

AMENDED IN SENATE JUNE 16, 2014

AMENDED IN ASSEMBLY MAY 23, 2014

AMENDED IN ASSEMBLY APRIL 3, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2406

Introduced by Assembly Member Rodriguez

February 21, 2014

An act to add and repeal Section 1797.122 of the Health and Safety Code, relating to emergency medical services; Section 243.93 to the Penal Code, relating to battery.

LEGISLATIVE COUNSEL'S DIGEST

AB 2406, as amended, Rodriguez. ~~Emergency Medical Services Authority: misuse of emergency medical services. Battery: gassing.~~

Existing law provides that every person confined in a local detention facility, state prison, or under the jurisdiction of the Division of Juvenile Facilities of the Department of Corrections and Rehabilitation, who commits a battery upon the person of a peace officer by "gassing," as defined, is guilty of aggravated battery.

This bill would provide that a person who commits battery upon the person of specified individuals, including emergency medical technicians, by gassing is guilty of aggravated battery, punishable by imprisonment in the county jail not exceeding 6 months, a fine not exceeding \$1,000, or both.

The bill would also authorize a law enforcement agency, if there is probable cause to believe a violation has occurred, to order the individual suspected of a violation to be tested for communicable

diseases, and would require the results of the tests to be provided to the person who has been subject to a reported or suspected violation.

By creating a new 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.

Existing law requires the Emergency Medical Services Authority to develop planning and implementation guidelines for emergency medical services (EMS) systems that address several components, including, but not limited to, manpower and training, communications, transportation, and assessment of hospitals and critical care centers.

This bill would require the authority, no later than July 31, 2016, to prepare and submit a report to the Legislature identifying programs that have been implemented in the state by local EMS agencies to address the misuse of emergency medical services. The bill would require the report to include a summary of specified information on the various approaches applied to serve those frequent EMS user transports and any recommendations for the implementation of a statewide program to address the misuse of emergency medical services. The bill would specify that the authority may satisfy the report requirement described above by working in partnership with and directing a nonprofit agency to compile and publish the information required in the report, or in lieu of a report, the bill would authorize the authority to provide for a discussion of innovative programs before local emergency medical services agencies, local governments, and private agencies that addresses the misuse of emergency medical services.

The bill would make legislative findings and declarations relating to the misuse of emergency medical services.

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

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

1 SECTION 1. Section 243.93 is added to the Penal Code, to
2 read:

1 243.93. (a) Every person who commits battery by gassing
2 upon the person of a peace officer, as defined in Chapter 4.5
3 (commencing with Section 830) of Title 3 of Part 2, hospital or
4 nursing home employee, physician, medical professional,
5 ambulance attendant, emergency medical technician, firefighter,
6 or custodial officer, is guilty of aggravated battery, punishable by
7 imprisonment in the county jail not exceeding six months, a fine
8 not exceeding one thousand dollars (\$1,000), or both that fine and
9 imprisonment.

10 (b) For purposes of this section, “gassing” means intentionally
11 placing or throwing, or causing to be placed or thrown, upon the
12 person of another, any human excrement or other bodily fluids or
13 bodily substances or any mixture containing human excrement or
14 other bodily fluids or bodily substances that results in contact with
15 the person’s skin, hair, or membranes.

16 (c) Every available means shall be used to immediately
17 investigate all reported or suspected violations of subdivision (a),
18 including, but not limited to, the use of forensically acceptable
19 means of preserving and testing the suspected gassing substance
20 to confirm the presence of human excrement or other bodily fluids
21 or bodily substances. If there is probable cause to believe a
22 violation of subdivision (a) has occurred, when it is deemed
23 medically necessary to protect the health of a person who may
24 have been subject to a violation of this section, a law enforcement
25 agency may order the individual suspected of a violation of
26 subdivision (a) to receive an examination or test for hepatitis,
27 tuberculosis, or any other disease that is capable of being
28 transmitted from contact with the human fluid or substance
29 involved, on either a voluntary or involuntary basis immediately
30 after the event, and periodically thereafter as determined to be
31 necessary in order to ensure that further disease transmission does
32 not occur. These decisions shall be consistent with an occupational
33 exposure as defined by the federal Centers for Disease Control
34 and Prevention. The results of any examination or test shall be
35 provided to the person who has been subject to a reported or
36 suspected violation of this section. Any person performing tests,
37 transmitting test results, or disclosing information pursuant to this
38 section shall be immune from civil liability for any action taken
39 in accordance with this section.

