

AMENDED IN ASSEMBLY MAY 23, 2002

AMENDED IN ASSEMBLY APRIL 25, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2032

Introduced by Assembly Member Canciamilla

February 15, 2002

An act to amend Section 667.9 of the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 2032, as amended, Canciamilla. Crime.

Existing law requires that a person who commits certain enumerated crimes against a member of a vulnerable group including persons over 65 years of age, the disabled, or children, receive a one-year sentence enhancement and requires that any person having a prior conviction for any of the enumerated offenses receive a 2-year sentence enhancement.

This bill would include any person who is convicted of attempting to commit those certain enumerated crimes against a member of a vulnerable group, as specified, in the above sentence enhancement and would require all sentence enhancements under these provisions to be served in addition and consecutive to any other punishment. ~~This bill would also add assault and battery to the enumerated crimes subject to this sentence enhancement.~~ By lengthening and increasing the scope of a sentence enhancement, this bill would create 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.

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

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

1 SECTION 1. Section 667.9 of the Penal Code is amended to
2 read:

3 667.9. (a) Any person who commits or attempts to commit
4 one or more of the crimes specified in subdivision (c), against a
5 person who is 65 years of age or older, or against a person who is
6 blind, deaf, developmentally disabled, a paraplegic, or a
7 quadriplegic, or against a person who is under the age of 14 years,
8 and that disability or condition is known or reasonably should be
9 known to the person committing the crime, shall receive a
10 one-year enhancement for each violation to be served in addition
11 and consecutive to any other punishment he or she receives.

12 (b) Any person who commits a violation of subdivision (a) and
13 who has a prior conviction for any of the offenses specified in
14 subdivision (c), shall receive a two-year enhancement for each
15 violation in addition to the sentence provided under Section 667.

16 (c) Subdivisions (a) and (b) apply to the following crimes:

- 17 (1) Mayhem, in violation of Section 203 or 205.
- 18 (2) Kidnapping, in violation of Section 207, 209, or 209.5.
- 19 (3) Robbery, in violation of Section 211.
- 20 (4) Carjacking, in violation of Section 215.
- 21 (5) Rape, in violation of paragraph (2) or (6) of subdivision (a)
22 of Section 261.
- 23 (6) Spousal rape, in violation of paragraph (1) or (4) of
24 subdivision (a) of Section 262.
- 25 (7) Rape, spousal rape, or sexual penetration in concert, in
26 violation of Section 264.1.
- 27 (8) Sodomy, in violation of paragraph (2) or (3) of subdivision
28 (c), or subdivision (d), of Section 286.
- 29 (9) Oral copulation, in violation of paragraph (2) or (3) of
30 subdivision (c), or subdivision (d), of Section 288a.



1 (10) Sexual penetration, in violation of subdivision (a) of
2 Section 289.

3 (11) Burglary of the first degree, as defined in Section 460, in
4 violation of Section 459.

5 ~~(12) Assault, in violation of paragraph (2) or (3) of subdivision
6 (a), or in violation of subdivision (b) of Section 245.~~

7 ~~(13) Battery, in violation of subdivision (d) of Section 243.~~

8 (d) As used in this section, “developmentally disabled” means
9 a severe, chronic disability of a person, which is all of the
10 following:

11 (1) Attributable to a mental or physical impairment or a
12 combination of mental and physical impairments.

13 (2) Likely to continue indefinitely.

14 (3) Results in substantial functional limitation in three or more
15 of the following areas of life activity:

16 (A) Self-care.

17 (B) Receptive and expressive language.

18 (C) Learning.

19 (D) Mobility.

20 (E) Self-direction.

21 (F) Capacity for independent living.

22 (G) Economic self-sufficiency.

23 SEC. 2. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.

