

AMENDED IN SENATE APRIL 13, 2010

AMENDED IN SENATE MARCH 8, 2010

SENATE BILL

No. 840

Introduced by Senator Yee

(Principal coauthors: Senators Alquist and Harman)

(Principal coauthor: Assembly Member Torlakson)

**(~~Coauthor: Senator Ashburn~~ Coauthors: Senators Ashburn and
DeSaulnier)**

(Coauthors: Assembly Members Blumenfield, Conway, Gilmore, Lieu,
Portantino, Audra Strickland, and Swanson)

January 11, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

SB 840, as amended, Yee. Reporting crimes.

Existing law, subject to exceptions, provides that any person who reasonably believes that he or she has observed the commission of a murder, rape, or lewd and lascivious act committed by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, where the victim of any of these crimes is under 14 years of age, shall notify a peace officer. Violation of these provisions is *a misdemeanor* punishable by a fine not exceeding \$1,500 or incarceration not exceeding 6 months in a county jail, or both the fine and incarceration.

This bill would expand those provisions to apply when the victim of the offense observed is under 18 years of age, and would specify that this obligation to report crimes to a peace officer applies to sodomy, oral copulation, and sexual penetration, as specified, where those crimes

are accomplished by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person. The bill would provide additional exceptions to the reporting requirement for domestic partners, for children under 12 years of age, and for victims of the offenses that are subject to reporting. *The bill would also provide that a violation of these reporting obligations may be punished as an infraction.*

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
- 5 where the victim is a child under the age of 18 years shall notify
- 6 a peace officer, as defined in Chapter 4.5 (commencing with
- 7 Section 830) of Title 3 of Part 2:
- 8 (1) Murder.
- 9 (2) Rape.
- 10 (3) A violation of Section 286, 288, 288a, or 289, accomplished
- 11 by use of force, violence, duress, menace, or fear of immediate
- 12 and unlawful bodily injury on the victim or another person.
- 13 (b) This section shall not be construed to affect privileged
- 14 relationships as provided by law.
- 15 (c) The duty to notify a peace officer imposed pursuant to
- 16 subdivision (a) is satisfied if the notification or an attempt to
- 17 provide notice is made by telephone or any other means.
- 18 (d) Failure to notify as required pursuant to subdivision (a) is a
- 19 misdemeanor ~~and is~~ punishable by a fine of not more than one
- 20 thousand five hundred dollars (\$1,500), by imprisonment in a

1 county jail for not more than six months, or by both that fine and
2 imprisonment, *or is an infraction*.

3 (e) The requirements of this section shall not apply to the
4 following:

5 (1) A victim of the offense subject to reporting pursuant to
6 subdivision (a).

7 (2) A person who is related to either the victim or the offender,
8 including a husband, wife, domestic partner, parent, child, brother,
9 sister, grandparent, grandchild, or other person related by
10 consanguinity or affinity.

11 (3) A person who fails to report based on a reasonable mistake
12 of fact.

13 (4) A person who fails to report based on a reasonable fear for
14 his or her own safety or for the safety of his or her family.

15 (5) A child under 12 years of age.

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