

AMENDED IN ASSEMBLY APRIL 24, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2501

Introduced by Assembly Member Bonilla

February 21, 2014

An act to amend Section 192 of the Penal Code, relating to manslaughter.

LEGISLATIVE COUNSEL'S DIGEST

AB 2501, as amended, Bonilla. Voluntary manslaughter.

Existing law defines voluntary manslaughter as the unlawful killing of a human being without malice upon a sudden quarrel or heat of passion. The crime of voluntary manslaughter is punishable by imprisonment in the state prison for 3, 6, or 11 years.

This bill would state that ~~provocation to support a finding of “sudden quarrel” or “heat of passion” for those purposes may not be motivated, in part or in whole, by the defendant’s discovery of or knowledge about, or the potential disclosure of (1) one or more of specified characteristics, including gender, race, religion, and sexual orientation, as specified, or (2) the victim’s association with a person or group with one or more of those characteristics.~~ *for purposes of determining sudden quarrel or heat of passion, the provocation was not objectively reasonable if it resulted from the discovery of, knowledge about, or potential disclosure of the victim’s or defendant’s actual or perceived gender, gender identity, gender expression, or sexual orientation, including under circumstances in which the victim made an unwanted nonforcible romantic or sexual advance towards the defendant, or if the defendant and victim dated or had a romantic or sexual relationship.* By changing

the definition of a crime, 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.

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 192 of the Penal Code is amended to
2 read:

3 192. Manslaughter is the unlawful killing of a human being
4 without malice. It is of three kinds:

5 (a) Voluntary—upon a sudden quarrel or heat of passion.

6 (b) Involuntary—in the commission of an unlawful act, not
7 amounting to felony; or in the commission of a lawful act which
8 might produce death, in an unlawful manner, or without due caution
9 and circumspection. This subdivision shall not apply to acts
10 committed in the driving of a vehicle.

11 (c) Vehicular—

12 (1) Except as provided in subdivision (a) of Section 191.5,
13 driving a vehicle in the commission of an unlawful act, not
14 amounting to felony, and with gross negligence; or driving a
15 vehicle in the commission of a lawful act which might produce
16 death, in an unlawful manner, and with gross negligence.

17 (2) Driving a vehicle in the commission of an unlawful act, not
18 amounting to felony, but without gross negligence; or driving a
19 vehicle in the commission of a lawful act which might produce
20 death, in an unlawful manner, but without gross negligence.

21 (3) Driving a vehicle in connection with a violation of paragraph
22 (3) of subdivision (a) of Section 550, where the vehicular collision
23 or vehicular accident was knowingly caused for financial gain and
24 proximately resulted in the death of any person. This paragraph
25 does not prevent prosecution of a defendant for the crime of
26 murder.

27 (d) This section shall not be construed as making any homicide
28 in the driving of a vehicle punishable that is not a proximate result

1 of the commission of an unlawful act, not amounting to felony, or
2 of the commission of a lawful act which might produce death, in
3 an unlawful manner.

4 (e) “Gross negligence,” as used in this section, does not prohibit
5 or preclude a charge of murder under Section 188 upon facts
6 exhibiting wantonness and a conscious disregard for life to support
7 a finding of implied malice, or upon facts showing malice,
8 consistent with the holding of the California Supreme Court in
9 *People v. Watson* (1981) 30 Cal.3d 290.

10 ~~(f) (1) For purposes of this section, the provocation to support~~
11 ~~a finding of “sudden quarrel” or “heat of passion” shall not be~~
12 ~~motivated, in part or in whole, by the defendant’s discovery of or~~
13 ~~knowledge about, or the potential disclosure of one or more of the~~
14 ~~following characteristics, or the potential disclosure of the victim’s~~
15 ~~association with a person or group with one or more of those~~
16 ~~characteristics, without regard to whether the characteristic~~
17 ~~describes the defendant or the victim:~~

- 18 ~~(A) Disability.~~
- 19 ~~(B) Gender.~~
- 20 ~~(C) Nationality.~~
- 21 ~~(D) Race or ethnicity.~~
- 22 ~~(E) Religion.~~
- 23 ~~(F) Sexual orientation.~~

24 *(f) (1) For purposes of determining sudden quarrel or heat of*
25 *passion under subdivision (a), the provocation was not objectively*
26 *reasonable if it resulted from the discovery of, knowledge about,*
27 *or potential disclosure of the victim’s or defendant’s actual or*
28 *perceived gender, gender identity, gender expression, or sexual*
29 *orientation, including under circumstances in which the victim*
30 *made an unwanted nonforcible romantic or sexual advance towards*
31 *the defendant, or if the defendant and victim dated or had a*
32 *romantic or sexual relationship. Nothing in this section shall*
33 *preclude the jury from considering all relevant facts to determine*
34 *whether the defendant was in fact provoked for purposes of*
35 *establishing subjective provocation.*

36 (2) For purposes of this ~~section~~ *subdivision*, “gender” includes
37 a person’s gender identity and gender-related appearance and
38 behavior regardless of whether that appearance or behavior is
39 associated with the person’s gender as determined at birth.

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

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