

AMENDED IN ASSEMBLY MAY 24, 2011

AMENDED IN SENATE APRIL 7, 2011

AMENDED IN SENATE MARCH 21, 2011

SENATE BILL

No. 390

Introduced by Senator La Malfa

February 15, 2011

An act to amend Sections 241 and 243 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 390, as amended, La Malfa. Crimes: assault and battery: search and rescue teams.

Existing law establishes the crime of assault against specified public safety officers, such as peace officers, firefighters, and emergency medical technicians, among others, while engaged in the performance of their duties, as specified. The offense is punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

This bill would expand the scope of the offense to include search and rescue members, as defined, while engaged in the performance of their duties, as specified.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

Existing law establishes the crime of battery against specified public safety officers, such as peace officers, firefighters, and emergency medical technicians, among others, while engaged in the performance of their duties, as specified. The offense is punishable, except when the victim sustains an injury, by a fine not exceeding \$2,000, or by

imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

This bill would expand the scope of the battery offense described above where the victim does not sustain an injury, to include a search and rescue member, as defined, while engaged in the performance of his or her duty, as specified.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

This bill would incorporate additional changes to Section 243 of the Penal Code made by AB 109, which has been chaptered but is not yet operative. The bill would also incorporate additional changes proposed by SB 406 to become operative only if this bill and SB 406 are chaptered and this bill is chaptered last.

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 241 of the Penal Code is amended to
- 2 read:
- 3 241. (a) An assault is punishable by a fine not exceeding one
- 4 thousand dollars (\$1,000), or by imprisonment in the county jail
- 5 not exceeding six months, or by both the fine and imprisonment.
- 6 (b) When an assault is committed against the person of a parking
- 7 control officer engaged in the performance of his or her duties,
- 8 and the person committing the offense knows or reasonably should
- 9 know that the victim is a parking control officer, the assault is
- 10 punishable by a fine not exceeding two thousand dollars (\$2,000),
- 11 or by imprisonment in the county jail not exceeding six months,
- 12 or by both the fine and imprisonment.
- 13 (c) When an assault is committed against the person of a peace
- 14 officer, firefighter, emergency medical technician, mobile intensive
- 15 care paramedic, lifeguard, process server, traffic officer, code
- 16 enforcement officer, animal control officer, or search and rescue
- 17 member engaged in the performance of his or her duties, or a

1 physician or nurse engaged in rendering emergency medical care
2 outside a hospital, clinic, or other health care facility, and the
3 person committing the offense knows or reasonably should know
4 that the victim is a peace officer, firefighter, emergency medical
5 technician, mobile intensive care paramedic, lifeguard, process
6 server, traffic officer, code enforcement officer, animal control
7 officer, or search and rescue member engaged in the performance
8 of his or her duties, or a physician or nurse engaged in rendering
9 emergency medical care, the assault is punishable by a fine not
10 exceeding two thousand dollars (\$2,000), or by imprisonment in
11 a county jail not exceeding one year, or by both the fine and
12 imprisonment.

13 (d) As used in this section, the following definitions apply:

14 (1) Peace officer means any person defined in Chapter 4.5
15 (commencing with Section 830) of Title 3 of Part 2.

16 (2) “Emergency medical technician” means a person possessing
17 a valid course completion certificate from a program approved by
18 the State Department of Health Care Services for the medical
19 training and education of ambulance personnel, and who meets
20 the standards of Division 2.5 (commencing with Section 1797) of
21 the Health and Safety Code.

22 (3) “Mobile intensive care paramedic” refers to those persons
23 who meet the standards set forth in Division 2.5 (commencing
24 with Section 1797) of the Health and Safety Code.

25 (4) “Nurse” means a person who meets the standards of Division
26 2.5 (commencing with Section 1797) of the Health and Safety
27 Code.

28 (5) “Lifeguard” means a person who is:

29 (A) Employed as a lifeguard by the state, a county, or a city,
30 and is designated by local ordinance as a public officer who has a
31 duty and responsibility to enforce local ordinances and
32 misdemeanors through the issuance of citations.

33 (B) Wearing distinctive clothing which includes written
34 identification of the person’s status as a lifeguard and which clearly
35 identifies the employing organization.

36 (6) “Process server” means any person who meets the standards
37 or is expressly exempt from the standards set forth in Section 22350
38 of the Business and Professions Code.

1 (7) “Traffic officer” means any person employed by a county
2 or city to monitor and enforce state laws and local ordinances
3 relating to parking and the operation of vehicles.

4 (8) “Animal control officer” means any person employed by a
5 county or city for purposes of enforcing animal control laws or
6 regulations.

7 (9) (A) “Code enforcement officer” means any person who is
8 not described in Chapter 4.5 (commencing with Section 830) of
9 Title 3 of Part 2 and who is employed by any governmental
10 subdivision, public or quasi-public corporation, public agency,
11 public service corporation, any town, city, county, or municipal
12 corporation, whether incorporated or chartered, that has
13 enforcement authority for health, safety, and welfare requirements,
14 and whose duties include enforcement of any statute, rules,
15 regulations, or standards, and who is authorized to issue citations,
16 or file formal complaints.

17 (B) “Code enforcement officer” also includes any person who
18 is employed by the Department of Housing and Community
19 Development who has enforcement authority for health, safety,
20 and welfare requirements pursuant to the Employee Housing Act
21 (Part 1 (commencing with Section 17000) of Division 13 of the
22 Health and Safety Code); the State Housing Law (Part 1.5
23 (commencing with Section 17910) of Division 13 of the Health
24 and Safety Code); the Manufactured Housing Act of 1980 (Part 2
25 (commencing with Section 18000) of Division 13 of the Health
26 and Safety Code); the Mobilehome Parks Act (Part 2.1
27 (commencing with Section 18200) of Division 13 of the Health
28 and Safety Code); and the Special Occupancy Parks Act (Part 2.3
29 (commencing with Section 18860) of Division 13 of the Health
30 and Safety Code).

31 (10) “Parking control officer” means any person employed by
32 a city, county, or city and county, to monitor and enforce state
33 laws and local ordinances relating to parking.

34 (11) “Search and rescue member” means any person who is part
35 of an organized search and rescue team managed by a governmental
36 agency.