1 (d) This section does not preclude prosecution under both this
2 section and any other provision of law.

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

12 SECTION 1. ~~The Legislature finds and declares all of the~~
13 ~~following:~~

14 ~~(a) Nonemergency calls are overloading the 911 system.~~

15 ~~(b) The most common reasons that lead individuals to overutilize~~
16 ~~emergency medical services transportation and emergency~~
17 ~~departments include homelessness, mental illness, extreme poverty,~~
18 ~~multiple health concerns, chronic physical conditions, substance~~
19 ~~abuse, and, most frequently, a lack of understanding of the health~~
20 ~~care system and the availability of more effective and appropriate~~
21 ~~alternatives.~~

22 ~~(c) Frequent users of emergency medical services, commonly~~
23 ~~referred to as ambulance “frequent flyers,” are costing California~~
24 ~~cities millions of dollars. According to the EMS Medical Director~~
25 ~~of the County of San Diego Emergency Medical Services, for~~
26 ~~example, 1,136 frequent users utilized the emergency medical~~
27 ~~services (EMS) system at least six times in 2012 and generated~~
28 ~~more than \$20 million in ambulance and paramedic charges.~~

29 SEC. 2. ~~Section 1797.122 is added to the Health and Safety~~
30 ~~Code, to read:~~

31 ~~1797.122. (a) Except as provided in subdivision (d), the~~
32 ~~authority shall prepare and submit a report to the Legislature~~
33 ~~identifying programs that have been implemented in the state by~~
34 ~~local emergency medical services agencies to address the misuse~~
35 ~~of emergency medical services. The report shall include all of the~~
36 ~~following:~~

37 ~~(1) A summary of the different programs implemented by local~~
38 ~~emergency medical services agencies to address the misuse of~~
39 ~~emergency medical services, including specific information on the~~

1 various approaches applied to serve those frequent EMS user
2 transports, such as:

- 3 (A) Identification and prioritization.
- 4 (B) Medical assessments.
- 5 (C) Care management or comprehensive care.
- 6 (D) Ongoing support via home visits or telephone calls.
- 7 (E) Support to the patient and family by directing the patient
8 and his or her family to available resources such as health insurance
9 coverage, access to primary care and mental health services,
10 transportation, and other relevant social services.
- 11 (F) The financial impact of servicing frequent EMS user
12 transports, including funding sources and the costs of providing
13 these services.
- 14 (G) Best practices.
- 15 (H) Cost-saving measures to offset frequent EMS user transport
16 expenses.

17 (2) Any recommendations for the implementation of a statewide
18 program to address the misuse of emergency medical services.

19 (b) The report shall be submitted to the Legislature no later than
20 July 31, 2016.

21 (c) (1) A report submitted pursuant to subdivision (a) shall be
22 submitted in compliance with Section 9795 of the Government
23 Code.

24 (2) Pursuant to Section 10231.5 of the Government Code, this
25 section is repealed on January 1, 2019.

26 (d) To satisfy the report requirement described in subdivision
27 (a), the authority may do either of the following:

- 28 (1) Work in a partnership with and direct a nonprofit agency to
29 compile and publish the information described in subdivision (a).
30 The authority shall provide this information to the Legislature in
31 accordance with subdivisions (b) and (c).
- 32 (2) In lieu of a report, the authority may provide for a discussion
33 of innovative programs before local emergency services agencies,
34 local governments, and private agencies that addresses the misuse
35 of emergency medical services.