
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair
2023 - 2024 Regular

Bill No: SB 902 **Hearing Date:** April 2, 2024
Author: Roth
Version: March 13, 2024
Urgency: No **Fiscal:** Yes
Consultant: AB

Subject: *Firearms: public safety*

HISTORY

Source: Author

Prior Legislation: SB 368 (Portantino), Ch. 251, Stats. of 2023
AB 2239 (Maienschein), Ch. 143, Stats. of 2022
SB 723 (Jones), Ch. 306, Stats. of 2020
SB 701 (Jones, 2019), vetoed by the Governor
AB 1121 (Bauer-Kahan, 2019), died in Assembly Appropriations
AB 3129 (Rubio), Ch. 883, Stats. of 2018
AB 785 (Jones-Sawyer), Ch. 784, Stats. of 2017
AB 1084 (Melendez, 2013), failed in Assembly Public Safety
SB 580 (Jackson, 2013), died in Assembly Appropriations
SB 140 (Leno), Ch. 2, Stats. of 2013

Support: Alliance for Hope International; Arcadia Police Officers' Association; Burbank Police Officers' Association; California District Attorneys Association; California Police Chiefs Association; California Protective Parents Association; California Reserve Peace Officers Association; City of Alameda; Claremont Police Officers Association; Corona Police Officers Association; Culver City Police Officers' Association; Deputy Sheriffs' Association of Monterey County; Fullerton Police Officers' Association; Murrieta Police Officers' Association; Newport Beach Police Association; Novato Police Officers Association; Palos Verdes Police Officers Association; Placer County Deputy Sheriffs' Association; Pomona Police Officers' Association; Rainbow Services; Riverside County District Attorney; Riverside Police Officers Association; Riverside Sheriffs' Association; Santa Ana Police Officers Association; Upland Police Officers Association

Opposition: Ella Baker Center for Human Rights

PURPOSE

The purpose of this bill is to create a 10-year prohibition on the possession of firearms for individuals convicted of animal cruelty.

Existing law prohibits any person who has been convicted of a felony from owning, purchasing, receiving or possessing a firearm, a violation of which is punishable as a felony. (Penal Code, § 29800.)

Existing law provides that persons convicted of specified serious or violent misdemeanors are prohibited from possession of firearms for a period of 10 years and that a violation of that prohibition is punishable as a misdemeanor with imprisonment up to one year or as a state prison felony. (Penal Code, § 29805 (a).)

Existing law includes within the list of misdemeanors triggering a 10 year firearm prohibition the crimes of stalking, sexual battery, assault with a deadly weapon, battery with serious bodily injury, brandishing a firearm of deadly weapon, assault with force likely to produce great bodily injury, battery on a peace officer, corporal injury to spouse, cohabitant or fellow parent, child abuse, elder abuse, unsafe storage of a firearm, and threats of bodily injury or death, among other misdemeanors. (Penal Code, § 29805 (a).)

Existing law requires any person subject to a firearm prohibition based on a conviction of a felony or specified misdemeanor to relinquish any firearms they own, possess or have under their control or custody within 48 hours if the defendant is out of custody or within 14 days if the defendant is in custody. (Penal Code, § 29810 (a).)

Existing law provides that persons with the knowledge that they have an outstanding warrant for any of the specified serious or violent misdemeanors that result in a 10-year prohibition are guilty of a crime if they possess a firearm while the warrant is outstanding. A violation is punishable as a misdemeanor, with imprisonment up to one year, or as a state prison felony. (Penal Code, §§ 29805 (a), 29851.)

Existing law prohibits a person that is subject to specified restraining orders related to domestic violence from possessing or owning a firearm and punishes a violation of the prohibition as a misdemeanor with a maximum sentence of one year in the county jail. (Penal Code, § 29825.)

Existing law contains an exception to the 10-year firearm ban based on a conviction of specified misdemeanors for individuals who took the firearm from someone committing a crime against them and delivered it to law enforcement. (Penal Code, § 29850.)

Existing law authorizes specified peace officers who have been convicted of a specified misdemeanor subject to a 10-year firearm prohibition to petition for relief. In deciding the petition, a court must consider the petitioner's continued employment, the interest of justice, any relevant evidence, whether the petitioner is otherwise not prohibited, and the totality of the circumstances. (Pen. Code, § 29855.)

Existing law permits any person convicted of a specified misdemeanor, before that misdemeanor was added to the list of misdemeanors triggering a 10-year prohibition, to petition for relief. In deciding the petition, a court must ensure the petitioner is not otherwise prohibited, and may consider the interest of justice, any relevant evidence, and the totality of the circumstances. (Pen. Code, § 29860.)

Existing law requires the Attorney General to establish and maintain an online database to be known as the Prohibited Armed Persons File; the purpose of which is to cross-reference persons who have ownership or possession of a firearm on or after January 1, 1996, as indicated by a

record in the Consolidated Firearms Information System, and who, subsequent to the date of that ownership or possession of a firearm, fall within a class of persons who are prohibited from owning or possessing a firearm. (Penal Code § 30000 (a).)