37 SEC. 2. Section 243 of the Penal Code, *as amended by Section*
38 *2 of Chapter 274 of the Statutes of 2003*, is amended to read:

1 243. (a) A battery is punishable by a fine not exceeding two
2 thousand dollars (\$2,000), or by imprisonment in a county jail not
3 exceeding six months, or by both that fine and imprisonment.

4 (b) When a battery is committed against the person of a peace
5 officer, custodial officer, firefighter, emergency medical technician,
6 lifeguard, process server, traffic officer, code enforcement officer,
7 animal control officer, or search and rescue member engaged in
8 the performance of his or her duties, whether on or off duty,
9 including when the peace officer is in a police uniform and is
10 concurrently performing the duties required of him or her as a
11 peace officer while also employed in a private capacity as a
12 part-time or casual private security guard or patrolman, or a
13 nonsworn employee of a probation department engaged in the
14 performance of his or her duties, whether on or off duty, or a
15 physician or nurse engaged in rendering emergency medical care
16 outside a hospital, clinic, or other health care facility, and the
17 person committing the offense knows or reasonably should know
18 that the victim is a peace officer, custodial officer, firefighter,
19 emergency medical technician, lifeguard, process server, traffic
20 officer, code enforcement officer, animal control officer, or search
21 and rescue member engaged in the performance of his or her duties,
22 nonsworn employee of a probation department, or a physician or
23 nurse engaged in rendering emergency medical care, the battery
24 is punishable by a fine not exceeding two thousand dollars
25 (\$2,000), or by imprisonment in a county jail not exceeding one
26 year, or by both that fine and imprisonment.

27 (c) (1) When a battery is committed against a custodial officer,
28 firefighter, emergency medical technician, lifeguard, process server,
29 traffic officer, or animal control officer engaged in the performance
30 of his or her duties, whether on or off duty, or a nonsworn
31 employee of a probation department engaged in the performance
32 of his or her duties, whether on or off duty, or a physician or nurse
33 engaged in rendering emergency medical care outside a hospital,
34 clinic, or other health care facility, and the person committing the
35 offense knows or reasonably should know that the victim is a
36 nonsworn employee of a probation department, custodial officer,
37 firefighter, emergency medical technician, lifeguard, process server,
38 traffic officer, or animal control officer engaged in the performance
39 of his or her duties, or a physician or nurse engaged in rendering
40 emergency medical care, and an injury is inflicted on that victim,

1 the battery is punishable by a fine of not more than two thousand
2 dollars (\$2,000), by imprisonment in a county jail not exceeding
3 one year, or by both that fine and imprisonment, or by
4 imprisonment in the state prison for 16 months, or two or three
5 years.

6 (2) When the battery specified in paragraph (1) is committed
7 against a peace officer engaged in the performance of his or her
8 duties, whether on or off duty, including when the peace officer
9 is in a police uniform and is concurrently performing the duties
10 required of him or her as a peace officer while also employed in
11 a private capacity as a part-time or casual private security guard
12 or patrolman and the person committing the offense knows or
13 reasonably should know that the victim is a peace officer engaged
14 in the performance of his or her duties, the battery is punishable
15 by a fine of not more than ten thousand dollars (\$10,000), or by
16 imprisonment in a county jail not exceeding one year or in the
17 state prison for 16 months, or two or three years, or by both that
18 fine and imprisonment.

19 (d) When a battery is committed against any person and serious
20 bodily injury is inflicted on the person, the battery is punishable
21 by imprisonment in a county jail not exceeding one year or
22 imprisonment in the state prison for two, three, or four years.

23 (e) (1) When a battery is committed against a spouse, a person
24 with whom the defendant is cohabiting, a person who is the parent
25 of the defendant's child, former spouse, fiancé, or fiancée, or a
26 person with whom the defendant currently has, or has previously
27 had, a dating or engagement relationship, the battery is punishable
28 by a fine not exceeding two thousand dollars (\$2,000), or by
29 imprisonment in a county jail for a period of not more than one
30 year, or by both that fine and imprisonment. If probation is granted,
31 or the execution or imposition of the sentence is suspended, it shall
32 be a condition thereof that the defendant participate in, for no less
33 than one year, and successfully complete, a batterer's treatment
34 program, as defined in Section 1203.097, or if none is available,
35 another appropriate counseling program designated by the court.
36 However, this provision shall not be construed as requiring a city,
37 a county, or a city and county to provide a new program or higher
38 level of service as contemplated by Section 6 of Article XIII B of
39 the California Constitution.

1 (2) Upon conviction of a violation of this subdivision, if
2 probation is granted, the conditions of probation may include, in
3 lieu of a fine, one or both of the following requirements:

4 (A) That the defendant make payments to a battered women’s
5 shelter, up to a maximum of five thousand dollars (\$5,000).

6 (B) That the defendant reimburse the victim for reasonable costs
7 of counseling and other reasonable expenses that the court finds
8 are the direct result of the defendant’s offense.

9 For any order to pay a fine, make payments to a battered
10 women’s shelter, or pay restitution as a condition of probation
11 under this subdivision, the court shall make a determination of the
12 defendant’s ability to pay. In no event shall any order to make
13 payments to a battered women’s shelter be made if it would impair
14 the ability of the defendant to pay direct restitution to the victim
15 or court-ordered child support. Where the injury to a married person
16 is caused in whole or in part by the criminal acts of his or her
17 spouse in violation of this section, the community property may
18 not be used to discharge the liability of the offending spouse for
19 restitution to the injured spouse, required by Section 1203.04, as
20 operative on or before August 2, 1995, or Section 1202.4, or to a
21 shelter for costs with regard to the injured spouse and dependents,
22 required by this section, until all separate property of the offending
23 spouse is exhausted.

24 (3) Upon conviction of a violation of this subdivision, if
25 probation is granted or the execution or imposition of the sentence
26 is suspended and the person has been previously convicted of a
27 violation of this subdivision and sentenced under paragraph (1),
28 the person shall be imprisoned for not less than 48 hours in addition
29 to the conditions in paragraph (1). However, the court, upon a
30 showing of good cause, may elect not to impose the mandatory
31 minimum imprisonment as required by this subdivision and may,
32 under these circumstances, grant probation or order the suspension
33 of the execution or imposition of the sentence.

34 (4) The Legislature finds and declares that these specified crimes
35 merit special consideration when imposing a sentence so as to
36 display society’s condemnation for these crimes of violence upon
37 victims with whom a close relationship has been formed.

