

AMENDED IN ASSEMBLY JUNE 20, 2013

AMENDED IN SENATE MAY 7, 2013

AMENDED IN SENATE APRIL 9, 2013

SENATE BILL

No. 606

Introduced by Senator De León

February 22, 2013

An act to amend Section 11414 of the Penal Code, relating to harassment.

LEGISLATIVE COUNSEL'S DIGEST

SB 606, as amended, De León. Harassment: child or ward.

Under existing law, any person who intentionally harasses the child or ward of any other person because of that person's employment is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding 6 months, or by a fine not exceeding \$1,000, or both. Under existing law, that crime is punishable by mandatory imprisonment in a county jail for not less than 5 days for a 2nd conviction, and by mandatory imprisonment in a county jail for not less than 30 days for a 3rd or subsequent conviction.

This bill would make a violation of the above provisions punishable by imprisonment in a county jail for not less than 10 days but not exceeding one year for a first conviction. For a 2nd conviction, the bill would require a fine not exceeding \$10,000 and imprisonment in a county jail for a period of not less than 30 days but not exceeding one year. For a 3rd or subsequent conviction, the bill would require a fine not exceeding \$10,000 and imprisonment in a county jail for a period of not less than 60 days but not exceeding one year. The bill would specify that harassment may include *alarming, annoying, tormenting,*

or terrorizing conduct that serves no legitimate purpose and that occurs during the course of any actual or attempted recording of the child’s or ward’s image or voice without the written consent of the child’s or ward’s parent or legal guardian, by following the child’s or ward’s activities or by lying in wait. The bill would specify that, upon a violation of the above provisions ~~would give rise to civil liability in an action~~, a parent or legal guardian of an aggrieved child or ward, may bring a civil action against the violator on behalf of the child or ward for damages, as specified. The bill would additionally provide that the act of transmitting, publishing, or broadcasting a recording of the image or voice of a child does not constitute commission of the offense.

By increasing the punishment for a 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.

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 11414 of the Penal Code is amended to
2 read:
3 11414. (a) Any person who intentionally harasses the child or
4 ward of any other person because of that person’s employment
5 shall be punished by imprisonment in a county jail for not less
6 than 10 days but not exceeding one year.
7 (b) For purposes of this section, the following definitions shall
8 apply:
9 (1) “Child” and “ward” mean a person under 16 years of age.
10 (2) “Harasses” means knowing and willful conduct directed at
11 a specific child *or ward* that seriously alarms, annoys, torments,
12 or terrorizes the child *or ward*, and that serves no legitimate
13 purpose, including, but not limited to, *that conduct occurring*
14 *during the course of* any actual or attempted recording of the
15 child’s *or ward’s* image or voice, or both, without the written
16 consent of the ~~child’s~~ parent or legal guardian *of the child or ward*,
17 by following the child’s *or ward’s* activities or by lying in wait.

1 The conduct must be such as would cause a reasonable child to
2 suffer substantial emotional distress, and actually cause the victim
3 to suffer substantial emotional distress.

4 (3) “Employment” means the job, vocation, occupation, or
5 profession of the parent or legal guardian of the child or ward.

6 (c) A second conviction under this section shall be punished by
7 a fine not exceeding ten thousand dollars (\$10,000) and by
8 imprisonment in a county jail for not less than 30 days but not
9 exceeding one year. A third or subsequent conviction under this
10 section shall be punished by a fine not exceeding ten thousand
11 dollars (\$10,000) and by imprisonment in a county jail for not less
12 than 60 days but not exceeding one year.

13 (d) ~~Upon a violation of this section shall also give rise to civil~~
14 ~~liability in an action for damages in which the parent or legal~~
15 ~~guardian of the child may seek~~ *section, the parent or legal guardian*
16 *of an aggrieved child or ward, may bring a civil action against*
17 *the violator on behalf of the child or ward for actual damages,*
18 *disgorgement of profits, punitive damages, reasonable attorney’s*
19 *fees, and costs.*

20 (e) *The act of transmitting, publishing, or broadcasting a*
21 *recording of the image or voice of a child does not constitute a*
22 *violation of this section.*

23 (f) *This section does not preclude prosecution under any section*
24 *of law that provides for greater punishment.*

25 SEC. 2. 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.