

AMENDED IN ASSEMBLY MARCH 14, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 30**

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**Introduced by Assembly Member Hayashi**

*(Principal coauthor: Assembly Member Allen)*

*(Principal coauthor: Senator DeSaulnier)*

*(Coauthors: Assembly Members Ammiano, Beall, Huffman, Ma, and Torres)*

*(Coauthor: Senator Hancock)*

December 6, 2010

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An act to amend Sections 1257.7 and 1257.8 of the Health and Safety Code, and to amend Section 6030 of the Penal Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 30, as amended, Hayashi. Health facilities: security plans.

Under existing law, the State Department of Public Health licenses and regulates hospitals, as defined. Violation of these provisions is a crime. Existing law requires hospitals, not less than annually, to conduct a security and safety assessment and, using the assessment, develop a security plan with measures to protect personnel, patients, and visitors from aggressive or violent behavior. Existing law provides that the plan may include, but is not limited to, prescribed considerations.

This bill would, instead, require the plan to include these considerations, as well as other considerations prescribed by the bill. It would also require the hospital to adopt specified security policies as part of the plan. The bill would also require the hospital to evaluate and treat an employee who is involved in a violent incident and to provide specified followup care. The bill would prohibit a hospital from

prohibiting an employee from, or taking punitive or retaliatory action against an employee for, seeking assistance from local emergency services or law enforcement when a violent incident occurs.

Under existing law, an act of assault that results in injury or involves the use of a firearm or other dangerous weapon against on-duty hospital personnel is required to be reported to law enforcement within 72 hours of the occurrence of the incident.

This bill would, instead, require reporting to law enforcement within 24 hours.

This bill would also require a hospital to report incidents of assault or battery to the department, as specified. *This bill would allow the imposition of a civil penalty in an amount not to exceed \$100 per day for each day that certain incidents are not reported, as prescribed.* The bill would require the department to make an onsite inspection or investigation when it receives a report from a hospital that indicates an ongoing, urgent, or emergent threat of imminent danger of death or serious bodily harm to patient, personnel, or visitors.

The bill would require the department to report to the Legislature, as prescribed, beginning on January 1, 2014, and annually thereafter until January 1, 2018, certain information regarding incidents of violence at hospitals.

Under existing law, all hospital employees who are regularly assigned to the emergency department are required to receive, on a continuing basis as provided by the security plan, specified training.

This bill would require training to be provided annually, and would include in the required training hospital employees ~~regularly assigned to a psychiatric unit who provide direct care to patients.~~

~~This bill would allow the imposition of an administrative penalty for violation of the provisions relating to the safety plan. Because~~

*Because* this bill expands the definition of a crime, it would impose a state-mandated local program.

Under existing law, the Corrections Standards Authority is required to establish minimum standards for state and local correctional facilities.

This bill would require the standards to include a safety and security plan to protect health care personnel who provide care to persons confined in state and local correctional facilities, as specified.

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 1257.7 of the Health and Safety Code,  
2 *as amended by Section 36 of Chapter 178 of the Statutes of 2010*,  
3 is amended to read:

4 1257.7. (a) All hospitals licensed pursuant to subdivisions (a),  
5 (b), and (f) of Section 1250 shall conduct, not less than annually,  
6 a security and safety assessment and, using the assessment,  
7 develop, and annually update based on the assessment, a security  
8 plan with measures to protect personnel, patients, and visitors from  
9 aggressive or violent behavior. The security and safety assessment  
10 shall examine trends of aggressive or violent behavior at the  
11 facility. These hospitals shall track incidents of aggressive or  
12 violent behavior, as well as the hospital's response to those  
13 incidents, as part of the quality assessment and improvement  
14 program and for the purposes of developing a security plan to deter  
15 and manage further aggressive or violent acts of a similar nature.  
16 The plan shall include, but shall not be limited to, security  
17 considerations relating to all of the following:

18 (1) Physical layout.

19 (2) Staffing, including staffing patterns and patient classification  
20 systems that contribute to the risk of violence or are insufficient  
21 to address the risk of violence.

22 (3) The adequacy of facility security systems, protocols, and  
23 policies, including, but not limited to, security personnel  
24 availability.

25 (4) Potential security risks associated with specific units or areas  
26 within the facility where there is a greater likelihood that a patient  
27 or other person may exhibit violent behavior.

28 (5) Uncontrolled public access to any part of the facility.

29 (6) Potential security risks related to working late-night or early  
30 morning hours.

31 (7) Employee security in areas surrounding the facility,  
32 including, but not limited to, employee parking areas.

1 (8) The use of a trained response team that can assist employees  
2 in violent situations.

3 (9) Policy and training related to appropriate responses to violent  
4 acts.