38 (f) As used in this section:

39 (1) “Peace officer” means any person defined in Chapter 4.5
40 (commencing with Section 830) of Title 3 of Part 2.

1 (2) “Emergency medical technician” means a person who is
2 either an EMT-I, EMT-II, or EMT-P (paramedic), and possesses
3 a valid certificate or license in accordance with the standards of
4 Division 2.5 (commencing with Section 1797) of the Health and
5 Safety Code.

6 (3) “Nurse” means a person who meets the standards of Division
7 2.5 (commencing with Section 1797) of the Health and Safety
8 Code.

9 (4) “Serious bodily injury” means a serious impairment of
10 physical condition, including, but not limited to, the following:
11 loss of consciousness; concussion; bone fracture; protracted loss
12 or impairment of function of any bodily member or organ; a wound
13 requiring extensive suturing; and serious disfigurement.

14 (5) “Injury” means any physical injury which requires
15 professional medical treatment.

16 (6) “Custodial officer” means any person who has the
17 responsibilities and duties described in Section 831 and who is
18 employed by a law enforcement agency of any city or county or
19 who performs those duties as a volunteer.

20 (7) “Lifeguard” means a person defined in paragraph (5) of
21 subdivision-(e) (d) of Section 241.

22 (8) “Traffic officer” means any person employed by a city,
23 county, or city and county to monitor and enforce state laws and
24 local ordinances relating to parking and the operation of vehicles.

25 (9) “Animal control officer” means any person employed by a
26 city, county, or city and county for purposes of enforcing animal
27 control laws or regulations.

28 (10) “Dating relationship” means frequent, intimate associations
29 primarily characterized by the expectation of affectional or sexual
30 involvement independent of financial considerations.

31 (11) (A) “Code enforcement officer” means any person who
32 is not described in Chapter 4.5 (commencing with Section 830) of
33 Title 3 of Part 2 and who is employed by any governmental
34 subdivision, public or quasi-public corporation, public agency,
35 public service corporation, any town, city, county, or municipal
36 corporation, whether incorporated or chartered, who has
37 enforcement authority for health, safety, and welfare requirements,
38 and whose duties include enforcement of any statute, rules,
39 regulations, or standards, and who is authorized to issue citations,
40 or file formal complaints.

1 (B) “Code enforcement officer” also includes any person who
2 is employed by the Department of Housing and Community
3 Development who has enforcement authority for health, safety,
4 and welfare requirements pursuant to the Employee Housing Act
5 (Part 1 (commencing with Section 17000) of Division 13 of the
6 Health and Safety Code); the State Housing Law (Part 1.5
7 (commencing with Section 17910) of Division 13 of the Health
8 and Safety Code); the Manufactured Housing Act of 1980 (Part 2
9 (commencing with Section 18000) of Division 13 of the Health
10 and Safety Code); the Mobilehome Parks Act (Part 2.1
11 (commencing with Section 18200) of Division 13 of the Health
12 and Safety Code); and the Special Occupancy Parks Act (Part 2.3
13 (commencing with Section 18860) of Division 13 of the Health
14 and Safety Code).

15 (12) “Search and rescue member” means any person who is part
16 of an organized search and rescue team managed by a governmental
17 agency.

18 (g) It is the intent of the Legislature by amendments to this
19 section at the 1981–82 and 1983–84 Regular Sessions to abrogate
20 the holdings in cases such as *People v. Corey*, 21 Cal. 3d 738, and
21 *Cervantez v. J.C. Penney Co.*, 24 Cal. 3d 579, and to reinstate prior
22 judicial interpretations of this section as they relate to criminal
23 sanctions for battery on peace officers who are employed, on a
24 part-time or casual basis, while wearing a police uniform as private
25 security guards or patrolmen and to allow the exercise of peace
26 officer powers concurrently with that employment.

27 *SEC. 2.1. Section 243 of the Penal Code, as amended by*
28 *Section 292 of Chapter 15 of the Statutes of 2011, is amended to*
29 *read:*

30 243. (a) A battery is punishable by a fine not exceeding two
31 thousand dollars (\$2,000), or by imprisonment in a county jail not
32 exceeding six months, or by both that fine and imprisonment.

33 (b) When a battery is committed against the person of a peace
34 officer, custodial officer, firefighter, emergency medical technician,
35 lifeguard, process server, traffic officer, code enforcement officer,
36 ~~or~~ animal control officer, *or search and rescue member* engaged
37 in the performance of his or her duties, whether on or off duty,
38 including when the peace officer is in a police uniform and is
39 concurrently performing the duties required of him or her as a
40 peace officer while also employed in a private capacity as a

1 part-time or casual private security guard or patrolman, or a
2 nonsworn employee of a probation department engaged in the
3 performance of his or her duties, whether on or off duty, or a
4 physician or nurse engaged in rendering emergency medical care
5 outside a hospital, clinic, or other health care facility, and the
6 person committing the offense knows or reasonably should know
7 that the victim is a peace officer, custodial officer, firefighter,
8 emergency medical technician, lifeguard, process server, traffic
9 officer, code enforcement officer, ~~or~~ animal control officer, *or*
10 *search and rescue member* engaged in the performance of his or
11 her duties, nonsworn employee of a probation department, or a
12 physician or nurse engaged in rendering emergency medical care,
13 the battery is punishable by a fine not exceeding two thousand
14 dollars (\$2,000), or by imprisonment in a county jail not exceeding
15 one year, or by both that fine and imprisonment.

16 (c) (1) When a battery is committed against a custodial officer,
17 firefighter, emergency medical technician, lifeguard, process server,
18 traffic officer, or animal control officer engaged in the performance
19 of his or her duties, whether on or off duty, or a nonsworn
20 employee of a probation department engaged in the performance
21 of his or her duties, whether on or off duty, or a physician or nurse
22 engaged in rendering emergency medical care outside a hospital,
23 clinic, or other health care facility, and the person committing the
24 offense knows or reasonably should know that the victim is a
25 nonsworn employee of a probation department, custodial officer,
26 firefighter, emergency medical technician, lifeguard, process server,
27 traffic officer, or animal control officer engaged in the performance
28 of his or her duties, or a physician or nurse engaged in rendering
29 emergency medical care, and an injury is inflicted on that victim,
30 the battery is punishable by a fine of not more than two thousand
31 dollars (\$2,000), by imprisonment in a county jail not exceeding
32 one year, or by both that fine and imprisonment, or by
33 imprisonment pursuant to subdivision (h) of Section 1170 for 16
34 months, or two or three years.

