

AMENDED IN ASSEMBLY APRIL 23, 2015

AMENDED IN ASSEMBLY MARCH 19, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 545

Introduced by Assembly Member Melendez

February 23, 2015

An act to amend Section 243 of the Penal Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

AB 545, as amended, Melendez. Domestic violence.

Under existing law, a battery committed against a spouse, a person with whom the defendant is cohabitating, a person who is the parent of the defendant's child, a former spouse, a fiancé or fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship, is punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail for a period of not more than one year, or by both that fine and imprisonment. If probation is granted, existing law requires the defendant to complete a batterer's treatment program. If probation is granted in the case of a person who has previously been convicted of a violation of these provisions, existing law requires that the person be imprisoned for not less than 48 hours.

This bill would *additionally* require a person who has a previous conviction for ~~the above-specified offense~~ *willfully inflicting corporal injury resulting in a traumatic condition upon a spouse or former spouse, cohabitant or former cohabitant, fiancé or fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship, or the mother or father of the offender's child* to be

imprisoned for not less than ~~5 days~~ 48 hours if probation is granted for the subsequent offense, and would require the person to be imprisoned for not less than 10 days if the person has previously been convicted of willfully inflicting corporal injury resulting in a traumatic condition upon a spouse or former spouse, cohabitant or former cohabitant, fiancé or fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship, or the mother or father of the offender's child: 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 243 of the Penal Code is amended to
2 read:
3 243. (a) A battery is punishable by a fine not exceeding two
4 thousand dollars (\$2,000), or by imprisonment in a county jail not
5 exceeding six months, or by both that fine and imprisonment.
6 (b) When a battery is committed against the person of a peace
7 officer, custodial officer, firefighter, emergency medical technician,
8 lifeguard, security officer, custody assistant, process server, traffic
9 officer, code enforcement officer, animal control officer, or search
10 and rescue member engaged in the performance of his or her duties,
11 whether on or off duty, including when the peace officer is in a
12 police uniform and is concurrently performing the duties required
13 of him or her as a peace officer while also employed in a private
14 capacity as a part-time or casual private security guard or
15 patrolman, or a nonsworn employee of a probation department
16 engaged in the performance of his or her duties, whether on or off
17 duty, or a physician or nurse engaged in rendering emergency
18 medical care outside a hospital, clinic, or other health care facility,
19 and the person committing the offense knows or reasonably should
20 know that the victim is a peace officer, custodial officer, firefighter,
21 emergency medical technician, lifeguard, security officer, custody

1 assistant, process server, traffic officer, code enforcement officer,
2 animal control officer, or search and rescue member engaged in
3 the performance of his or her duties, nonsworn employee of a
4 probation department, or a physician or nurse engaged in rendering
5 emergency medical care, the battery is punishable by a fine not
6 exceeding two thousand dollars (\$2,000), or by imprisonment in
7 a county jail not exceeding one year, or by both that fine and
8 imprisonment.

9 (c) (1) When a battery is committed against a custodial officer,
10 firefighter, emergency medical technician, lifeguard, process server,
11 traffic officer, or animal control officer engaged in the performance
12 of his or her duties, whether on or off duty, or a nonsworn
13 employee of a probation department engaged in the performance
14 of his or her duties, whether on or off duty, or a physician or nurse
15 engaged in rendering emergency medical care outside a hospital,
16 clinic, or other health care facility, and the person committing the
17 offense knows or reasonably should know that the victim is a
18 nonsworn employee of a probation department, custodial officer,
19 firefighter, emergency medical technician, lifeguard, process server,
20 traffic officer, or animal control officer engaged in the performance
21 of his or her duties, or a physician or nurse engaged in rendering
22 emergency medical care, and an injury is inflicted on that victim,
23 the battery is punishable by a fine of not more than two thousand
24 dollars (\$2,000), by imprisonment in a county jail not exceeding
25 one year, or by both that fine and imprisonment, or by
26 imprisonment pursuant to subdivision (h) of Section 1170 for 16
27 months, or two or three years.