5 (10) Efforts to cooperate with local law enforcement regarding  
6 violent acts in the facility.

7 (b) In developing the plan, specified in subdivision (a), the  
8 hospital shall consider guidelines or standards on violence in health  
9 care facilities issued by the department, the Division of  
10 Occupational Safety and Health, and the federal Occupational  
11 Safety and Health Administration. As part of the security plan, a  
12 hospital shall adopt security policies, including, but not limited to,  
13 all of the following:

14 (1) Personnel training policies designed to protect personnel,  
15 patients, and visitors from aggressive or violent behavior, including  
16 education on how to recognize the potential for violence, how and  
17 when to seek assistance to prevent or respond to violence, and how  
18 to report incidents of violence to the appropriate law enforcement  
19 officials.

20 (2) A system for responding to incidents and situations  
21 involving violence or the risk of violence, including, but not limited  
22 to, procedures for rapid response by which an employee is provided  
23 with immediate assistance if the threat of violence against that  
24 employee appears to be imminent, or if a violent act has occurred  
25 or is occurring.

26 (3) A system for investigating violent incidents and situations  
27 involving violence or the risk of violence. When investigating  
28 these incidents, the employer shall interview any employee who  
29 was involved in the incident or situation.

30 (4) A system for reporting, monitoring, and recordkeeping of  
31 violent incidents and situations involving the risk of violence.

32 (5) A system for reporting incidents of violence to the  
33 department pursuant to subdivision (i).

34 (6) Modifications to job design, staffing, security, equipment,  
35 or facilities as determined necessary to prevent or address violence  
36 against hospital employees.

37 (c) In developing the plan and the assessment, the hospital shall  
38 consult with affected employees, including the recognized  
39 collective bargaining agent or agents, if any, and members of the  
40 hospital medical staff organized pursuant to Section 2282 of the

1 Business and Professions Code. This consultation may occur  
2 through hospital committees.

3 (d) The individual or members of a hospital committee  
4 responsible for developing the security plan shall be familiar with  
5 all of the following:

6 (1) The role of security in hospital operations.

7 (2) Hospital organization.

8 (3) Protective measures, including alarms and access control.

9 (4) The handling of disturbed patients, visitors, and employees.

10 (5) Identification of aggressive and violent predicting factors.

11 (6) Hospital safety and emergency preparedness.

12 (7) The rudiments of documenting and reporting crimes,  
13 including, by way of example, not disturbing a crime scene.

14 (e) The hospital shall have sufficient personnel to provide  
15 security pursuant to the security plan developed pursuant to  
16 subdivision (a). Persons regularly assigned to provide security in  
17 a hospital setting shall be trained regarding the role of security in  
18 hospital operations, including the identification of aggressive and  
19 violent predicting factors and management of violent disturbances.

20 (f) Any act of assault, as defined in Section 240 of the Penal  
21 Code, or battery, as defined in Section 242 of the Penal Code, that  
22 results in injury or involves the use of a firearm or other dangerous  
23 weapon, against any on-duty hospital personnel shall be reported  
24 to the local law enforcement agency within 24 hours of the incident.  
25 Any other act of assault, as defined in Section 240 of the Penal  
26 Code, or battery, as defined in Section 242 of the Penal Code,  
27 against any on-duty hospital personnel may be reported to the local  
28 law enforcement agency within 72 hours of the incident. No health  
29 facility or employee of a health facility who reports a known or  
30 suspected instance of assault or battery pursuant to this section  
31 shall be civilly or criminally liable for any report required by this  
32 section. No health facility or employee of a health facility who  
33 reports a known or suspected instance of assault or battery that is  
34 authorized, but not required, by this section, shall be civilly or  
35 criminally liable for the report authorized by this section unless it  
36 can be proven that a false report was made and the health facility  
37 or its employee knew that the report was false or was made with  
38 reckless disregard of the truth or falsity of the report, and any  
39 health facility or employee of a health facility who makes a report  
40 known to be false or with reckless disregard of the truth or falsity

1 of the report shall be liable for any damages caused. Any individual  
2 knowingly interfering with or obstructing the lawful reporting  
3 process shall be guilty of a misdemeanor. “Dangerous weapon,”  
4 as used in this section, means any weapon the possession or  
5 concealed carrying of which is prohibited by any provision listed  
6 in Section 16590 of the Penal Code.

7 (g) Each hospital shall provide evaluation and treatment for an  
8 employee who is injured or is otherwise a victim of a violent  
9 incident and shall, upon the request of the employee, provide access  
10 to followup counseling to address trauma or distress experienced  
11 by the employee, including, but not limited to, individual crisis  
12 counseling, support group counseling, peer assistance, and  
13 professional referrals.