35 (2) When the battery specified in paragraph (1) is committed
36 against a peace officer engaged in the performance of his or her
37 duties, whether on or off duty, including when the peace officer
38 is in a police uniform and is concurrently performing the duties
39 required of him or her as a peace officer while also employed in
40 a private capacity as a part-time or casual private security guard

1 or patrolman and the person committing the offense knows or
2 reasonably should know that the victim is a peace officer engaged
3 in the performance of his or her duties, the battery is punishable
4 by a fine of not more than ten thousand dollars (\$10,000), or by
5 imprisonment in a county jail not exceeding one year or pursuant
6 to subdivision (h) of Section 1170 for 16 months, or two or three
7 years, or by both that fine and imprisonment.

8 (d) When a battery is committed against any person and serious
9 bodily injury is inflicted on the person, the battery is punishable
10 by imprisonment in a county jail not exceeding one year or
11 imprisonment pursuant to subdivision (h) of Section 1170 for two,
12 three, or four years.

13 (e) (1) When a battery is committed against a spouse, a person
14 with whom the defendant is cohabiting, a person who is the parent
15 of the defendant's child, former spouse, fiancé, or fiancée, or a
16 person with whom the defendant currently has, or has previously
17 had, a dating or engagement relationship, the battery is punishable
18 by a fine not exceeding two thousand dollars (\$2,000), or by
19 imprisonment in a county jail for a period of not more than one
20 year, or by both that fine and imprisonment. If probation is granted,
21 or the execution or imposition of the sentence is suspended, it shall
22 be a condition thereof that the defendant participate in, for no less
23 than one year, and successfully complete, a batterer's treatment
24 program, as defined in Section 1203.097, or if none is available,
25 another appropriate counseling program designated by the court.
26 However, this provision shall not be construed as requiring a city,
27 a county, or a city and county to provide a new program or higher
28 level of service as contemplated by Section 6 of Article XIII B of
29 the California Constitution.

30 (2) Upon conviction of a violation of this subdivision, if
31 probation is granted, the conditions of probation may include, in
32 lieu of a fine, one or both of the following requirements:

33 (A) That the defendant make payments to a battered women's
34 shelter, up to a maximum of five thousand dollars (\$5,000).

35 (B) That the defendant reimburse the victim for reasonable costs
36 of counseling and other reasonable expenses that the court finds
37 are the direct result of the defendant's offense.

38 For any order to pay a fine, make payments to a battered
39 women's shelter, or pay restitution as a condition of probation
40 under this subdivision, the court shall make a determination of the

1 defendant's ability to pay. In no event shall any order to make
2 payments to a battered women's shelter be made if it would impair
3 the ability of the defendant to pay direct restitution to the victim
4 or court-ordered child support. Where the injury to a married person
5 is caused in whole or in part by the criminal acts of his or her
6 spouse in violation of this section, the community property may
7 not be used to discharge the liability of the offending spouse for
8 restitution to the injured spouse, required by Section 1203.04, as
9 operative on or before August 2, 1995, or Section 1202.4, or to a
10 shelter for costs with regard to the injured spouse and dependents,
11 required by this section, until all separate property of the offending
12 spouse is exhausted.

13 (3) Upon conviction of a violation of this subdivision, if
14 probation is granted or the execution or imposition of the sentence
15 is suspended and the person has been previously convicted of a
16 violation of this subdivision and sentenced under paragraph (1),
17 the person shall be imprisoned for not less than 48 hours in addition
18 to the conditions in paragraph (1). However, the court, upon a
19 showing of good cause, may elect not to impose the mandatory
20 minimum imprisonment as required by this subdivision and may,
21 under these circumstances, grant probation or order the suspension
22 of the execution or imposition of the sentence.

23 (4) The Legislature finds and declares that these specified crimes
24 merit special consideration when imposing a sentence so as to
25 display society's condemnation for these crimes of violence upon
26 victims with whom a close relationship has been formed.

27 (f) As used in this section:

28 (1) "Peace officer" means any person defined in Chapter 4.5
29 (commencing with Section 830) of Title 3 of Part 2.

30 (2) "Emergency medical technician" means a person who is
31 either an EMT-I, EMT-II, or EMT-P (paramedic), and possesses
32 a valid certificate or license in accordance with the standards of
33 Division 2.5 (commencing with Section 1797) of the Health and
34 Safety Code.

35 (3) "Nurse" means a person who meets the standards of Division
36 2.5 (commencing with Section 1797) of the Health and Safety
37 Code.

38 (4) "Serious bodily injury" means a serious impairment of
39 physical condition, including, but not limited to, the following:
40 loss of consciousness; concussion; bone fracture; protracted loss

1 or impairment of function of any bodily member or organ; a wound
2 requiring extensive suturing; and serious disfigurement.

3 (5) “Injury” means any physical injury which requires
4 professional medical treatment.

5 (6) “Custodial officer” means any person who has the
6 responsibilities and duties described in Section 831 and who is
7 employed by a law enforcement agency of any city or county or
8 who performs those duties as a volunteer.

9 (7) “Lifeguard” means a person defined in paragraph (5) of
10 subdivision ~~(e)~~ (d) of Section 241.

11 (8) “Traffic officer” means any person employed by a city,
12 county, or city and county to monitor and enforce state laws and
13 local ordinances relating to parking and the operation of vehicles.

14 (9) “Animal control officer” means any person employed by a
15 city, county, or city and county for purposes of enforcing animal
16 control laws or regulations.

17 (10) “Dating relationship” means frequent, intimate associations
18 primarily characterized by the expectation of affectional or sexual
19 involvement independent of financial considerations.

20 (11) (A) “Code enforcement officer” means any person who
21 is not described in Chapter 4.5 (commencing with Section 830) of
22 Title 3 of Part 2 and who is employed by any governmental
23 subdivision, public or quasi-public corporation, public agency,
24 public service corporation, any town, city, county, or municipal
25 corporation, whether incorporated or chartered, who has
26 enforcement authority for health, safety, and welfare requirements,
27 and whose duties include enforcement of any statute, rules,
28 regulations, or standards, and who is authorized to issue citations,
29 or file formal complaints.

