

AMENDED IN SENATE AUGUST 4, 2008

AMENDED IN SENATE JULY 2, 2008

AMENDED IN SENATE JUNE 17, 2008

AMENDED IN ASSEMBLY MAY 15, 2008

AMENDED IN ASSEMBLY APRIL 23, 2008

AMENDED IN ASSEMBLY APRIL 1, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2296

**Introduced by Assembly Member Mullin
(Principal coauthor: Assembly Member Wolk)**

February 21, 2008

An act ~~relating to animals~~ to add Section 602.12 to the Penal Code, relating to trespass, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2296, as amended, Mullin. ~~Animals: Animal Enterprise Protection Act. Academic research: trespass.~~

Existing law makes it unlawful for persons to engage in certain acts of trespass and punishes most trespasses by a fine not exceeding \$1,000, imprisonment in a county jail for a period not exceeding 6 months, or by both that fine and imprisonment.

This bill would make a person who enters the residential real property of an academic researcher, as defined, for the purpose of chilling or interfering with the researcher's academic freedom guilty of the crime

of trespass, a misdemeanor. By creating a new crime, the 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.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law establishes various causes of action, including actions for damages and injunctive relief, for the enforcement of various rights.~~

~~This bill would make findings of the Legislature regarding protests on animal use in research stating, among other things, that the use of physical threats, violence, and the destruction of property is unacceptable.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~^{yes}. State-mandated local program: ~~no~~^{yes}.

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

1 ~~SECTION 1.~~ This act shall be known and may be cited as the
2 ~~California Animal Enterprise Protection Act.~~

3 ~~SEC. 2.~~

4 ~~SECTION 1.~~ The Legislature hereby finds and declares that
5 while individuals are entitled to express their views on animal use
6 in research and to mount protests that are protected under the First
7 Amendment to the United States Constitution, the use of physical
8 threats, violence, or destruction of property is unacceptable and
9 should not be tolerated. *Unlawful acts that threaten and intimidate*
10 *researchers or their families at their personal residences are not*
11 *protected by the First Amendment to the United States Constitution,*
12 *and are a direct threat to the academic researcher’s constitutional*
13 *right to academic freedom.*

14 ~~SEC. 2.~~ *Section 602.12 is added to the Penal Code, to read:*

15 ~~602.12.~~ (a) *Any person who enters the residential real property*
16 *of an academic researcher for the purpose of chilling or interfering*
17 *with the researcher’s academic freedom is guilty of trespass, a*
18 *misdemeanor.*

1 (b) For the purposes of this section, the following definitions
2 apply:

3 (1) “Academic researcher” means any person lawfully engaged
4 in academic research who is a student, trainee, or employee of an
5 accredited California community college, a campus of the
6 California State University or the University of California, or a
7 Western Association of Schools and Colleges accredited, degree
8 granting, nonprofit institution.

9 (2) “Academic freedom” means the lawful performance,
10 dissemination, or publication of academic research or instruction.

11 (c) This section shall not apply to any person who is lawfully
12 engaged in labor union activities that are protected under state
13 or federal law.

14 SEC. 3. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.

23 SEC. 4. This act is an urgency statute necessary for the
24 immediate preservation of the public peace, health, or safety within
25 the meaning of Article IV of the Constitution and shall go into
26 immediate effect. The facts constituting the necessity are:

27 In order to provide protection against escalating acts of violence
28 against researchers as soon as possible, it is necessary that this
29 act take effect immediately.