existing law* states the officer shall file the inventory list with the magistrate presiding over the criminal case and requires the magistrate to order the seized animals to be held until the final disposition of any charges. (Penal Code § 599aa(c).)

*Existing law* states that if ownership of the seized animals cannot be determined after reasonable efforts, the officer or other person named and designated in the order as custodian of the animals may, after holding the animals and birds for a period of not less than 10 days, petition the magistrate for permission to humanely euthanize or otherwise dispose of the animals or birds. (Penal Code § 599aa(e)(1).)

*Existing law* requires the petition to humanely euthanize or otherwise dispose of the animals to be published for three successive days in a newspaper of general circulation. (*Ibid.*)

*Existing law* requires the magistrate to hold a hearing on the petition not less than 10 days after seizure of the animals, after which the magistrate may order the animals to be humanely euthanized or otherwise disposed of, or to be retained by the officer or person with custody until the conviction or final discharge of the arrested person. (*Ibid.*)

*Existing law* defines “newspaper of general circulation” is a newspaper published for the dissemination of local or telegraphic news and intelligence of a general character, which has a bona fide subscription list of paying subscribers, and has been established, printed and published at regular intervals in the State, county, or city where publication, notice by publication, or official advertising is to be given or made for at least one year preceding the date of the publication, notice or advertisement. (Government Code § 6000.)

*Existing law* states a newspaper devoted to the interests, or published for the entertainment or instruction of a particular class, profession, trade, calling, race, or denomination, or for any number thereof, when the avowed purpose is to entertain or instruct such classes, is not a newspaper of general circulation. (Government Code § 6001).

*Existing law* states for a newspaper to be “established,” it shall have been in existence under a specified name during the whole of the one-year period; provided, however, nothing herein contained shall prevent a modification of name in accordance with Section 6024 hereof where the modification of name does not substantially change the identity of the newspaper. (Government Code § 6003).

*Existing law* explains for a newspaper to be “published,” it shall have been issued from the place where it is printed and sold to or circulated among the people and its subscribers during the whole of the one year period. In order to qualify as a newspaper of general circulation the newspaper, if either printed or published in a town or city, shall be both printed and published in one and the same town or city. (Government Code §§ 6004, 6004.5))

*Existing law* clarifies “printed” and “published” are not synonymous. Each relates to separate acts or functions necessary to constitute a newspaper of general circulation. (Government Code § 6005).

*Existing law* states notwithstanding any provision of law to the contrary, a newspaper is a “newspaper of general circulation” if it meets all of the following criteria:

- 1) It is a newspaper published for the dissemination of local or telegraphic news and intelligence of a general character, which has a bona fide subscription list of paying subscribers and has been established and published at regular intervals of not less than weekly in the city, district, or public notice district for which it is seeking adjudication for at least three years preceding the date of adjudication.

- 2) It has a substantial distribution to paid subscribers in the city, district, or public notice district in which it is seeking adjudication.
- 3) It has maintained a minimum coverage of local or telegraphic news and intelligence of a general character of not less than 25 percent of its total inches during each year of the three-year period.
- 4) It has only one principal office of publication and that office is in the city, district, or public notice district for which it is seeking adjudication. (Government Code § 6008 (a))

*This bill* would require the euthanasia petition to be published for three successive days in a newspaper, online or in print, of general circulation, or a city or county website other than a social media website.

## COMMENTS

### 1. Need for This Bill

According to the author:

Under current law, when a law enforcement agency confiscates animals used in illegal fighting, they must place an ad in a physical newspaper of general population for a minimum of three days. This may seem reasonable but the amount charged can go into the thousands for each day the ad is up. AB 253 will allow law enforcement agencies to post this information in an online newspaper as well as other social media outlets. This will reach more people and can even be posted in multiple languages. Physical newspaper readership has declined over the years. AB 253 just seeks to modernize the ad publishing.

### 2. Public Notice Online vs. In Print

A public notice is a legally required notification that is required to be published in a newspaper of general circulation to inform the public of various issues. They are published in the legal notices or classified sections of newspapers and sold similarly to advertisements. A recent survey conducted by the California News Publishers Association (CNPA) found public notices make up around 20 to 40 percent of advertising revenue. Some examples of public notices include: notice prior to the destruction of animals seized from dog fighting arrest and confiscation, notice before a trustee sale of property and notice of government contract bids.