30 (B) “Code enforcement officer” also includes any person who
31 is employed by the Department of Housing and Community
32 Development who has enforcement authority for health, safety,
33 and welfare requirements pursuant to the Employee Housing Act
34 (Part 1 (commencing with Section 17000) of Division 13 of the
35 Health and Safety Code); the State Housing Law (Part 1.5
36 (commencing with Section 17910) of Division 13 of the Health
37 and Safety Code); the ~~Mobilehomes-Manufactured~~ *Manufactured*
38 *Housing Act of 1980* (Part 2 (commencing with Section 18000)
39 of Division 13 of the Health and Safety Code); the Mobilehome
40 Parks Act (Part 2.1 (commencing with Section 18200) of Division

1 13 of the Health and Safety Code); and the Special Occupancy
2 Parks Act (Part 2.3 (commencing with Section 18860) of Division
3 13 of the Health and Safety Code).

4 (12) “*Search and rescue member*” means any person who is
5 part of an organized search and rescue team managed by a
6 governmental agency.

7 (g) It is the intent of the Legislature by amendments to this
8 section at the 1981–82 and 1983–84 Regular Sessions to abrogate
9 the holdings in cases such as *People v. Corey*, 21 Cal. 3d 738, and
10 *Cervantez v. J.C. Penney Co.*, 24 Cal. 3d 579, and to reinstate prior
11 judicial interpretations of this section as they relate to criminal
12 sanctions for battery on peace officers who are employed, on a
13 part-time or casual basis, while wearing a police uniform as private
14 security guards or patrolmen and to allow the exercise of peace
15 officer powers concurrently with that employment.

16 SEC. 2.2. Section 243 of the Penal Code, as amended by
17 Section 2 of Chapter 274 of the Statutes of 2003, is amended to
18 read:

19 243. (a) A battery is punishable by a fine not exceeding two
20 thousand dollars (\$2,000), or by imprisonment in a county jail not
21 exceeding six months, or by both that fine and imprisonment.

22 (b) When a battery is committed against the person of a peace
23 officer, custodial officer, firefighter, emergency medical technician,
24 lifeguard, *security officer, custody assistant*, process server, traffic
25 officer, code enforcement officer, ~~or~~ animal control officer, *or*
26 *search and rescue member* engaged in the performance of his or
27 her duties, whether on or off duty, including when the peace officer
28 is in a police uniform and is concurrently performing the duties
29 required of him or her as a peace officer while also employed in
30 a private capacity as a part-time or casual private security guard
31 or patrolman, or a nonsworn employee of a probation department
32 engaged in the performance of his or her duties, whether on or off
33 duty, or a physician or nurse engaged in rendering emergency
34 medical care outside a hospital, clinic, or other health care facility,
35 and the person committing the offense knows or reasonably should
36 know that the victim is a peace officer, custodial officer, firefighter,
37 emergency medical technician, lifeguard, *security officer, custody*
38 *assistant*, process server, traffic officer, code enforcement officer,
39 ~~or~~ animal control officer, *or search and rescue member* engaged
40 in the performance of his or her duties, nonsworn employee of a

1 probation department, or a physician or nurse engaged in rendering
2 emergency medical care, the battery is punishable by a fine not
3 exceeding two thousand dollars (\$2,000), or by imprisonment in
4 a county jail not exceeding one year, or by both that fine and
5 imprisonment.

6 (c) (1) When a battery is committed against a custodial officer,
7 firefighter, emergency medical technician, lifeguard, process server,
8 traffic officer, or animal control officer engaged in the performance
9 of his or her duties, whether on or off duty, or a nonsworn
10 employee of a probation department engaged in the performance
11 of his or her duties, whether on or off duty, or a physician or nurse
12 engaged in rendering emergency medical care outside a hospital,
13 clinic, or other health care facility, and the person committing the
14 offense knows or reasonably should know that the victim is a
15 nonsworn employee of a probation department, custodial officer,
16 firefighter, emergency medical technician, lifeguard, process server,
17 traffic officer, or animal control officer engaged in the performance
18 of his or her duties, or a physician or nurse engaged in rendering
19 emergency medical care, and an injury is inflicted on that victim,
20 the battery is punishable by a fine of not more than two thousand
21 dollars (\$2,000), by imprisonment in a county jail not exceeding
22 one year, or by both that fine and imprisonment, or by
23 imprisonment in the state prison for 16 months, or two or three
24 years.

25 (2) When the battery specified in paragraph (1) is committed
26 against a peace officer engaged in the performance of his or her
27 duties, whether on or off duty, including when the peace officer
28 is in a police uniform and is concurrently performing the duties
29 required of him or her as a peace officer while also employed in
30 a private capacity as a part-time or casual private security guard
31 or patrolman and the person committing the offense knows or
32 reasonably should know that the victim is a peace officer engaged
33 in the performance of his or her duties, the battery is punishable
34 by a fine of not more than ten thousand dollars (\$10,000), or by
35 imprisonment in a county jail not exceeding one year or in the
36 state prison for 16 months, or two or three years, or by both that
37 fine and imprisonment.

38 (d) When a battery is committed against any person and serious
39 bodily injury is inflicted on the person, the battery is punishable

1 by imprisonment in a county jail not exceeding one year or
2 imprisonment in the state prison for two, three, or four years.

3 (e) (1) When a battery is committed against a spouse, a person
4 with whom the defendant is cohabiting, a person who is the parent
5 of the defendant's child, former spouse, fiancé, or fiancée, or a
6 person with whom the defendant currently has, or has previously
7 had, a dating or engagement relationship, the battery is punishable
8 by a fine not exceeding two thousand dollars (\$2,000), or by
9 imprisonment in a county jail for a period of not more than one
10 year, or by both that fine and imprisonment. If probation is granted,
11 or the execution or imposition of the sentence is suspended, it shall
12 be a condition thereof that the defendant participate in, for no less
13 than one year, and successfully complete, a batterer's treatment
14 program, as ~~defined~~ *described* in Section 1203.097, or if none is
15 available, another appropriate counseling program designated by
16 the court. However, this provision shall not be construed as
17 requiring a city, a county, or a city and county to provide a new
18 program or higher level of service as contemplated by Section 6
19 of Article XIII B of the California Constitution.

