

Assembly Bill No. 1280

CHAPTER 300

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

[Approved by Governor September 25, 2010. Filed with
Secretary of State September 27, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1280, Villines. Child abuse sentencing: child becoming comatose or suffering paralysis.

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, in addition, make it a felony, punishable by imprisonment in the state prison for life with the possibility of parole, for a person, having the care or custody of a child who is under 8 years of age, to assault the child with force that to a reasonable person would be likely to produce great bodily injury, resulting in the child becoming comatose due to brain injury or suffering paralysis of a permanent nature, as specified.

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.

This bill would make its operation contingent on the enactment of AB 1844 of the 2009–10 Regular Session of the Legislature.

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

SECTION 1. Section 273ab of the Penal Code is amended to read:

273ab. (a) Any person, having the care or custody of a child who is under eight years of age, who 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. Nothing in this section shall be construed as affecting the applicability of subdivision (a) of Section 187 or Section 189.

(b) Any person, having the care or custody of a child who is under eight years of age, who assaults the child by means of force that to a reasonable person would be likely to produce great bodily injury, resulting in the child becoming comatose due to brain injury or suffering paralysis of a permanent nature, shall be punished by imprisonment in the state prison for life with the possibility of parole. As used in this subdivision, “paralysis” means a major or complete loss of motor function resulting from injury to the nervous system or to a muscular mechanism.

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

SEC. 3. This act shall only become operative if Assembly Bill 1844 of the 2009–10 Regular Session of the Legislature is enacted.