28 (2) When the battery specified in paragraph (1) is committed
29 against a peace officer engaged in the performance of his or her
30 duties, whether on or off duty, including when the peace officer
31 is in a police uniform and is concurrently performing the duties
32 required of him or her as a peace officer while also employed in
33 a private capacity as a part-time or casual private security guard
34 or patrolman and the person committing the offense knows or
35 reasonably should know that the victim is a peace officer engaged
36 in the performance of his or her duties, the battery is punishable
37 by a fine of not more than ten thousand dollars (\$10,000), or by
38 imprisonment in a county jail not exceeding one year or pursuant
39 to subdivision (h) of Section 1170 for 16 months, or two or three
40 years, or by both that fine and imprisonment.

1 (d) When a battery is committed against any person and serious
2 bodily injury is inflicted on the person, the battery is punishable
3 by imprisonment in a county jail not exceeding one year or
4 imprisonment pursuant to subdivision (h) of Section 1170 for two,
5 three, or four years.

6 (e) (1) When a battery is committed against a spouse, a person
7 with whom the defendant is cohabiting, a person who is the parent
8 of the defendant's child, former spouse, fiancé, or fiancée, or a
9 person with whom the defendant currently has, or has previously
10 had, a dating or engagement relationship, the battery is punishable
11 by a fine not exceeding two thousand dollars (\$2,000), or by
12 imprisonment in a county jail for a period of not more than one
13 year, or by both that fine and imprisonment. If probation is granted,
14 or the execution or imposition of the sentence is suspended, it shall
15 be a condition thereof that the defendant participate in, for no less
16 than one year, and successfully complete, a batterer's treatment
17 program, as described in Section 1203.097, or if none is available,
18 another appropriate counseling program designated by the court.
19 However, this provision shall not be construed as requiring a city,
20 a county, or a city and county to provide a new program or higher
21 level of service as contemplated by Section 6 of Article XIII B of
22 the California Constitution.

23 (2) Upon conviction of a violation of this subdivision, if
24 probation is granted, the conditions of probation may include, in
25 lieu of a fine, one or both of the following requirements:

26 (A) That the defendant make payments to a battered women's
27 shelter, up to a maximum of five thousand dollars (\$5,000).

28 (B) That the defendant reimburse the victim for reasonable costs
29 of counseling and other reasonable expenses that the court finds
30 are the direct result of the defendant's offense.

31 For any order to pay a fine, make payments to a battered
32 women's shelter, or pay restitution as a condition of probation
33 under this subdivision, the court shall make a determination of the
34 defendant's ability to pay. In no event shall any order to make
35 payments to a battered women's shelter be made if it would impair
36 the ability of the defendant to pay direct restitution to the victim
37 or court-ordered child support. If the injury to a married person is
38 caused in whole or in part by the criminal acts of his or her spouse
39 in violation of this section, the community property shall not be
40 used to discharge the liability of the offending spouse for restitution

1 to the injured spouse, required by Section 1203.04, as operative
2 on or before August 2, 1995, or Section 1202.4, or to a shelter for
3 costs with regard to the injured spouse and dependents, required
4 by this section, until all separate property of the offending spouse
5 is exhausted.

6 (3) ~~(A)~~—Upon conviction of a violation of this subdivision, if
7 probation is granted or the execution or imposition of the sentence
8 is suspended and the person has been previously convicted of a
9 violation of this subdivision ~~and sentenced under paragraph (1);~~
10 ~~or Section 273.5,~~ the person shall be imprisoned for not less than
11 ~~five days~~ 48 hours in addition to the conditions in paragraph (1).
12 However, the court, upon a showing of good cause, may elect not
13 to impose the mandatory minimum imprisonment as required by
14 ~~this subparagraph~~ *subdivision* and may, under these circumstances,
15 grant probation or order the suspension of the execution or
16 imposition of the sentence.