20 (2) Upon conviction of a violation of this subdivision, if
21 probation is granted, the conditions of probation may include, in
22 lieu of a fine, one or both of the following requirements:

23 (A) That the defendant make payments to a battered women's
24 shelter, up to a maximum of five thousand dollars (\$5,000).

25 (B) That the defendant reimburse the victim for reasonable costs
26 of counseling and other reasonable expenses that the court finds
27 are the direct result of the defendant's offense.

28 For any order to pay a fine, make payments to a battered
29 women's shelter, or pay restitution as a condition of probation
30 under this subdivision, the court shall make a determination of the
31 defendant's ability to pay. In no event shall any order to make
32 payments to a battered women's shelter be made if it would impair
33 the ability of the defendant to pay direct restitution to the victim
34 or court-ordered child support. ~~Where~~ *If* the injury to a married
35 person is caused in whole or in part by the criminal acts of his or
36 her spouse in violation of this section, the community property
37 ~~may~~ *shall* not be used to discharge the liability of the offending
38 spouse for restitution to the injured spouse, required by Section
39 1203.04, as operative on or before August 2, 1995, or Section
40 1202.4, or to a shelter for costs with regard to the injured spouse

1 and dependents, required by this section, until all separate property
2 of the offending spouse is exhausted.

3 (3) Upon conviction of a violation of this subdivision, if
4 probation is granted or the execution or imposition of the sentence
5 is suspended and the person has been previously convicted of a
6 violation of this subdivision and sentenced under paragraph (1),
7 the person shall be imprisoned for not less than 48 hours in addition
8 to the conditions in paragraph (1). However, the court, upon a
9 showing of good cause, may elect not to impose the mandatory
10 minimum imprisonment as required by this subdivision and may,
11 under these circumstances, grant probation or order the suspension
12 of the execution or imposition of the sentence.

13 (4) The Legislature finds and declares that these specified crimes
14 merit special consideration when imposing a sentence so as to
15 display society's condemnation for these crimes of violence upon
16 victims with whom a close relationship has been formed.

17 (f) As used in this section:

18 (1) "Peace officer" means any person defined in Chapter 4.5
19 (commencing with Section 830) of Title 3 of Part 2.

20 (2) "Emergency medical technician" means a person who is
21 either an EMT-I, EMT-II, or EMT-P (paramedic), and possesses
22 a valid certificate or license in accordance with the standards of
23 Division 2.5 (commencing with Section 1797) of the Health and
24 Safety Code.

25 (3) "Nurse" means a person who meets the standards of Division
26 2.5 (commencing with Section 1797) of the Health and Safety
27 Code.

28 (4) "Serious bodily injury" means a serious impairment of
29 physical condition, including, but not limited to, the following:
30 loss of consciousness; concussion; bone fracture; protracted loss
31 or impairment of function of any bodily member or organ; a wound
32 requiring extensive suturing; and serious disfigurement.

33 (5) "Injury" means any physical injury which requires
34 professional medical treatment.

35 (6) "Custodial officer" means any person who has the
36 responsibilities and duties described in Section 831 and who is
37 employed by a law enforcement agency of any city or county or
38 who performs those duties as a volunteer.

39 (7) "Lifeguard" means a person defined in paragraph (5) of
40 subdivision ~~(e)~~ (d) of Section 241.

1 (8) “Traffic officer” means any person employed by a city,
2 county, or city and county to monitor and enforce state laws and
3 local ordinances relating to parking and the operation of vehicles.

4 (9) “Animal control officer” means any person employed by a
5 city, county, or city and county for purposes of enforcing animal
6 control laws or regulations.

7 (10) “Dating relationship” means frequent, intimate associations
8 primarily characterized by the expectation of affectional or sexual
9 involvement independent of financial considerations.

10 (11) (A) “Code enforcement officer” means any person who
11 is not described in Chapter 4.5 (commencing with Section 830) of
12 Title 3 of Part 2 and who is employed by any governmental
13 subdivision, public or quasi-public corporation, public agency,
14 public service corporation, any town, city, county, or municipal
15 corporation, whether incorporated or chartered, who has
16 enforcement authority for health, safety, and welfare requirements,
17 and whose duties include enforcement of any statute, rules,
18 regulations, or standards, and who is authorized to issue citations,
19 or file formal complaints.

20 (B) “Code enforcement officer” also includes any person who
21 is employed by the Department of Housing and Community
22 Development who has enforcement authority for health, safety,
23 and welfare requirements pursuant to the Employee Housing Act
24 (Part 1 (commencing with Section 17000) of Division 13 of the
25 Health and Safety Code); the State Housing Law (Part 1.5
26 (commencing with Section 17910) of Division 13 of the Health
27 and Safety Code); the ~~Mobilehomes~~ *Manufactured Manufactured*
28 *Housing Act of 1980* (Part 2 (commencing with Section 18000)
29 of Division 13 of the Health and Safety Code); the Mobilehome
30 Parks Act (Part 2.1 (commencing with Section 18200) of Division
31 13 of the Health and Safety Code); and the Special Occupancy
32 Parks Act (Part 2.3 (commencing with Section 18860) of Division
33 13 of the Health and Safety Code).

34 (12) “Custody assistant” means any person who has the
35 responsibilities and duties described in Section 831.7 and who is
36 employed by a law enforcement agency of any city, county, or city
37 and county.

38 (13) “Search and rescue member” means any person who is
39 part of an organized search and rescue team managed by a
40 governmental agency.

1 (14) “Security officer” means any person who has the
2 responsibilities and duties described in Section 831.4 and who is
3 employed by a law enforcement agency of any city, county, or city
4 and county.

5 (g) It is the intent of the Legislature by amendments to this
6 section at the 1981–82 and 1983–84 Regular Sessions to abrogate
7 the holdings in cases such as *People v. Corey*, 21 Cal. 3d 738, and
8 *Cervantez v. J.C. Penney Co.*, 24 Cal. 3d 579, and to reinstate prior
9 judicial interpretations of this section as they relate to criminal
10 sanctions for battery on peace officers who are employed, on a
11 part-time or casual basis, while wearing a police uniform as private
12 security guards or patrolmen and to allow the exercise of peace
13 officer powers concurrently with that employment.

14 SEC. 2.3. Section 243 of the Penal Code, as amended by
15 Section 292 of Chapter 15 of the Statutes of 2011, is amended to
16 read:

17 243. (a) A battery is punishable by a fine not exceeding two
18 thousand dollars (\$2,000), or by imprisonment in a county jail not
19 exceeding six months, or by both that fine and imprisonment.

