

ASSEMBLY BILL

No. 1987

Introduced by Assembly Member Villines

February 14, 2008

An act to amend Section 273ab of the Penal Code, relating to child abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 1987, as introduced, Villines. Child abuse: sentencing: age of victim.

Under existing law, it is either a misdemeanor or a felony for a person to, under circumstances likely to produce great bodily harm, willfully cause a child to suffer, or inflict thereon unjustifiable physical pain or mental suffering. Existing law provides that any person who, having the care or custody of a child who is under 8 years of age, assaults the child by means of force that to a reasonable person would be likely to produce great bodily injury, resulting in the child's death, shall be punished by imprisonment in the state prison for 25 years to life.

This bill would delete from that punishment provision the requirement that the person have the care or custody of that child.

This bill would make it a felony, punishable by imprisonment in the state prison for 15 years to life, for a person to assault a child who is under 8 years of age by means of force that to a reasonable person would be likely to produce great bodily injury, resulting in permanent injury or disability, as defined, to the child.

Because this bill would change the definition of a crime and increase the punishment for an existing crime, it 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.

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 273ab of the Penal Code is amended to
2 read:

3 273ab. (a) Any person who, ~~having the care or custody of a~~
4 ~~child who is under eight years of age,~~ assaults *a child who is*
5 *under eight years of age* by means of force that to a reasonable
6 person would be likely to produce great bodily injury, resulting in
7 the child’s death, shall be punished by imprisonment in the state
8 prison for 25 years to life. Nothing in this section shall be construed
9 as affecting the applicability of subdivision (a) of Section 187 or
10 Section 189.

11 (b) (1) *Any person who assaults a child who is under eight*
12 *years of age by means of force that to a reasonable person would*
13 *be likely to produce great bodily injury, resulting in permanent*
14 *injury or disability to the child, shall be punished by imprisonment*
15 *in the state prison for 15 years to life.*

16 (2) *“Permanent injury or disability,” as used in paragraph (1),*
17 *means the loss or impairment of function of any bodily member*
18 *or organ, including the brain.*

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

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