

AMENDED IN ASSEMBLY MARCH 18, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1933

Introduced by Assembly Members Reyes and Cohn

(~~Coauthor: Assembly Member Longville~~)

**(Coauthors: Assembly Members Alquist, Firebaugh, Koretz,
Longville, Oropeza, and Washington)**

**(Coauthors: Senators Bowen, Chesbro, Kuehl, Perata, Romero, and
Soto)**

February 12, 2002

An act to add Section ~~52.4~~ 1708.6 to the Civil Code, relating to ~~gender-related~~ domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

AB 1933, as amended, Reyes. ~~Civil actions: gender-related violence~~ Domestic violence.

Existing law requires every person to abstain from injuring the person or property of another or from infringing upon the rights of another. Existing law also provides that a person who commits a sexual battery, as specified, is liable for damages, including, but not limited to general, special, and punitive damages.

This bill would also provide that a person who commits the tort of domestic violence, as specified, is liable for damages, including, but not limited to, general, special, and punitive damages. The bill would also set forth findings and declarations regarding its purposes.

~~Existing law sets forth various personal rights and provides that all persons within California have the right to be free from violence, or intimidation by the threat of violence because of, among other~~

characteristics, their race, color, religion, ancestry, national origin, political affiliation, or sex. Existing law further permits an individual whose exercise or enjoyment of specified personal rights has been interfered with to bring a civil action for damages, including actual damages, exemplary damages, attorney’s fees, injunctive relief, and other appropriate relief.

This bill would permit a person injured by a crime of violence motivated by gender to bring a civil action for damages against the responsible person or persons. The bill would provide that damages may include actual damages, compensatory damages, punitive damages, injunctive relief, or a combination of those damages, including any other appropriate relief, in addition to attorney’s fees and costs. The bill would also make findings and declarations regarding the effects of gender-related violence.

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

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

- 1 ~~SECTION 1.~~ The Legislature finds and declares the
- 2 *SECTION 1. The Legislature finds and declares the*
- 3 *following:*
- 4 *(a) Acts of violence occurring in a domestic context are*
- 5 *increasingly widespread.*
- 6 *(b) These acts merit special consideration as torts, because the*
- 7 *elements of trust, physical proximity, and emotional intimacy*
- 8 *necessary to domestic relationships in a healthy society makes*
- 9 *participants in those relationships particularly vulnerable to*
- 10 *physical attack by their partners.*
- 11 *(c) It is the purpose of this act to enhance the civil remedies*
- 12 *available to victims of domestic violence in order to underscore*
- 13 *society’s condemnation of these acts, to ensure complete recovery*
- 14 *to victims, and to impose significant financial consequences upon*
- 15 *perpetrators.*
- 16 *SEC. 2. Section 1708.6 is added to the Civil Code, to read:*
- 17 *1708.6. (a) A person is liable for the tort of domestic violence*
- 18 *if the plaintiff proves all of the following elements:*
- 19 *(1) The defendant willfully inflicted corporal injury resulting in*
- 20 *a traumatic condition upon the plaintiff.*



1 (2) *The defendant is the spouse, former spouse, cohabitant,*
2 *former cohabitant, fiancé, fiancée, or person who currently has, or*
3 *previously had, a dating or engagement relationship with the*
4 *plaintiff, or is the mother or father of the plaintiff’s child.*

5 (b) *A person who commits an act of domestic violence upon*
6 *another is liable to that person for damages, including, but not*
7 *limited to, general damages, special damages, and punitive*
8 *damages pursuant to Section 3294.*

9 (c) *The court, in an action pursuant to this section, may grant*
10 *to a prevailing plaintiff equitable relief, an injunction, costs, and*
11 *any other relief that the court deems proper, including reasonable*
12 *attorney’s fees.*

13 (d) *For purposes of this section, “traumatic condition” means*
14 *a condition to the body caused by physical force, such as a wound*
15 *or external or internal injury, whether minor or serious.*

16 (e) *For purposes of this section, “cohabitant” has the same*
17 *meaning as in Section 13700 of the Penal Code.*

18 (f) *For purposes of this section, “dating relationship” means*
19 *frequent, intimate associations primarily characterized by the*
20 *expectation of affection or sexual involvement independent of*
21 *financial considerations.*

22 (g) *For purposes of this section, a person shall be considered*
23 *the father of another person’s child if the alleged male parent is*
24 *presumed the natural father under Sections 7611 and 7612 of the*
25 *Family Code.*

26 (h) *The rights and remedies provided in this section are in*
27 *addition to any other rights and remedies provided by law.*
28 *following:*

29 ~~(a) Existing state and federal laws do not adequately prevent~~
30 ~~and remedy gender-related violence, such as domestic violence,~~
31 ~~which disproportionately occurs against women by men.~~

32 ~~(b) Sexual abuse harms many women, children, and families,~~
33 ~~and is often not reported to the authorities or prosecuted.~~

34 ~~(c) Acts of domestic violence and sexual abuse on the basis of~~
35 ~~gender constitute a form of sexual discrimination.~~

36 ~~(d) All persons within California have the right to be free from~~
37 ~~crimes of violence motivated by gender.~~

38 ~~(e) It is the purpose of this act to protect the civil rights of~~
39 ~~victims of gender-motivated violence and to thereby promote~~



1 ~~public safety, health, and well-being of all persons within~~
2 ~~California.~~
3 ~~SEC. 2. Section 52.4 is added to the Civil Code, to read:~~
4 ~~52.4. (a) A person injured by a crime of violence motivated~~
5 ~~by gender may bring a civil action for damages against the~~
6 ~~responsible person or persons. Damages may include actual~~
7 ~~damages, compensatory damages, punitive damages, injunctive~~
8 ~~relief, or a combination of those damages, including any other~~
9 ~~appropriate relief. A prevailing party may also be awarded~~
10 ~~attorney's fees and costs.~~
11 ~~(b) For purposes of this section, the following terms apply:~~
12 ~~(1) "Crime of violence motivated by gender" means a crime~~
13 ~~of violence committed because of gender or on the basis of gender,~~
14 ~~and due, at least in part, to hostility based on the victim's gender.~~
15 ~~(2) "Crime of violence" means:~~
16 ~~(A) An act or series of acts that would constitute a felony~~
17 ~~against the person or that would constitute a felony against~~
18 ~~property if the conduct presents a serious risk of physical injury to~~
19 ~~another, regardless of whether those acts have resulted in criminal~~
20 ~~charges, prosecution, or conviction.~~
21 ~~(B) An act or series of acts that would constitute a felony~~
22 ~~described in subparagraph (A) but for the relationship between the~~
23 ~~person who takes action and the individual against whom action~~
24 ~~is taken.~~