20 (b) When a battery is committed against the person of a peace
21 officer, custodial officer, firefighter, emergency medical technician,
22 lifeguard, *security officer, custody assistant*, process server, traffic
23 officer, code enforcement officer, ~~or~~ animal control officer, *or*
24 *search and rescue member* engaged in the performance of his or
25 her duties, whether on or off duty, including when the peace officer
26 is in a police uniform and is concurrently performing the duties
27 required of him or her as a peace officer while also employed in
28 a private capacity as a part-time or casual private security guard
29 or patrolman, or a nonsworn employee of a probation department
30 engaged in the performance of his or her duties, whether on or off
31 duty, or a physician or nurse engaged in rendering emergency
32 medical care outside a hospital, clinic, or other health care facility,
33 and the person committing the offense knows or reasonably should
34 know that the victim is a peace officer, custodial officer, firefighter,
35 emergency medical technician, lifeguard, *security officer, custody*
36 *assistant*, process server, traffic officer, code enforcement officer,
37 ~~or~~ animal control officer, *or search and rescue member* engaged
38 in the performance of his or her duties, nonsworn employee of a
39 probation department, or a physician or nurse engaged in rendering
40 emergency medical care, the battery is punishable by a fine not

1 exceeding two thousand dollars (\$2,000), or by imprisonment in
2 a county jail not exceeding one year, or by both that fine and
3 imprisonment.

4 (c) (1) When a battery is committed against a custodial officer,
5 firefighter, emergency medical technician, lifeguard, process server,
6 traffic officer, or animal control officer engaged in the performance
7 of his or her duties, whether on or off duty, or a nonsworn
8 employee of a probation department engaged in the performance
9 of his or her duties, whether on or off duty, or a physician or nurse
10 engaged in rendering emergency medical care outside a hospital,
11 clinic, or other health care facility, and the person committing the
12 offense knows or reasonably should know that the victim is a
13 nonsworn employee of a probation department, custodial officer,
14 firefighter, emergency medical technician, lifeguard, process server,
15 traffic officer, or animal control officer engaged in the performance
16 of his or her duties, or a physician or nurse engaged in rendering
17 emergency medical care, and an injury is inflicted on that victim,
18 the battery is punishable by a fine of not more than two thousand
19 dollars (\$2,000), by imprisonment in a county jail not exceeding
20 one year, or by both that fine and imprisonment, or by
21 imprisonment pursuant to subdivision (h) of Section 1170 for 16
22 months, or two or three years.

23 (2) When the battery specified in paragraph (1) is committed
24 against a peace officer engaged in the performance of his or her
25 duties, whether on or off duty, including when the peace officer
26 is in a police uniform and is concurrently performing the duties
27 required of him or her as a peace officer while also employed in
28 a private capacity as a part-time or casual private security guard
29 or patrolman and the person committing the offense knows or
30 reasonably should know that the victim is a peace officer engaged
31 in the performance of his or her duties, the battery is punishable
32 by a fine of not more than ten thousand dollars (\$10,000), or by
33 imprisonment in a county jail not exceeding one year or pursuant
34 to subdivision (h) of Section 1170 for 16 months, or two or three
35 years, or by both that fine and imprisonment.

36 (d) When a battery is committed against any person and serious
37 bodily injury is inflicted on the person, the battery is punishable
38 by imprisonment in a county jail not exceeding one year or
39 imprisonment pursuant to subdivision (h) of Section 1170 for two,
40 three, or four years.

1 (e) (1) When a battery is committed against a spouse, a person
2 with whom the defendant is cohabiting, a person who is the parent
3 of the defendant's child, former spouse, fiancé, or fiancée, or a
4 person with whom the defendant currently has, or has previously
5 had, a dating or engagement relationship, the battery is punishable
6 by a fine not exceeding two thousand dollars (\$2,000), or by
7 imprisonment in a county jail for a period of not more than one
8 year, or by both that fine and imprisonment. If probation is granted,
9 or the execution or imposition of the sentence is suspended, it shall
10 be a condition thereof that the defendant participate in, for no less
11 than one year, and successfully complete, a batterer's treatment
12 program, as ~~defined~~ *described* in Section 1203.097, or if none is
13 available, another appropriate counseling program designated by
14 the court. However, this provision shall not be construed as
15 requiring a city, a county, or a city and county to provide a new
16 program or higher level of service as contemplated by Section 6
17 of Article XIII B of the California Constitution.

18 (2) Upon conviction of a violation of this subdivision, if
19 probation is granted, the conditions of probation may include, in
20 lieu of a fine, one or both of the following requirements:

21 (A) That the defendant make payments to a battered women's
22 shelter, up to a maximum of five thousand dollars (\$5,000).

23 (B) That the defendant reimburse the victim for reasonable costs
24 of counseling and other reasonable expenses that the court finds
25 are the direct result of the defendant's offense.

26 For any order to pay a fine, make payments to a battered
27 women's shelter, or pay restitution as a condition of probation
28 under this subdivision, the court shall make a determination of the
29 defendant's ability to pay. In no event shall any order to make
30 payments to a battered women's shelter be made if it would impair
31 the ability of the defendant to pay direct restitution to the victim
32 or court-ordered child support. ~~Where~~ *If* the injury to a married
33 person is caused in whole or in part by the criminal acts of his or
34 her spouse in violation of this section, the community property
35 ~~may~~ *shall* not be used to discharge the liability of the offending
36 spouse for restitution to the injured spouse, required by Section
37 1203.04, as operative on or before August 2, 1995, or Section
38 1202.4, or to a shelter for costs with regard to the injured spouse
39 and dependents, required by this section, until all separate property
40 of the offending spouse is exhausted.

1 (3) Upon conviction of a violation of this subdivision, if
2 probation is granted or the execution or imposition of the sentence
3 is suspended and the person has been previously convicted of a
4 violation of this subdivision and sentenced under paragraph (1),
5 the person shall be imprisoned for not less than 48 hours in addition
6 to the conditions in paragraph (1). However, the court, upon a
7 showing of good cause, may elect not to impose the mandatory
8 minimum imprisonment as required by this subdivision and may,
9 under these circumstances, grant probation or order the suspension
10 of the execution or imposition of the sentence.