14 (h) A hospital shall not prohibit an employee from, or take  
15 punitive or retaliatory action against an employee for, seeking  
16 assistance and intervention from local emergency services or law  
17 enforcement when a violent incident occurs, ~~or from filing a police~~  
18 ~~report or criminal charges against the individual who committed~~  
19 ~~the violence..~~

20 (i) (1) A hospital shall report to the department any incident of  
21 assault, as defined in Section 240 of the Penal Code, or battery, as  
22 defined in Section 242 of the Penal Code, against a hospital  
23 employee or patient that is committed by a patient or a person  
24 accompanying a patient. This report shall include the date and time  
25 of the incident, whether the victim was a hospital employee or a  
26 patient, the unit in which the incident occurred, a description of  
27 the circumstances surrounding the incident, and the hospital’s  
28 response to the incident.

29 (2) (A) Except as provided in subparagraph (B), a hospital shall  
30 report an incident to which paragraph (1) applies to the department  
31 within 72 hours.

32 (B) A hospital shall report to the department within 24 hours  
33 any incident to which paragraph (1) applies that results in injury,  
34 involves the use of a firearm or other dangerous weapon, or  
35 presents an urgent or emergent threat to the welfare, health, or  
36 safety of patients, personnel, or visitors.

37 (j) The department shall make an onsite inspection or  
38 investigation within 48 hours, or two business days, whichever is  
39 greater, of the receipt of a report from a hospital pursuant to  
40 subdivision (i) that indicates an ongoing, urgent, or emergent threat

1 of imminent danger of death or serious bodily harm to patients,  
2 personnel, or visitors.

3 ~~(k) The department may assess an administrative penalty against~~  
4 ~~a hospital for violation of this section or Section 1257.8. Pursuant~~  
5 ~~to Section 1280.1, an additional administrative penalty may be~~  
6 ~~assessed for a violation of this section or Section 1257.8 that results~~  
7 ~~in immediate jeopardy to the health or safety of a patient.~~

8 *(k) If a hospital fails to report an incident of assault or battery*  
9 *pursuant to subdivision (i), the department may assess a civil*  
10 *penalty against the hospital in an amount not to exceed one*  
11 *hundred dollars (\$100) per day for each day that the incident is*  
12 *not reported following the initial 72-hour or 24-hour period, as*  
13 *applicable pursuant to paragraph (2) of subdivision (i).*

14 *(l) (1) Beginning on January 1, 2014, and annually thereafter,*  
15 *the department shall report to the relevant fiscal and policy*  
16 *committees of the Legislature information, in a manner that protects*  
17 *patient and employee confidentiality, regarding incidents of*  
18 *violence at hospitals, that includes, but is not limited to, the total*  
19 *number of reports and what specific hospitals filed reports pursuant*  
20 *to subdivision (i), the outcome of any inspection or investigation*  
21 *initiated pursuant to subdivision (j), the amount of any*  
22 *administrative penalty levied against a hospital pursuant to*  
23 *subdivision (k), and recommendations on how to prevent incidents*  
24 *of violence at hospitals.*

25 *(2) The requirement for submitting a report imposed pursuant*  
26 *to this subdivision is inoperative on January 1, 2018, pursuant to*  
27 *Section 10231.5 of the Government Code.*

28 *(3) A report to be submitted pursuant to this subdivision shall*  
29 *be submitted in compliance with Section 9795 of the Government*  
30 *Code.*

31 SEC. 2. Section 1257.8 of the Health and Safety Code is  
32 amended to read:

33 1257.8. (a) All hospital employees ~~regularly assigned to the~~  
34 ~~emergency department or psychiatric unit~~ *who provide direct care*  
35 *to patients* shall at least annually receive security education and  
36 training relating to the following topics:

- 37 (1) General safety measures.
- 38 (2) Personal safety measures.
- 39 (3) The assault cycle.
- 40 (4) Aggression and violence predicting factors.

1 (5) Obtaining patient history from a patient with violent  
2 behavior.

3 (6) Characteristics of aggressive and violent patients and victims.

4 (7) Verbal and physical maneuvers to diffuse and avoid violent  
5 behavior.

6 (8) Strategies to avoid physical harm.

7 (9) Restraining techniques.

8 (10) Appropriate use of medications as chemical restraints.

9 (11) Any resources available to employees for coping with  
10 incidents of violence, including, by way of example, critical  
11 incident stress debriefing or employee assistance programs.

12 (b) As provided in the security plan developed pursuant to  
13 subdivision (a) of Section 1257.7, members of the medical staff  
14 of each hospital and all other practitioners, including, but not  
15 limited to, nurse practitioners, physician assistants, and other  
16 personnel, who are regularly assigned to the emergency department,  
17 psychiatric units, or other departments identified in the security  
18 plan personnel, shall receive the same training as that provided to  
19 hospital employees or, at a minimum, training determined to be  
20 sufficient pursuant to the security plan.

