

AMENDED IN SENATE FEBRUARY 28, 2006

SENATE BILL

No. 1184

Introduced by Senator Cedillo

January 18, 2006

An act to amend Section 664 of, *and to add Section 831.7 to*, the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 1184, as amended, Cedillo. Crimes: attempted murder: nonsworn uniformed employee of a sheriff's department: *custody assistant*.

Existing law defines a custodial officer as a public officer, not a peace officer, employed by a law enforcement agency of specified counties. The duties of this custodial officer may include the serving of warrants, court orders, writs, and subpoenas in a detention facility or under circumstances arising directly out of maintaining custody of prisoners and related tasks.

This bill would similarly define a custody assistant as a person who is a full time employee, not a peace officer, employed by a sheriff's department who assists peace officer personnel in maintaining order and security in a custody detention, court detention, or station jail facility of the sheriff's department, as specified; custody assistants would have specified powers and duties with respect to inmates under the jurisdiction of the sheriff's department; would have to meet specified state and local training and selection requirements; but would not be conferred any authority except while on duty and would not be granted any additional retirement benefits. The provisions relating to custody assistants would apply only in Los Angeles County, but would not be operative in that county until adopted by resolution of the board of supervisors.

Existing law provides that an attempt to commit willful, deliberate, and premeditated murder, as defined, is punishable by imprisonment in the state prison for life with the possibility of parole. Existing law further provides that an attempted murder of a peace officer, firefighter, or custodial officer, as defined, committed under specified circumstances, is punishable by imprisonment in the state prison for life with the possibility of parole, or by 15 years to life if it is also proven that the attempt was willful, deliberate, and premeditated.

This bill would provide that the elements defining the crime of attempted murder of a police officer, firefighter, or custodial officer and the penalties therefor, shall also apply to the attempted murder of a *custody assistant, as defined above, or a nonsworn uniformed employee of a sheriff’s department whose job entails the care or control of inmates in a detention facility, as defined. By expanding the scope of an existing crime this bill would impose a state-mandated local program*

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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 664 of the Penal Code is amended to
- 2 read:
- 3 664. Every person who attempts to commit any crime, but
- 4 fails, or is prevented or intercepted in its perpetration, shall be
- 5 punished where no provision is made by law for the punishment
- 6 of those attempts, as follows:
- 7 (a) If the crime attempted is punishable by imprisonment in
- 8 the state prison, the person guilty of the attempt shall be punished
- 9 by imprisonment in the state prison for one-half the term of
- 10 imprisonment prescribed upon a conviction of the offense
- 11 attempted. However, if the crime attempted is willful, deliberate,

1 and premeditated murder, as defined in Section 189, the person
2 guilty of that attempt shall be punished by imprisonment in the
3 state prison for life with the possibility of parole. If the crime
4 attempted is any other one in which the maximum sentence is life
5 imprisonment or death, the person guilty of the attempt shall be
6 punished by imprisonment in the state prison for five, seven, or
7 nine years. The additional term provided in this section for
8 attempted willful, deliberate, and premeditated murder shall not
9 be imposed unless the fact that the attempted murder was willful,
10 deliberate, and premeditated is charged in the accusatory
11 pleading and admitted or found to be true by the trier of fact.

12 (b) If the crime attempted is punishable by imprisonment in a
13 county jail, the person guilty of the attempt shall be punished by
14 imprisonment in a county jail for a term not exceeding one-half
15 the term of imprisonment prescribed upon a conviction of the
16 offense attempted.

17 (c) If the offense so attempted is punishable by a fine, the
18 offender convicted of that attempt shall be punished by a fine not
19 exceeding one-half the largest fine which may be imposed upon
20 a conviction of the offense attempted.

21 (d) If a crime is divided into degrees, an attempt to commit the
22 crime may be of any of those degrees, and the punishment for the
23 attempt shall be determined as provided by this section.

24 (e) Notwithstanding subdivision (a), if attempted murder is
25 committed upon a peace officer or firefighter, as those terms are
26 defined in paragraphs (7) and (9) of subdivision (a) of Section
27 190.2, a custodial officer, as that term is defined in subdivision
28 (a) of Section 831 or subdivision (a) of Section 831.5, *a custody*
29 *assistant, as that term is defined in subdivision (a) of Section*
30 *831.7*, or a nonsworn uniformed employee of a sheriff's
31 department whose job entails the care or control of inmates in a
32 detention facility, as defined in subdivision (c) of Section 289.6,
33 and the person who commits the offense knows or reasonably
34 should know that the victim is a peace officer, firefighter,
35 custodial officer, *custody assistant*, or nonsworn uniformed
36 employee of a sheriff's department engaged in the performance
37 of his or her duties, the person guilty of the attempt shall be
38 punished by imprisonment in the state prison for life with the
39 possibility of parole.