Requirements of public notices come from cities, states, and other local laws. California Government Code sections 6000 to 6008 outline what is required to be adjudicated as a newspaper of general circulation. Throughout the state's code sections, there are over 100 different statutes that outline what each notice must contain, how many times it must be published, and what geographic area you must be adjudicated for.

Some notices require that they be published in a paper adjudicated for that city. Whereas, some notices are required to be published by a paper in that county, or may be published in a county paper if there is not a newspaper of general circulation in that city. Public notice districts are defined by state law, but in most cases are very similar to county lines. Due to the fact some notices may only be published at the county level if there is no newspaper of general circulation at the city level, it is wise to be adjudicated at all three levels if possible.

This bill would require that euthanasia petitions would to be published for three successive days in a newspaper, online or in print, of general circulation, or a city or county website other than a social media website. Additionally, by publishing online, the petitions are potentially searchable through internet search engines. They point to the high cost of publishing these notices in local newspapers.

Opponents argue that the bill is a misstatement of law and that specifically, “newspaper of general circulation” is a term of art that is changed in this bill. They point out that there are 1,700 statutes contain the term newspaper of general circulation that could be impacted. They also point out that over a third of the state does not have adequate broadband access, there were over 33 bills introduced to remedy this issue this year. Furthermore, publications have been adjudicated and thus found by a court of law to reach a substantial number of paid subscribers in the area that the paper publishes in. Opponents point out that there is no way to verify that a readers or social media followers are located in the area the notice is required to be published in. The opposition would not have a problem with additionally publishing online, the resistance lies in the elimination of print.

### 3. Amendments

The author will take amendments to amend Penal Code section 599aa(e) as follows:

(e) (1) If ownership of the seized animals or birds cannot be determined after reasonable efforts, the officer or other person named and designated in the order as custodian of the animals or birds may, after holding the animals and birds for a period of not less than 10 days, petition the magistrate for permission to humanely euthanize or otherwise dispose of the animals or birds. The petition shall be published for three successive days in a newspaper, online or in print, of general circulation, ~~a social media outlet belonging to a law enforcement agency or a county or appropriate local governmental entity, or a law enforcement internet website~~ or a city or county website other than a social media website. The magistrate shall hold a hearing on the petition not less than 10 days after seizure of the animals or birds, after which the magistrate may order the animals or birds to be humanely euthanized or otherwise disposed of, or to be retained by the officer or person with custody until the conviction or final discharge of the arrested person. An animal or bird shall not be euthanized or otherwise disposed of until four days after the order.

### 4. Argument in Support

According to the American Society for the Prevention of Cruelty to Animals:

California’s law enforcement officers are responsible for breaking up cockfights and confiscating all fight-related property, which includes the roosters. Existing law provides for the disposition of the roosters that are confiscated, including an attempt to return each rooster to its owner through advertisement in a newspaper of general circulation. This law is decades old and explicitly states that the petition to destroy animals or birds used in combat must be published for three consecutive days in a newspaper of general circulation. The applicable statute was enacted prior to common usage of online publications and social media. AB 253 would make a technical and minor adjustment to modernize Penal Code Section

599aa to allow expand publishing mediums to include social media outlets and websites belonging to a law enforcement agency or local government entity, as well as newspaper websites.

## **5. Argument in Opposition**

According to the American Civil Liberties Union:

Numerous California statutes require notice of various government actions to be provided by publication in a newspaper of general circulation. There are many reasons why newspapers are identified as the means for these official notices – they provide a means of notice in an independent forum, not published directly by a government agency; the published notice is secure and can be archived to ensure that there is a record of notice; the notice is accessible to everyone; and publication can be verified by a body independent of a government agency. Any change to notice requirements must be undertaken with the utmost care to ensure that notice continues to be provided in a way that fills the need for an independent, accessible, secure, and verifiable means of publication, and that maximizes the likelihood that interested parties will actually see the notice. AB 253 would depart from this consistent practice and instead allow notices potentially to be buried by being posted on an obscure social media account or website where few might think to look, and where those without internet access or without access to a specific social media forum might not be able to look.

**-- END --**