

AMENDED IN SENATE JANUARY 7, 2002

AMENDED IN SENATE MAY 2, 2001

AMENDED IN SENATE APRIL 16, 2001

SENATE BILL

No. 564

Introduced by Senator Speier

February 22, 2001

~~An act to amend Section 273.5 of the Penal Code, relating to the crime of battery.~~ *An act to amend Section 4980.41 of, and to add Section 4980.57 to, the Business and Professions Code, relating to counselors.*

LEGISLATIVE COUNSEL'S DIGEST

SB 564, as amended, Speier. ~~Battery: personal relationships~~ *Marriage, family, and child counseling.*

Existing law provides for the licensing and regulation by the Board of Behavioral Sciences in the Department of Consumer Affairs of persons engaged in marriage, family, and child counseling, unless specifically exempted. Existing law requires an applicant for licensure as a marriage, family, and child counselor to complete certain coursework or training in order to be eligible to sit for the licensing examination. Existing law requires persons, except those who began graduate study prior to January 1, 1995, studying for a master's or doctor's degree qualifying for licensure to include course work in spousal or partner abuse assessment, detection, and intervention. A violation of the laws regulating marriage, family, and child counselors is a crime.

This bill would require persons, except those who began graduate study prior to January 1, 2000, studying for a master's or doctor's degree qualifying for licensure to include a minimum of 15 contact

hours of training or coursework in spousal abuse assessment, detection, and intervention. The bill would require marriage and family therapists to take continuing education classes in spousal or partner abuse assessment, detection, and intervention strategies. The bill would also require a licensed marriage and family therapist to satisfy continuing education requirements in spousal or partner abuse assessment, detection, and intervention within 4 years of the board establishing those continuing education requirements.

Because a violation of the bill's requirements would be a crime, this 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.

~~Existing law provides that the infliction of corporal injury resulting in a traumatic condition by any person upon his or her spouse, cohabitant, or the mother or father of his or her child is an offense punishable by imprisonment in the state prison for 2, 3, or 4 years, or in a county jail for not more than one year, or by a fine of up to \$6,000, or by both that fine and imprisonment.~~

~~This bill would include a person with whom the person committing the offense is currently in a dating relationship who the person committing the offense knows or reasonably should know is pregnant in the list of persons having a relationship with the person committing the offense which makes a corporal injury resulting in a traumatic condition willfully inflicted upon him or her punishable by imprisonment in the state prison for 2, 3, or 4 years, or in a county jail for not more than one year, or by a fine of up to \$6,000, or by both that fine and imprisonment. Because this bill would expand the scope of an existing crime, it would impose a state-mandated local program.~~

~~The bill would also provide that any person committing a violation of this provision within 7 years of a previous conviction under specified provisions of law is subject to increased punishment.~~

~~This bill would also provide that for purposes of imposing a punishment pursuant to its provisions, if the defendant knew or reasonably should have known that the victim was pregnant, the court shall consider that fact as an aggravating circumstance.~~



~~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 273.5 of the Penal Code is amended to~~

2 *SECTION 1. Section 4980.41 of the Business and Professions*
3 *Code is amended to read:*

4 4980.41. All applicants for licensure shall complete the
5 following coursework or training in order to be eligible to sit for
6 the licensing examinations:

7 (a) A two semester or three quarter unit course in California law
8 and professional ethics for marriage, ~~and family, and child~~
9 ~~counselors therapists~~, which shall include, but not be limited to,
10 the following areas of study:

11 (1) Contemporary professional ethics and statutory, regulatory,
12 and decisional laws that delineate the profession’s scope of
13 practice.

14 (2) The therapeutic, clinical, and practical considerations
15 involved in the legal and ethical practice of marriage, family, and
16 child counseling, including family law.

17 (3) The current legal patterns and trends in the mental health
18 profession.

19 (4) The psychotherapist/patient privilege, confidentiality, the
20 patient dangerous to self or others, and the treatment of minors
21 with and without parental consent.

22 (5) A recognition and exploration of the relationship between
23 a practitioner’s sense of self and human values and his or her
24 professional behavior and ethics.

25 This course may be considered as part of the 48 semester or 72
26 quarter unit requirements contained in Section 4980.40.

27 (b) A minimum of seven contact hours of training or
28 coursework in child abuse assessment and reporting as specified
29 in Section 28 or any regulations promulgated thereunder.



1 (c) A minimum of 10 contact hours of training or coursework
2 in human sexuality as specified in Section 25, and any regulations
3 promulgated thereunder. When coursework in a master's or
4 doctor's degree program is acquired to satisfy this requirement, it
5 shall be considered as part of the 48 semester or 72 quarter unit
6 requirement contained in Section 4980.40.

