

**ASSEMBLY BILL**

**No. 2562**

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**Introduced by Assembly Member Fuller**

February 22, 2008

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An act to amend Section 186.33 of the Penal Code, relating to criminal street gangs.

LEGISLATIVE COUNSEL'S DIGEST

AB 2562, as introduced, Fuller. Criminal street gangs: registration.

Existing law, as added by Proposition 21 of the March 7, 2000, statewide general election, makes it a misdemeanor for any person required to register as a result of a violation of a criminal street gang offense, as defined, to knowingly violate any registration requirement, as specified.

This bill would, in addition, make it a felony for a person required to register as a result of a felony violation of a criminal street gang offense to knowingly violate any registration requirement, as specified. This bill would also make it a felony for any person required to register as a result of a violation of a criminal street gang offense to knowingly violate any registration requirement if the person has previously been convicted for failing to register, as specified.

Proposition 21 requires a statute amending the provisions of the act to be passed in each house by rollcall vote entered in the journal,  $\frac{2}{3}$  of the membership of each house concurring.

Because this bill would increase the punishment for existing crimes, 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: 2/3. 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 186.33 of the Penal Code is amended to  
2 read:

3 186.33. (a) ~~Any~~(1) *Except as provided in paragraph (2) or*  
4 *(3), any person required to register pursuant to Section 186.30 who*  
5 *knowingly violates any of its provisions is guilty of a misdemeanor.*

6 (2) *Any person who is required to register pursuant to Section*  
7 *186.30 as a result of a felony conviction and who knowingly*  
8 *violates any provision of Section 186.30 is guilty of a felony.*

9 (3) *Any person who is required to register pursuant to Section*  
10 *186.30, who knowingly violates any of its provisions, and who has*  
11 *previously been convicted of knowingly violating any provisions*  
12 *of Section 186.30 is guilty of a felony.*

13 (b) (1) Any person who knowingly fails to register pursuant to  
14 Section 186.30 and is subsequently convicted of, or any person  
15 for whom a petition is subsequently sustained for a violation of,  
16 any of the offenses specified in Section 186.30, shall be punished  
17 by an additional term of imprisonment in the state prison for 16  
18 months, or 2, or 3 years. The court shall order imposition of the  
19 middle term unless there are circumstances in aggravation or  
20 mitigation. The court shall state its reasons for the enhancement  
21 choice on the record at the time of sentencing.

22 (2) The existence of any fact bringing a person under this  
23 subdivision shall be alleged in the information, indictment, or  
24 petition, and be either admitted by the defendant or minor in open  
25 court, or found to be true or not true by the trier of fact.

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

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

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