

AMENDED IN ASSEMBLY FEBRUARY 25, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1835**

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**Introduced by Assembly Member Bates**

January 24, 2002

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An act to ~~repeal Section 142~~ *amend Sections 142 and 847* of the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1835, as amended, Bates. Peace officers: refusal to receive or arrest charged person : *criminal or civil liability*.

(1) Existing statutory law makes it a felony for any peace officer who has the authority to receive or arrest a person charged with a criminal offense to willfully refuse to receive or arrest that person, including a person arrested by a private person under a citizen's arrest.

This bill would ~~repeal this provision~~ *provide that the above provision shall not apply to arrests made pursuant to the provisions authorizing a private person to make a citizen's arrest.*

(2) *Existing law provides that there shall be no civil liability on the part of, and no cause of action shall arise against, any peace officer acting within the scope of his or her authority, for false arrest or false imprisonment arising out of any arrest under specified circumstances, including that the arrest was made pursuant to the requirements of specified provisions.*

*This bill would provide that the above provision limiting the civil liability of a peace officer with respect to specified arrests shall apply to arrests made pursuant to the provisions authorizing a private person to make a citizen's arrest.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1     ~~SECTION 1.—Section 142 of the Penal Code is repealed.~~  
2     SECTION 1.   Section 142 of the Penal Code is amended to  
3 read:  
4     142. (a) Any peace officer who has the authority to receive or  
5 arrest a person charged with a criminal offense and willfully  
6 refuses to receive or arrest ~~such~~ that person shall be punished by  
7 a fine not exceeding ten thousand dollars (\$10,000), or by  
8 imprisonment in the state prison, or in a county jail not exceeding  
9 one year, or by both ~~such~~ that fine and imprisonment.  
10    (b) Notwithstanding subdivision (a), the sheriff may determine  
11 whether any jail, institution, or facility under his *or her* direction  
12 shall be designated as a reception, holding, or confinement facility,  
13 or shall be used for several of ~~such~~ those purposes, and may  
14 designate the class of prisoners for which ~~such~~ any facility shall be  
15 used.  
16    (c) This section shall not apply to arrests made pursuant to  
17 Section 837.  
18    SEC. 2.   Section 847 of the Penal Code is amended to read:  
19     847. (a) A private person who has arrested another for the  
20 commission of a public offense must, without unnecessary delay,  
21 take the person arrested before a magistrate, or deliver him or her  
22 to a peace officer. ~~There~~  
23    (b) ~~There~~ shall be no civil liability on the part of, and no cause  
24 of action shall arise against, any peace officer or federal criminal  
25 investigator or law enforcement officer described in subdivision  
26 (a) or (d) of Section 830.8, acting within the scope of his or her  
27 authority, for false arrest or false imprisonment arising out of any  
28 arrest ~~when any one~~ under any of the following circumstances  
29 exist:  
30    (a) The arrest was lawful, or ~~when~~ the peace officer, at the time  
31 of the arrest, had reasonable cause to believe the arrest was lawful.  
32    (b) ~~When the~~ The arrest was made pursuant to a charge made,  
33 upon reasonable cause, of the commission of a felony by the  
34 person to be arrested.



1 (c) ~~When the~~ *The* arrest was made pursuant to the requirements  
2 of Section 142, 837, 838, or 839.

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