11 (4) The Legislature finds and declares that these specified crimes
12 merit special consideration when imposing a sentence so as to
13 display society's condemnation for these crimes of violence upon
14 victims with whom a close relationship has been formed.

15 (f) As used in this section:

16 (1) "Peace officer" means any person defined in Chapter 4.5
17 (commencing with Section 830) of Title 3 of Part 2.

18 (2) "Emergency medical technician" means a person who is
19 either an EMT-I, EMT-II, or EMT-P (paramedic), and possesses
20 a valid certificate or license in accordance with the standards of
21 Division 2.5 (commencing with Section 1797) of the Health and
22 Safety Code.

23 (3) "Nurse" means a person who meets the standards of Division
24 2.5 (commencing with Section 1797) of the Health and Safety
25 Code.

26 (4) "Serious bodily injury" means a serious impairment of
27 physical condition, including, but not limited to, the following:
28 loss of consciousness; concussion; bone fracture; protracted loss
29 or impairment of function of any bodily member or organ; a wound
30 requiring extensive suturing; and serious disfigurement.

31 (5) "Injury" means any physical injury which requires
32 professional medical treatment.

33 (6) "Custodial officer" means any person who has the
34 responsibilities and duties described in Section 831 and who is
35 employed by a law enforcement agency of any city or county or
36 who performs those duties as a volunteer.

37 (7) "Lifeguard" means a person defined in paragraph (5) of
38 subdivision ~~(e)~~ (d) of Section 241.

1 (8) “Traffic officer” means any person employed by a city,
2 county, or city and county to monitor and enforce state laws and
3 local ordinances relating to parking and the operation of vehicles.

4 (9) “Animal control officer” means any person employed by a
5 city, county, or city and county for purposes of enforcing animal
6 control laws or regulations.

7 (10) “Dating relationship” means frequent, intimate associations
8 primarily characterized by the expectation of affectional or sexual
9 involvement independent of financial considerations.

10 (11) (A) “Code enforcement officer” means any person who
11 is not described in Chapter 4.5 (commencing with Section 830) of
12 Title 3 of Part 2 and who is employed by any governmental
13 subdivision, public or quasi-public corporation, public agency,
14 public service corporation, any town, city, county, or municipal
15 corporation, whether incorporated or chartered, who has
16 enforcement authority for health, safety, and welfare requirements,
17 and whose duties include enforcement of any statute, rules,
18 regulations, or standards, and who is authorized to issue citations,
19 or file formal complaints.

20 (B) “Code enforcement officer” also includes any person who
21 is employed by the Department of Housing and Community
22 Development who has enforcement authority for health, safety,
23 and welfare requirements pursuant to the Employee Housing Act
24 (Part 1 (commencing with Section 17000) of Division 13 of the
25 Health and Safety Code); the State Housing Law (Part 1.5
26 (commencing with Section 17910) of Division 13 of the Health
27 and Safety Code); the ~~Mobilehomes~~ *Manufactured Manufactured*
28 *Housing Act of 1980* (Part 2 (commencing with Section 18000)
29 of Division 13 of the Health and Safety Code); the Mobilehome
30 Parks Act (Part 2.1 (commencing with Section 18200) of Division
31 13 of the Health and Safety Code); and the Special Occupancy
32 Parks Act (Part 2.3 (commencing with Section 18860) of Division
33 13 of the Health and Safety Code).

34 (12) “Custody assistant” means any person who has the
35 responsibilities and duties described in Section 831.7 and who is
36 employed by a law enforcement agency of any city, county, or city
37 and county.

38 (13) “Search and rescue member” means any person who is
39 part of an organized search and rescue team managed by a
40 governmental agency.

1 (14) “Security officer” means any person who has the
2 responsibilities and duties described in Section 831.4 and who is
3 employed by a law enforcement agency of any city, county, or city
4 and county.

5 (g) It is the intent of the Legislature by amendments to this
6 section at the 1981–82 and 1983–84 Regular Sessions to abrogate
7 the holdings in cases such as *People v. Corey*, 21 Cal. 3d 738, and
8 *Cervantez v. J.C. Penney Co.*, 24 Cal. 3d 579, and to reinstate prior
9 judicial interpretations of this section as they relate to criminal
10 sanctions for battery on peace officers who are employed, on a
11 part-time or casual basis, while wearing a police uniform as private
12 security guards or patrolmen and to allow the exercise of peace
13 officer powers concurrently with that employment.

14 SEC. 3. (a) Section 2.1 of this bill incorporates amendments
15 to Section 243 of the Penal Code proposed by both this bill and
16 AB 109, which has been chaptered but is not operative. Section
17 2.1 shall only become operative if (1) this bill is enacted and
18 becomes effective on or before January 1, 2012, (2) this bill amends
19 Section 243 of the Penal Code, (3) SB 406 is not enacted or as
20 enacted does not amend that section, and (4) AB 109 becomes
21 operative, in which case Section 243 of the Penal Code, as
22 amended by Section 2 of this bill, shall remain operative only until
23 the operative date of AB 109, at which time Section 2.1 of this bill
24 shall become operative and Sections 2, 2.2 and 2.3 of this bill shall
25 not be operative.

26 (b) Section 2.2 of this bill incorporates amendments to Section
27 243 of the Penal Code proposed by both this bill and SB 406. It
28 shall only become operative if (1) both bills are enacted and
29 become effective on or before January 1, 2012, (2) each bill
30 amends Section 243 of the Penal Code, (3) AB 109 is not operative,
31 and (4) this bill is enacted after SB 406, in which case Sections 2,
32 2.1, and 2.3 shall not be operative.

33 (c) Section 2.3 of this bill incorporates amendments to Section
34 243 of the Penal Code proposed by this bill, SB 406, and AB 109,
35 which has been chaptered but is not operative. Section 2.3 shall
36 only become operative if (1) this bill is enacted and becomes
37 effective on or before January 1, 2012, (2) this bill and SB 406
38 amend Section 243 of the Penal Code, (3) AB 109 becomes
39 operative, in which case Section 243 of the Penal Code, as
40 amended by Section 2.2 of this bill, shall be operative only until

1 *the operative date of AB 109, at which time Section 2.3 of this bill*
2 *shall become operative and Sections 2, 2.1 and 2.2 of this bill shall*
3 *not be operative.*

4 ~~SEC. 3.~~

5 *SEC. 4.* No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.

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