7 (d) Except for persons who began graduate study prior to
8 January 1, 1986, a master's or doctor's degree qualifying for
9 licensure shall include specific instruction in alcoholism and other
10 chemical substance dependency as specified by regulation. When
11 coursework in a master's or doctor's degree program is acquired
12 to satisfy this requirement, it shall be considered as part of the 48
13 semester or 72 quarter unit requirement contained in Section
14 4980.40.

15 (e) Except for persons who began graduate study prior to
16 January 1, ~~1995~~ 2001, a master's or doctor's degree qualifying for
17 licensure shall include *a minimum of 15 contact hours of training*
18 *or* coursework in spousal or partner abuse assessment, detection,
19 and intervention. Coursework required under this subdivision may
20 be satisfactory if taken either in fulfillment of other educational
21 requirements for licensure or in a separate course. The requirement
22 for coursework in spousal or partner abuse *assessment*, detection
23 and ~~treatment~~ *intervention strategies, including knowledge of*
24 *community resources, cultural factors, and same gender abuse*
25 *dynamics*, shall be satisfied by, and the board shall accept in
26 satisfaction of the requirement, a certification from the chief
27 academic officer of the educational institution from which the
28 applicant graduated that the required coursework is included
29 within the institution's required curriculum for graduation.

30 (f) Except for persons who began graduate study prior to
31 January 1, 2001, an applicant shall complete a minimum of a two
32 semester or three quarter unit survey course in psychological
33 testing. When coursework in a master's or doctor's degree
34 program is acquired to satisfy this requirement, it may be
35 considered as part of the 48 semester or 72 quarter unit
36 requirement of Section 4980.40.

37 (g) Except for persons who began graduate study prior to
38 January 1, 2001, an applicant shall complete a minimum of a two
39 semester or three quarter unit survey course in
40 psychopharmacology. When coursework in a master's or doctor's



1 degree program is acquired to satisfy this requirement, it may be
2 considered as part of the 48 semester or 72 quarter unit
3 requirement of Section 4980.40.

4 (h) The requirements added by subdivisions (f) and (g) are
5 intended to improve the educational qualifications for licensure in
6 order to better prepare future licentiates for practice, and are not
7 intended in any way to expand or restrict the scope of licensure for
8 marriage and family therapists.

9 *SEC. 2. Section 4980.57 is added to the Business and*
10 *Professions Code, to read:*

11 *4980.57. (a) The board shall require marriage and family*
12 *therapists to take continuing education classes in spousal or*
13 *partner abuse assessment, detection, and intervention strategies,*
14 *including community resources, cultural factors, and same gender*
15 *abuse dynamics.*

16 *(b) If the board establishes a requirement for continuing*
17 *education course work in spousal or partner abuse assessment,*
18 *detection, or intervention, that requirement shall be met by each*
19 *licensee within four years from the date the requirement is*
20 *imposed.*

21 *SEC. 3. No reimbursement is required by this act pursuant to*
22 *Section 6 of Article XIII B of the California Constitution because*
23 *the only costs that may be incurred by a local agency or school*
24 *district will be incurred because this act creates a new crime or*
25 *infraction, eliminates a crime or infraction, or changes the penalty*
26 *for a crime or infraction, within the meaning of Section 17556 of*
27 *the Government Code, or changes the definition of a crime within*
28 *the meaning of Section 6 of Article XIII B of the California*
29 *Constitution.*

30 *read:*

31 ~~*273.5.—(a) Any person who willfully inflicts upon a person*~~
32 ~~*who is his or her spouse, former spouse, cohabitant, former*~~
33 ~~*cohabitant, or the mother or father of his or her child, or a person*~~
34 ~~*with whom they are currently in a dating relationship and the*~~
35 ~~*person knows or reasonably should know the person is pregnant,*~~
36 ~~*corporal injury resulting in a traumatic condition, is guilty of a*~~
37 ~~*felony, and upon conviction thereof shall be punished by a fine of*~~
38 ~~*up to six thousand dollars (\$6,000), imprisonment in the state*~~
39 ~~*prison for two, three, or four years, or in a county jail for not more*~~
40 ~~*than one year, or by both that fine and imprisonment.*~~



1 ~~(b) Holding oneself out to be the husband or wife of the person~~
2 ~~with whom one is cohabiting is not necessary to constitute~~
3 ~~cohabitation as the term is used in this section.~~

4 ~~(c) As used in this section, “traumatic condition” means a~~
5 ~~condition of the body, such as a wound or external or internal~~
6 ~~injury, whether of a minor or serious nature, caused by a physical~~
7 ~~force.~~

8 ~~(d) For the purpose of this section, a person shall be considered~~
9 ~~the father or mother of another person’s child if the alleged male~~
10 ~~parent is presumed the natural father under Sections 7611 and 7612~~
11 ~~of the Family Code.~~