1 This subdivision shall apply if it is proven that a direct but
2 ineffectual act was committed by one person toward killing
3 another human being and the person committing the act harbored
4 express malice aforethought, namely, a specific intent to
5 unlawfully kill another human being. The Legislature finds and
6 declares that this paragraph is declaratory of existing law.

7 (f) Notwithstanding subdivision (a), if the elements of
8 subdivision (e) are proven in an attempted murder and it is also
9 charged and admitted or found to be true by the trier of fact that
10 the attempted murder was willful, deliberate, and premeditated,
11 the person guilty of the attempt shall be punished by
12 imprisonment in the state prison for 15 years to life. Article 2.5
13 (commencing with Section 2930) of Chapter 7 of Title 1 of Part
14 3 shall not apply to reduce this minimum term of 15 years in state
15 prison, and the person shall not be released prior to serving 15
16 years' confinement.

17 *SEC. 2. Section 831.7 is added to the Penal Code, to read:*

18 *831.7. (a) As used in this section, a custody assistant is a*
19 *person who is a full time employee, not a peace officer, employed*
20 *by the county sheriff's department who assists peace officer*
21 *personnel in maintaining order and security in a custody*
22 *detention, court detention, or station jail facility of the sheriff's*
23 *department. A custody assistant is responsible for maintaining*
24 *custody of prisoners and performs tasks related to the operation*
25 *of a local detention facility used for the detention of persons*
26 *usually pending arraignment or upon court order either for their*
27 *own safekeeping or for the specific purpose of serving a sentence*
28 *therein. Custody assistants of the sheriff's department shall be*
29 *employees of, and under the authority of, the sheriff.*

30 *(b) A custody assistant has no right to carry or possess*
31 *firearms in the performance of his or her prescribed duties.*

32 *(c) Each person described in this section as a custody*
33 *assistant shall satisfactorily complete a training course specified*
34 *by the sheriff's department. In addition, each person designated*
35 *as a custody assistant shall satisfactorily meet the minimum*
36 *selection and training standards prescribed by the Department of*
37 *Corrections and Rehabilitation pursuant to Section 6035.*

38 *(d) A custody assistant may use reasonable force in*
39 *establishing and maintaining custody of persons housed at a*

1 *local detention facility, court detention facility, or station jail*
2 *facility.*

3 *(e) Custodial officers employed by the county sheriff's*
4 *department are authorized to perform the following additional*
5 *duties in a custody facility, court detention facility, or station jail*
6 *facility:*

7 *(1) Assist in supervising the conduct of inmates in sleeping*
8 *quarters, during meals and bathing, at recreation, and on work*
9 *assignments.*

10 *(2) Assist in overseeing the work of, and instructing, a group*
11 *of inmates assigned to various operational, maintenance, or*
12 *other rehabilitative activities.*

13 *(3) Assist in the operation of main or dormitory control*
14 *booths.*

15 *(4) Assist in processing inmates for court appearances.*

16 *(5) Control, or assist in the monitoring and control of, access*
17 *to attorney rooms and visiting areas.*

18 *(6) Fingerprint, photograph, or operate livescan machines*
19 *with respect to inmates, or assist in the fingerprinting or*
20 *photographing of inmates.*

21 *(7) Obtain criminal history information relating to an inmate*
22 *including any warrant or other hold, and update classification or*
23 *housing information relating to an inmate, as necessary.*

24 *(8) Interview inmates and review records related to the*
25 *classification process to determine the appropriate security level*
26 *for an inmate or the eligibility of an inmate for transfer to*
27 *another facility.*

28 *(9) Ensure compliance of a custody facility, court detention*
29 *facility, or station jail facility with the provisions of Title 15 of*
30 *the California Code of Regulations, or with any other applicable*
31 *legislative or judicial mandate.*

32 *(10) Assist in receiving and processing inmates in a sheriff's*
33 *station, court detention area, or type I jail facility.*

34 *(11) Secure inmates and their personal property and moneys*
35 *as necessary in compliance with the rules and regulations of the*
36 *sheriff's department.*

37 *(12) Order, inspect, or serve meals to inmates.*

38 *(13) Maintain sanitary conditions within a custody facility,*
39 *court detention facility, or station jail facility.*

40 *(14) Respond to public inquiries regarding any inmate.*

1 (f) Notwithstanding any other law, nothing in this section shall
2 be construed to confer any authority upon a custody assistant
3 except while on duty, or to grant any additional retirement
4 benefits to persons employed within this classification.

5 (g) This section shall apply only in a county of the first class,
6 as established by Sections 28020 and 28022 of the Government
7 Code, but shall not be operative in a county until adopted by
8 resolution of the board of supervisors.

9 ~~SEC. 2.~~

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