21 (c) Temporary personnel shall be oriented as required pursuant  
22 to the security plan. This section shall not be construed to preempt  
23 state law or regulations generally affecting temporary personnel  
24 in hospitals.

25 SEC. 3. Section 6030 of the Penal Code is amended to read:

26 6030. (a) The Corrections Standards Authority shall establish  
27 minimum standards for state and local correctional facilities. The  
28 standards for state correctional facilities shall be established by  
29 January 1, 2007. The authority shall review those standards  
30 biennially and make any appropriate revisions.

31 (b) The standards shall include, but not be limited to, the  
32 following: health and sanitary conditions, fire and life safety,  
33 security, rehabilitation programs, recreation, treatment of persons  
34 confined in state and local correctional facilities, and personnel  
35 training.

36 (c) The standards shall require that at least one person on duty  
37 at the facility is knowledgeable in the area of fire and life safety  
38 procedures.

39 (d) The standards shall also include requirements relating to the  
40 acquisition, storage, labeling, packaging, and dispensing of drugs.

1 (e) The standards shall include requirements for a safety and  
2 security plan designed to prevent and protect, from aggression and  
3 violence, health care personnel who provide care to persons  
4 confined in state and local correctional facilities, including, but  
5 not limited to, correctional treatment centers licensed pursuant to  
6 subdivision (j) of Section 1250 of the Health and Safety Code. The  
7 safety and security plan shall include, but not be limited to, security  
8 considerations of all of the following:

9 (1) Physical layout, including, but not limited to, the physical  
10 layout of intake areas.

11 (2) Security, placement, and storage of equipment, supplies, or  
12 other items that may be used in a manner that would pose a risk  
13 to the physical safety of health care personnel.

14 (3) Staffing, including, but not limited to, the adequacy of health  
15 care personnel staffing during the processing and intake of  
16 detainees.

17 (4) The adequacy of facility security systems, protocols, and  
18 policies, including, but not limited to, the availability of security  
19 personnel during the provision of health care services to detainees  
20 by health care personnel.

21 (5) Training for health care personnel, including, but not limited  
22 to, education on how to recognize the potential for violence, and  
23 how and when to seek assistance to prevent or respond to violence.

24 (f) The standards shall require that inmates who are received  
25 by the facility while they are pregnant are provided all of the  
26 following:

27 (1) A balanced, nutritious diet approved by a doctor.

28 (2) Prenatal and post partum information and health care,  
29 including, but not limited to, access to necessary vitamins as  
30 recommended by a doctor.

31 (3) Information pertaining to childbirth education and infant  
32 care.

33 (4) A dental cleaning while in a state facility.

34 (g) The standards shall provide that at no time shall a woman  
35 who is in labor be shackled by the wrists, ankles, or both including  
36 during transport to a hospital, during delivery, and while in  
37 recovery after giving birth, except as provided in Section 5007.7.

38 (h) In establishing minimum standards, the authority shall seek  
39 the advice of the following:

40 (1) For health and sanitary conditions:

1 The State Department of Public Health, physicians, psychiatrists,  
2 local public health officials, and other interested persons.

3 (2) For fire and life safety:

4 The State Fire Marshal, local fire officials, and other interested  
5 persons.

6 (3) For security, rehabilitation programs, recreation, and  
7 treatment of persons confined in correctional facilities:

8 The Department of Corrections and Rehabilitation, state and  
9 local juvenile justice commissions, state and local correctional  
10 officials, experts in criminology and penology, and other interested  
11 persons.

12 (4) For personnel training:

13 The Commission on Peace Officer Standards and Training,  
14 psychiatrists, experts in criminology and penology, the Department  
15 of Corrections and Rehabilitation, state and local correctional  
16 officials, and other interested persons.

17 (5) For female inmates and pregnant inmates in local adult and  
18 juvenile facilities:

19 The California State Sheriffs' Association and Chief Probation  
20 Officers' Association of California, and other interested persons.

21 (6) For safety and security plans for health care personnel:

22 The State Department of Public Health, the Division of  
23 Occupational Safety and Health, registered nurses, other relevant  
24 health care personnel, and other interested persons.

25 SEC. 4. No reimbursement is required by this act pursuant to  
26 Section 6 of Article XIII B of the California Constitution because  
27 the only costs that may be incurred by a local agency or school  
28 district will be incurred because this act creates a new crime or  
29 infraction, eliminates a crime or infraction, or changes the penalty  
30 for a crime or infraction, within the meaning of Section 17556 of  
31 the Government Code, or changes the definition of a crime within  
32 the meaning of Section 6 of Article XIII B of the California  
33 Constitution.