

AMENDED IN ASSEMBLY JUNE 5, 2014

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE MARCH 25, 2014

**SENATE BILL**

**No. 1299**

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**Introduced by Senator Padilla**

February 21, 2014

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An act to add Section 6401.8 to the Labor Code, relating to occupational safety and health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1299, as amended, Padilla. Workplace violence prevention ~~plans:~~ *plans: hospitals.*

Existing law regulates the operation of health facilities, including hospitals.

The California Occupational Safety and Health Act of 1973 imposes safety responsibilities on employers and employees, including the requirement that an employer establish, implement, and maintain an effective injury prevention program, and makes specified violations of these provisions a crime.

This bill would require the Occupational Safety and Health Standards Board, no later than July 1, ~~2015~~, *2016*, to adopt standards developed by the Division of Occupational Safety and Health that require specified types of hospitals, including a general acute care hospital or an acute psychiatric hospital, to adopt a workplace violence prevention plan as a part of the hospital's injury and illness prevention plan to protect health care workers and other facility personnel from aggressive and violent behavior. The bill would require the standards to include prescribed requirements for a plan. The bill would require the division,

by January 1, 2017, and annually thereafter, to post a report on its Internet Web site containing specified information regarding violent incidents at hospitals. The bill would exempt certain state-operated hospitals from these provisions.

Because this bill would expand the scope 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 6401.8 is added to the Labor Code, to  
2 read:

3 6401.8. (a) The standards board, no later than July 1, ~~2015~~,  
4 2016, shall adopt standards developed by the division that require  
5 a hospital licensed pursuant to subdivision (a), (b), or (f) of Section  
6 1250 of the Health and Safety Code, except as exempted by  
7 subdivision (d), to adopt a workplace violence prevention plan as  
8 a part of its injury and illness prevention plan to protect health care  
9 workers and other facility personnel from aggressive and violent  
10 behavior.

11 (b) The standards adopted pursuant to subdivision (a) shall  
12 include all of the following:

13 (1) A requirement that the workplace violence prevention plan  
14 be in effect at all times in all patient care units, including inpatient  
15 and outpatient settings and clinics on the hospital's license.

16 (2) A definition of workplace violence that includes, but is not  
17 limited to, both of the following:

18 (A) The use of physical force against a hospital employee by a  
19 patient or a person accompanying a patient that results in, or has  
20 a high likelihood of resulting in, injury, psychological trauma, or  
21 stress, regardless of whether the employee sustains an injury.

22 (B) An incident involving the use of a firearm or other dangerous  
23 weapon, regardless of whether the employee sustains an injury.

1 (3) A requirement that a workplace violence prevention plan  
2 include, but not be limited to, all of the following:

3 (A) Personnel education and training policies that require all  
4 health care workers who provide direct care to patients to, at least  
5 annually, receive education and training that is designed to provide  
6 an opportunity for interactive questions and answers with a person  
7 knowledgeable about the workplace violence prevention plan. The  
8 education and training shall cover topics that include, but are not  
9 limited to, ~~the following:~~ *following topics:*

10 (i) How to recognize potential for violence, and when and how  
11 to seek assistance to prevent or respond to violence.

12 (ii) How to report violent incidents to law enforcement.

13 (iii) Any resources available to employees for coping with  
14 incidents of violence, including, but not limited to, critical incident  
15 stress debriefing or employee assistance programs.

16 (B) A system for responding to, and investigating violent  
17 incidents and situations involving violence or the risk of violence.

18 (C) A system to, at least annually, assess and improve upon  
19 factors that may contribute to, or help prevent workplace violence,  
20 including, but not limited to, the following factors:

21 (i) Staffing, including staffing patterns and patient classification  
22 systems that contribute to, or are insufficient to address, the risk  
23 of violence.

24 (ii) Sufficiency of security systems, including *alarms, emergency*  
25 *response, and* security personnel availability.

26 (iii) Job design, equipment, and facilities.

27 (iv) Security risks associated with specific units, areas of the  
28 facility with uncontrolled access, late-night or early morning shifts,  
29 and employee security in areas surrounding the facility such as  
30 employee parking areas.

31 (4) A requirement that all workplace violence prevention plans  
32 be developed in conjunction with affected employees, including  
33 their recognized collective bargaining agents, if any.

34 (5) A requirement that all temporary personnel be oriented to  
35 the workplace violence prevention plan.

36 (6) Provisions prohibiting hospitals from disallowing an  
37 employee from, or taking punitive or retaliatory action against an  
38 employee for, seeking assistance and intervention from local  
39 emergency services or law enforcement when a violent incident  
40 occurs.

1 (7) A requirement that hospitals document, and retain for a  
2 period of five years, a written record of any violent incident against  
3 a hospital employee, regardless of whether the employee sustains  
4 an injury, and regardless of whether the report is made by the  
5 employee who is the subject of the violent incident or any other  
6 employee.

7 (8) A requirement that a hospital report violent incidents to the  
8 division. If the incident results in injury, involves the use of a  
9 firearm or other dangerous weapon, or presents an urgent or  
10 emergent threat to the welfare, health, or safety of hospital  
11 personnel, the hospital shall report the incident to the division  
12 within 24 hours. All other incidents of violence shall be reported  
13 to the division within 72 hours.

14 (c) By January 1, 2017, and annually thereafter, the division,  
15 in a manner that protects patient and employee confidentiality,  
16 shall post a report on its Internet Web site containing information  
17 regarding violent incidents at hospitals, that includes, but is not  
18 limited to, the total number of reports, and which specific hospitals  
19 filed reports, pursuant to paragraph ~~(7)~~ (8) of subdivision (b), the  
20 outcome of any related inspection or investigation, the citations  
21 levied against a hospital based on a violent incident, and  
22 recommendations of the division on the prevention of violent  
23 incidents at hospitals.

24 (d) This section shall not apply to a hospital operated by the  
25 State Department of State Hospitals, the State Department of  
26 Developmental Services, or the Department of Corrections and  
27 Rehabilitation.

28 (e) *This section does not limit the authority of the standards*  
29 *board to adopt standards to protect employees from workplace*  
30 *violence. Nothing in this section shall be interpreted to preclude*  
31 *the standards board from adopting standards that require other*  
32 *employers, including, but not limited to, employers exempted from*  
33 *this section by subdivision (d), to adopt plans to protect employees*  
34 *from workplace violence. Nothing in this section shall be*  
35 *interpreted to preclude the standards board from adopting*  
36 *standards that require an employer subject to this section, or any*  
37 *other employer, to adopt a workplace violence prevention plan*  
38 *that includes elements or requirements additional to, or broader*  
39 *in scope than, those described in this section.*

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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