12 ~~(e) Any person convicted of violating this section for acts~~
13 ~~occurring within seven years of a previous conviction under~~
14 ~~subdivision (a), or subdivision (d) of Section 243, or Section~~
15 ~~243.4, 244, 244.5, or 245 shall be punished by imprisonment in a~~
16 ~~county jail for not more than one year, or by imprisonment in the~~
17 ~~state prison for two, four, or five years, or by both imprisonment~~
18 ~~and a fine of up to ten thousand dollars (\$10,000).~~

19 ~~(f) If probation is granted to any person convicted under~~
20 ~~subdivision (a) or (b), the court shall impose probation consistent~~
21 ~~with the provisions of Section 1203.097.~~

22 ~~(g) If probation is granted, or the execution or imposition of a~~
23 ~~sentence is suspended, for any defendant convicted under~~
24 ~~subdivision (a) who has been convicted of any prior offense~~
25 ~~specified in subdivision (c), the court shall impose one of the~~
26 ~~following conditions of probation:~~

27 ~~(1) If the defendant has suffered one prior conviction within the~~
28 ~~previous seven years for a violation of any offense specified in~~
29 ~~subdivision (c), it shall be a condition thereof, in addition to the~~
30 ~~provisions contained in Section 1203.097, that he or she be~~
31 ~~imprisoned in a county jail for not less than 15 days.~~

32 ~~(2) If the defendant has suffered two or more prior convictions~~
33 ~~within the previous seven years for a violation of any offense~~
34 ~~specified in subdivision (c), it shall be a condition of probation, in~~
35 ~~addition to the provisions contained in Section 1203.097, that he~~
36 ~~or she be imprisoned in a county jail for not less than 60 days.~~

37 ~~(3) The court, upon a showing of good cause, may find that the~~
38 ~~mandatory imprisonment required by this subdivision shall not be~~
39 ~~imposed and shall state on the record its reasons for finding good~~
40 ~~cause.~~



1 ~~(h) If probation is granted upon conviction of a violation of~~
2 ~~subdivision (a), the conditions of probation may include,~~
3 ~~consistent with the terms of probation imposed pursuant to Section~~
4 ~~1203.097, in lieu of a fine, one or both of the following~~
5 ~~requirements:~~

6 ~~(1) That the defendant make payments to a battered women’s~~
7 ~~shelter, up to a maximum of five thousand dollars (\$5,000),~~
8 ~~pursuant to Section 1203.097.~~

9 ~~(2) That the defendant reimburse the victim for reasonable~~
10 ~~costs of counseling and other reasonable expenses that the court~~
11 ~~finds are the direct result of the defendant’s offense.~~

12 ~~For any order to pay a fine, make payments to a battered~~
13 ~~women’s shelter, or pay restitution as a condition of probation~~
14 ~~under this subdivision, the court shall make a determination of the~~
15 ~~defendant’s ability to pay. In no event shall any order to make~~
16 ~~payments to a battered women’s shelter be made if it would impair~~
17 ~~the ability of the defendant to pay direct restitution to the victim~~
18 ~~or court-ordered child support. Where the injury to a married~~
19 ~~person is caused in whole or in part by the criminal acts of his or~~
20 ~~her spouse in violation of this section, the community property~~
21 ~~may not be used to discharge the liability of the offending spouse~~
22 ~~for restitution to the injured spouse, required by Section 1203.04,~~
23 ~~as operative on or before August 2, 1995, or Section 1202.4, or to~~
24 ~~a shelter for costs with regard to the injured spouse and~~
25 ~~dependents, required by this section, until all separate property of~~
26 ~~the offending spouse is exhausted.~~

27 ~~(i) “Dating relationship” means frequent, intimate~~
28 ~~associations primarily characterized by the expectation of~~
29 ~~affection or sexual involvement independent of financial~~
30 ~~considerations.~~

31 ~~(j) For the purpose of imposing a punishment pursuant to this~~
32 ~~section, if the defendant knew or reasonably should have known~~
33 ~~that the victim was pregnant at the time of the offense, the court~~
34 ~~shall consider that fact as an aggravating circumstance. This~~
35 ~~subdivision shall not preclude an enhancement under Section~~
36 ~~12022.9.~~

37 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
38 ~~Section 6 of Article XIII B of the California Constitution because~~
39 ~~the only costs that may be incurred by a local agency or school~~
40 ~~district will be incurred because this act creates a new crime or~~



1 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
2 ~~for a crime or infraction, within the meaning of Section 17556 of~~
3 ~~the Government Code, or changes the definition of a crime within~~
4 ~~the meaning of Section 6 of Article XIII B of the California~~
5 ~~Constitution.~~

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