

AMENDED IN SENATE MARCH 26, 2012

SENATE BILL

No. 1338

Introduced by Senator Kehoe

(Principal coauthor: Senator Steinberg)

(Principal coauthors: Assembly Members Atkins, John A. Pérez, and Skinner)

(Coauthors: Senators Alquist, De León, DeSaulnier, Evans, Hancock, Leno, Lieu, Liu, and Wolk)

(Coauthors: Assembly Members Ammiano, Blumenfield, Brownley, Butler, Lara, and Williams)

February 24, 2012

~~An act to amend Section 51087 of the Government Code, relating to local government. An act to amend Section 2253 of the Business and Professions Code, relating to healing arts.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1338, as amended, Kehoe. ~~Open-space easements. Abortion.~~

Existing law makes it a public offense, punishable by a fine not exceeding \$10,000 or imprisonment, or both, for a person to perform or assist in performing a surgical abortion if the person does not have a valid license to practice as a physician and surgeon, or to assist in performing a surgical abortion without a valid license or certificate obtained in accordance with some other provision of law that authorizes him or her to perform the functions necessary to assist in performing a surgical abortion. Existing law also makes it a public offense, punishable by a fine not exceeding \$10,000 or imprisonment, or both, for a person to perform or assist in performing a nonsurgical abortion if the person does not have a valid license to practice as a physician and surgeon or does not have a valid license or certificate obtained in

accordance with some other provision of law authorizing him or her to perform or assist in performing the functions necessary for a nonsurgical abortion. Under existing law, nonsurgical abortion includes termination of pregnancy through the use of pharmacological agents.

This bill would make it a public offense, punishable by a fine not exceeding \$10,000 or imprisonment, or both, for a person to perform or assist in performing an abortion if the person does not have a valid license to practice as a physician and surgeon, or to assist in performing an abortion without a valid license or certificate obtained in accordance with some other provision of law authorizing him or her to perform the functions necessary to assist in performing an abortion, except as specified. The bill would also make it a public offense, punishable by a fine not exceeding \$10,000 or imprisonment, or both, for a person to perform or assist in performing an abortion by medication or aspiration techniques without a valid license to practice as a physician and surgeon or without a license or certificate obtained in accordance with some other provision of law, including, but not limited to, the Nursing Practice Act or the Physician Assistant Practice Act, authorizing him or her to perform or assist in performing the functions necessary for an abortion by medication or aspiration techniques. The bill would delete the description of what a nonsurgical abortion includes. The bill would make other technical, nonsubstantive changes.

Because the bill would change the definition of crimes, 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 Open-Space Easement Act of 1974 requires the clerk of the governing board of a city or county, upon acceptance or approval of a grant of an open-space easement on privately owned lands within a city or county, to record the easement in the office of the county recorder and file a copy of the easement with the county assessor, as specified.~~

~~Existing law requires the county recorder in each county to develop and maintain, within the existing indexing system, a comprehensive index of conservation easements and notice of conservation easement on lands within that county.~~

~~This bill would require an easement accepted or approved pursuant to the Open-Space Easement Act of 1974 to be recorded consistent with the indexing system maintained by the county recorder.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. Section 2253 of the Business and Professions
2 Code is amended to read:

3 2253. (a) Failure to comply with the Reproductive Privacy
4 Act (Article 2.5 (commencing with Section 123460) of Chapter 2
5 of Part 2 of Division 106 of the Health and Safety Code) in
6 performing, assisting, procuring or aiding, abetting, attempting,
7 agreeing, or offering to procure an illegal abortion constitutes
8 unprofessional conduct.

9 (b) (1) ~~A~~*Except as provided in paragraph (2), a person is*
10 subject to ~~Sections Section 2052 and 2053~~ if he or she performs
11 or assists in performing ~~a surgical~~ *an abortion*, and at the time of
12 so doing, does not have a valid, unrevoked, and unsuspended
13 license to practice as a physician and surgeon as provided in this
14 chapter, or if he or she assists in performing ~~a surgical~~ *an abortion*
15 and does not have a valid, unrevoked, and unsuspended license or
16 certificate obtained in accordance with some other provision of
17 law that authorizes him or her to perform the functions necessary
18 to assist in performing ~~a surgical~~ *an abortion*.

19 (2) A person is subject to ~~Sections Section 2052 and 2053~~ if he
20 or she performs or assists in performing ~~a nonsurgical abortion~~ *an*
21 *abortion by medication or aspiration techniques*, and at the time
22 of so doing, does not have a valid, unrevoked, and unsuspended
23 license to practice as a physician and surgeon as provided in this
24 chapter, or does not have a valid, unrevoked, and unsuspended
25 license or certificate obtained in accordance with some other
26 provision of law, *including, but not limited to, the Nursing Practice*
27 *Act (Chapter 6 (commencing with Section 2700)) or the Physician*
28 *Assistant Practice Act (Chapter 7.7 (commencing with Section*
29 *3500))*, that authorizes him or her to perform or assist in performing
30 the functions necessary for ~~a nonsurgical~~ *an abortion by medication*
31 *or aspiration techniques*.

1 ~~(e) For purposes of this section, “nonsurgical abortion” includes~~
2 ~~termination of pregnancy through the use of pharmacological~~
3 ~~agents.~~

4 *SEC. 2. No reimbursement is required by this act pursuant to*
5 *Section 6 of Article XIII B of the California Constitution because*
6 *the only costs that may be incurred by a local agency or school*
7 *district will be incurred because this act creates a new crime or*
8 *infraction, eliminates a crime or infraction, or changes the penalty*
9 *for a crime or infraction, within the meaning of Section 17556 of*
10 *the Government Code, or changes the definition of a crime within*
11 *the meaning of Section 6 of Article XIII B of the California*
12 *Constitution.*

13 ~~SECTION 1. Section 51087 of the Government Code is~~
14 ~~amended to read:~~

15 ~~51087. Upon the acceptance or approval of any instrument~~
16 ~~creating an open-space easement the clerk of the governing body~~
17 ~~shall record the same in the office of the county recorder and file~~
18 ~~a copy thereof with the county assessor. The recording shall be~~
19 ~~consistent with Section 27255. From and after the time of the~~
20 ~~recordation, the easement shall impart notice thereof to all persons~~
21 ~~as is afforded by the recording laws of this state.~~