

Senate Bill No. 492

CHAPTER 592

An act to amend Section 653b of the Penal Code, relating to loitering.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 492, Maldonado. Loitering: criminal street gangs.

Under existing law, it is a misdemeanor for any person to loiter after being asked to leave, as specified, about any school or public place at or near which children attend or normally congregate. Existing law establishes enhanced misdemeanor penalties, including minimum penalties, for this crime if the person is required to register as a sex offender.

This bill would provide enhanced penalties for this crime if the person is required to register with the chief of police or sheriff for committing any of specified criminal street gang offenses. Because the bill would increase the penalties for an existing crime, the 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.

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

SECTION 1. Section 653b of the Penal Code is amended to read:

653b. (a) Except as provided in subdivision (b) or (c), every person who loiters about any school or public place at or near which children attend or normally congregate and who remains at any school or public place at or near which children attend or normally congregate, or who reenters or comes upon a school or place within 72 hours, after being asked to leave by the chief administrative official of that school or, in the absence of the chief administrative official, the person acting as the chief administrative official, or by a member of the security patrol of the school district who has been given authorization, in writing, by the chief administrative official of that school to act as his or her agent in performing this duty, or a city police officer, or sheriff or deputy sheriff, or Department of the California Highway Patrol peace officer is a vagrant, and is punishable by a fine of not exceeding one thousand dollars (\$1,000) or by imprisonment in a county jail for a period not exceeding six months, or by both that fine and imprisonment.

(b) Every person required to register as a sex offender who violates subdivision (a) shall be punished as follows:

(1) Upon a first conviction, by a fine not exceeding two thousand dollars (\$2,000), by imprisonment in a county jail for a period of not more than six months, or by both that fine and imprisonment.

(2) If the defendant has been previously convicted once of a violation of this section or former Section 653g, by imprisonment in a county jail for a period of not less than 10 days or more than six months, or by both imprisonment and a fine of not exceeding two thousand dollars (\$2,000), and shall not be released on probation, parole, or any other basis until he or she has served at least 10 days.

(3) If the defendant has been previously convicted two or more times of a violation of this section or former Section 653g, by imprisonment in a county jail for a period of not less than 90 days or more than six months, or by both imprisonment and a fine of not exceeding two thousand dollars (\$2,000), and shall not be released on probation, parole, or any other basis until he or she has served at least 90 days.

(c) Any person required to register with the chief of police or sheriff pursuant to Section 186.30 who violates subdivision (a) shall be punished as follows:

(1) Upon first conviction, by a fine not exceeding one thousand dollars (\$1,000), by imprisonment in a county jail for a period of not more than one year, or by both that fine and imprisonment.

(2) Upon a second conviction, by a fine not exceeding two thousand dollars (\$2,000), by imprisonment in a county jail for a period of not more than one year, or by both that fine and imprisonment. The court shall consider a period of imprisonment of at least 10 days.

(3) If the defendant has been previously convicted two or more times, by a fine not exceeding two thousand dollars (\$2,000), by imprisonment in a county jail for a period of not more than one year, or by both that fine and imprisonment. The court shall consider a period of imprisonment of at least 90 days.

(d) As used in this section, “loiter” means to delay, to linger, or to idle about a school or public place without lawful business for being present.

(e) Nothing in this section shall preclude or prohibit prosecution under any other provision of law.

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.