

AMENDED IN ASSEMBLY FEBRUARY 24, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1641

Introduced by Assembly Member Hall

January 11, 2010

An act to amend Section 152.3 of the Penal Code, relating to rape.

LEGISLATIVE COUNSEL'S DIGEST

AB 1641, as amended, Hall. Rape: duty to report.

Existing law requires, with specified exceptions, any person who reasonably believes that he or she has observed the commission of a rape where the victim is a child under 14 years of age to notify a peace officer by telephone or any other means. The failure to notify as required is a misdemeanor punishable by a fine of \$1,500, or by imprisonment in a county jail for up to 6 months, or both.

This bill would delete the age of the victim from the elements of the crime, *and would specify that the crime is committed if no report is made within 96 hours of observation.*

By expanding the scope of an existing 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.

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 152.3 of the Penal Code is amended to
2 read:

3 152.3. (a) Any person who reasonably believes that he or she
4 has observed the commission of any of the following offenses shall
5 notify a peace officer, as defined in Chapter 4.5 (commencing with
6 Section 830) of Title 3 of Part 2:

- 7 (1) Murder, where the victim is a child under 14 years of age.
- 8 (2) Rape, *within 96 hours of observation*.
- 9 (3) A violation of paragraph (1) of subdivision (b) of Section
10 288 of the Penal Code.

11 (b) This section shall not be construed to affect privileged
12 relationships as provided by law.

13 (c) The duty to notify a peace officer imposed pursuant to
14 subdivision (a) is satisfied if the notification or an attempt to
15 provide notice is made by telephone or any other means.

16 (d) Failure to notify as required pursuant to subdivision (a) is a
17 misdemeanor and is punishable by a fine of not more than one
18 thousand five hundred dollars (\$1,500), by imprisonment in a
19 county jail for not more than six months, or by both that fine and
20 imprisonment.

21 (e) The requirements of this section shall not apply to the
22 following:

- 23 (1) A person who is related to either the victim or the offender,
24 including a husband, wife, parent, child, brother, sister,
25 grandparent, grandchild, or other person related by consanguinity
26 or affinity.
- 27 (2) A person who fails to report based on a reasonable mistake
28 of fact.
- 29 (3) A person who fails to report based on a reasonable fear for
30 his or her own safety or for the safety of his or her family.

31 *SEC. 2. No reimbursement is required by this act pursuant to*
32 *Section 6 of Article XIII B of the California Constitution because*
33 *the only costs that may be incurred by a local agency or school*
34 *district will be incurred because this act creates a new crime or*
35 *infraction, eliminates a crime or infraction, or changes the penalty*
36 *for a crime or infraction, within the meaning of Section 17556 of*
37 *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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