Existing law makes it a wobbler to maliciously and intentionally main, mutilate, torture or wound a living animal, or maliciously and intentionally kill an animal. (Penal Code § 597(a), (d).)

Existing law makes it a wobbler to overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, drink, or shelter, cruelly beat, mutilate, or cruelly kill an animal, or cause or procure an animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and having the charge or custody of an animal, either as owner or otherwise, subject an animal to needless suffering, or inflict unnecessary cruelty upon the animal, or in any manner abuse an animal, or fail to provide the animal with proper food, drink, or shelter, or protection from the weather, or drive, ride, or otherwise use the animal when unfit for labor. (Penal Code § 597(b).)

Existing law specifies that the above crimes apply to certain endangered, threatened and protected species. (Penal Code § 597(e).)

Existing law provides that these animal cruelty crimes are punishable as a felony by imprisonment or a fine of not more than \$20,000, or by both fine and imprisonment, or alternatively as a misdemeanor by imprisonment in country jail for not more than year or by a fine of not more than \$20,000, or by both fine and imprisonment. (Penal Code § 597(d).)

Existing law provides that every owner, driver, or keeper of any animal who permits the animal to be in any building, enclosure, lane, street etc. without proper care and attention is guilty of a misdemeanor punishable by up to 6 months in jail/and or fine of \$1,000 (\$4,100 with penalty assessments). (Penal Code § 597.1)

This bill sets forth several legislative findings and declarations related to the relationship between cruelty to animals and violence against humans, and California's interest in prohibiting animal abusers from possessing firearms.

This bill provides that any person who is convicted on or after January 1, 2025 of a misdemeanor violation of Penal Code 597 (animal cruelty), and who within 10 years of conviction owns, purchases, receives or possesses any firearm is guilty of a misdemeanor.

COMMENTS

1. Need for This Bill

According to the Author:

California has led the country in ensuring firearms do not fall into the hands of those that have demonstrated violent tendencies in an attempt to prevent future violence against others. Given the numerous studies showing that animal abuse is a predictor of violence against humans, California needs to ensure dangerous people with a

history of animal abuse are prohibited from owning and possessing firearms for at least 10 years.

Animal cruelty is a predictor of current and future violence, including crimes of assault, rape, murder, arson, domestic violence, and sexual abuse of children. For example, the majority of interpersonal violence (IPV) victims who report co-occurring animal cruelty are also concerned the abuser eventually will kill them and should be considered at extremely high risk of suffering severe injury or death.

By ignoring such a blatant warning sign, California is putting people at risk. Misdemeanor animal abuse is a major indicator that someone is capable of serious violence against humans, and they should be prohibited from owning or possessing deadly firearms for at least 10 years.

2. Crimes against Animals as a Risk Factor

As the Author suggests above, there is significant research indicating a link between animal mistreatment and violence against humans. According to a recent publication by the U.S. Department of Justice, “animal cruelty crimes can serve as a precursor to more violent crimes, as a co-occurring crime to other types of offenses, and as an interrelated crime to offenses such as domestic violence and elder abuse.”¹ Indeed, some research has shown that 41% of intimate partner violence offenders had histories of animal cruelty, which, in addition to mental health issues, low education levels, and substance abuse issues, ranks as a top risk factor for becoming a batterer.² Moreover, as referenced in this bill’s findings, a 2019 study of women who had been in abusive intimate relationships found that 90.7% of the study group reported that children in the household experienced animal maltreatment through direct exposure to threats and violence against animals, and in some instances, the child tried to protect their companion animals by intervening and putting themselves at risk.³ Other research has suggested that individuals who commit animal abuse are five times more likely to commit violent crimes against humans.⁴ In fact, the link is so strong that in 2016 the FBI amended the National Incident-Based Reporting System (NIBRS) to start collecting data on animal abuse.⁵ According to the Author, violence against animals is so strongly associated with violence against humans that animal abusers should be prohibited from possessing firearms.

3. Armed and Prohibited Persons (APPS) – Background and Latest Figures

Prior to 2001, the removal of firearms from prohibited persons was primarily the responsibility of local law enforcement agencies. DOJ conducted background checks on firearm purchasers, who were subject to a 10-day waiting period, and would notify local law enforcement when a

¹ “Animal Cruelty as a Gateway Crime.” Community Oriented Policing Services, U.S. Department of Justice. Published 2018. [Animal Cruelty as a Gateway Crime \(sheriffs.org\)](https://www.sheriffs.org/animal-cruelty-as-a-gateway-crime)

² [Domestic Violence and The Link | National Link Coalition](https://www.nationallinkcoalition.com/dv-and-the-link)

³ McDonald, Shelby et. al. “Intimate Partner Violence Survivors’ Reports of Their Children’s Exposure to Companion Animal Maltreatment: A Qualitative Study.” July 2019; *Journal of Interpersonal Violence* 34(14):2627-2652. [PDF Intimate Partner Violence Survivors’ Reports of Their Children’s Exposure to Companion Animal Maltreatment: A Qualitative Study \(researchgate.net\)](https://www.researchgate.net/publication/334111111)

⁴ Hodges, Cynthia. “The Link: Cruelty to Animals and Violence Towards People.” Michigan State University College of the Law, 2008. [The Link: Cruelty to Animals and Violence Towards People | Animal Legal & Historical Center \(animallaw.info\)](https://www.animallaw.info/the-link)

⁵ “Tracking Animal Cruelty: FBI Collecting Data on Crimes Against Animals.” [Tracking Animal Cruelty — FBI](https://www.fbi.gov/newsroom/special-reports/animal-cruelty)

to grow as the Legislature adds new categories of persons to the list, and is awaiting the implementation of other mandates. This bill would invariably add individuals to APPS, requiring additional initial reviews of new matches by DOJ and ultimately requiring additional investigation and seizure operations.

4. Firearm Possession Prohibitions for Criminal Convictions

Existing state and federal law contains a myriad of prohibitions on the possession and attempted purchase of firearms by certain individuals. Under both state and federal law, all felony convictions lead to a lifetime prohibition.⁹ California law goes further and imposes a 10-year prohibition on the possession and purchase of firearms for individuals convicted of numerous misdemeanor offenses that involve either violence or threat of violence as well as certain firearm-related crimes.¹⁰ Additionally, a person may be prohibited from possessing a firearm due to a protective order or as a condition of probation. If a person communicates to his or her psychotherapist a serious threat of physical violence against a reasonably-identifiable victim or victims, the person is prohibited from owning or purchasing a firearm for five years, starting from the date the psychotherapist reports to local law enforcement the identity of the person making the threat. If a person is admitted into a facility because that person is a danger to himself, herself, or to others, the person is prohibited from owning or purchasing a firearm for five years.¹¹ Individuals under domestic violence restraining orders are also subject to a prohibition on firearm possession and purchase for the duration of that court order.¹²

This bill builds on California's current firearms prohibitions for individuals convicted of various misdemeanors by prohibiting individuals who are convicted of certain animal cruelty offenses after January 1, 2025 from owning, purchasing, receiving or possessing any firearm, the violation of which is itself a misdemeanor. Specifically, the bill establishes a firearm ban for any conviction of Penal Code §597, which includes the malicious and intentional maiming, mutilation, torture, wounding or killing of an animal and the overworking overloading, torment or deprivation of an animal, as specified.¹³

5. Committee Amendment

Currently, the bill imposes a 10-year ban on the possession and purchase of firearms for a violation of any provision of Penal Code § 597. However, the Author's intent was to impose the 10-year ban only for a violation of §597, subdivision (a), which provides:

Except as provided [...], a person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of a crime punishable pursuant to subdivision (d) [of this section].

The Author plans to take an amendment in committee correcting this error and confining the scope of the bill to this subdivision.

⁹ 18 U.S.C. § 922(g); Penal Code § 29800

¹⁰ Penal Code §29805

¹¹ Welfare and Institutions Code §§ 8100, 8103.

¹² Penal Code §29825.

¹³ See pp. 2-3 above for the full summary of the crimes included in Penal Code §597. A related bill has been introduced in the United States Senate – the Animal Violence Exposes Real Threat of Future Violence (or AVERT) Act of 2024. [Text - S.3737 - 118th Congress \(2023-2024\): AVERT Future Violence Act of 2024 | Congress.gov | Library of Congress](https://www.congress.gov/bills/118/text/s/3737/2024/09/01/text)

6. Argument in Support

According to a group of peace officer professional associations writing in support:

Simply put, this bill would add a misdemeanor animal abuse conviction to the other 50 misdemeanor charges that result in the same 10-year firearm prohibition. Animal cruelty is a predictor of current and future violence, including crimes of assault, rape, murder, arson, domestic violence, and sexual abuse of children. For example, the majority of interpersonal violence (IPV) victims who report co-occurring animal cruelty are also concerned the abuser eventually will kill them and should be considered at extremely high risk of suffering severe injury or death. By ignoring such a blatant warning sign, California is putting people at risk. Misdemeanor animal abuse is a major indicator that someone is capable of serious violence against humans, and they should be prohibited from owning or possessing deadly firearms.

7. Argument in Opposition

According to the Ella Baker Center for Human Rights:

Ella Baker Center for Human Rights (EBC) respectfully opposes SB 902, as introduced. EBC does not disagree that it would be appropriate to prohibit gun possession for persons convicted of the offense of malicious and intentional maiming, mutilation or torture of an animal. Ella Baker Center is, however, strongly opposed to incarcerating a person as the means of discouraging gun ownership or punishing gun possession of a person with a prior misdemeanor conviction.

There are other means to allow lawful confiscation of a firearm from a person deemed unsafe to own a firearm. There are smarter, safer ways to discourage gun possession by those with red flag mental health issues than relapsing to incarceration, which has limited utility and proven harms.

Incarceration of an individual not only leads to their own loss of liberty, loss of employment, loss of income, and sometimes loss of home, but it also leads to economic distress for their family. Having a loved one incarcerated causes intense financial stress on low income families. Furthermore, given the disparity in punishment of low income Californians compared to their richer neighbors who can afford private attorneys, this bill would contribute to further community and family impoverishment.

-- END --