17 ~~(B)~~—~~Upon conviction of a violation of this subdivision, if~~
18 ~~probation is granted or the execution or imposition of sentence is~~
19 ~~suspended and the person has previously been convicted of a~~
20 ~~violation of Section 273.5, the person shall be imprisoned for not~~
21 ~~less than 10 days in addition to the conditions in paragraph (1).~~
22 ~~However, the court, upon a showing of good cause, may elect not~~
23 ~~to impose the mandatory minimum imprisonment as required by~~
24 ~~this subparagraph and may, under these circumstances, grant~~
25 ~~probation or order the suspension of the execution or imposition~~
26 ~~of the sentence.~~

27 (4) The Legislature finds and declares that these specified crimes
28 merit special consideration when imposing a sentence so as to
29 display society’s condemnation for these crimes of violence upon
30 victims with whom a close relationship has been formed.

31 (5) If a peace officer makes an arrest for a violation of paragraph
32 (1) of subdivision (e) of this section, the peace officer is not
33 required to inform the victim of his or her right to make a citizen’s
34 arrest pursuant to subdivision (b) of Section 836.

35 (f) As used in this section:

36 (1) “Peace officer” means any person defined in Chapter 4.5
37 (commencing with Section 830) of Title 3 of Part 2.

38 (2) “Emergency medical technician” means a person who is
39 either an EMT-I, EMT-II, or EMT-P (paramedic), and possesses
40 a valid certificate or license in accordance with the standards of

1 Division 2.5 (commencing with Section 1797) of the Health and
2 Safety Code.

3 (3) “Nurse” means a person who meets the standards of Division
4 2.5 (commencing with Section 1797) of the Health and Safety
5 Code.

6 (4) “Serious bodily injury” means a serious impairment of
7 physical condition, including, but not limited to, the following:
8 loss of consciousness; concussion; bone fracture; protracted loss
9 or impairment of function of any bodily member or organ; a wound
10 requiring extensive suturing; and serious disfigurement.

11 (5) “Injury” means any physical injury which requires
12 professional medical treatment.

13 (6) “Custodial officer” means any person who has the
14 responsibilities and duties described in Section 831 and who is
15 employed by a law enforcement agency of any city or county or
16 who performs those duties as a volunteer.

17 (7) “Lifeguard” means a person defined in paragraph (5) of
18 subdivision (d) of Section 241.

19 (8) “Traffic officer” means any person employed by a city,
20 county, or city and county to monitor and enforce state laws and
21 local ordinances relating to parking and the operation of vehicles.

22 (9) “Animal control officer” means any person employed by a
23 city, county, or city and county for purposes of enforcing animal
24 control laws or regulations.

25 (10) “Dating relationship” means frequent, intimate associations
26 primarily characterized by the expectation of affectional or sexual
27 involvement independent of financial considerations.

28 (11) (A) “Code enforcement officer” means any person who
29 is not described in Chapter 4.5 (commencing with Section 830) of
30 Title 3 of Part 2 and who is employed by any governmental
31 subdivision, public or quasi-public corporation, public agency,
32 public service corporation, any town, city, county, or municipal
33 corporation, whether incorporated or chartered, who has
34 enforcement authority for health, safety, and welfare requirements,
35 and whose duties include enforcement of any statute, rules,
36 regulations, or standards, and who is authorized to issue citations,
37 or file formal complaints.

38 (B) “Code enforcement officer” also includes any person who
39 is employed by the Department of Housing and Community
40 Development who has enforcement authority for health, safety,

1 and welfare requirements pursuant to the Employee Housing Act
2 (Part 1 (commencing with Section 17000) of Division 13 of the
3 Health and Safety Code); the State Housing Law (Part 1.5
4 (commencing with Section 17910) of Division 13 of the Health
5 and Safety Code); the Manufactured Housing Act of 1980 (Part 2
6 (commencing with Section 18000) of Division 13 of the Health
7 and Safety Code); the Mobilehome Parks Act (Part 2.1
8 (commencing with Section 18200) of Division 13 of the Health
9 and Safety Code); and the Special Occupancy Parks Act (Part 2.3
10 (commencing with Section 18860) of Division 13 of the Health
11 and Safety Code).

12 (12) “Custody assistant” means any person who has the
13 responsibilities and duties described in Section 831.7 and who is
14 employed by a law enforcement agency of any city, county, or city
15 and county.

16 (13) “Search and rescue member” means any person who is part
17 of an organized search and rescue team managed by a government
18 agency.

19 (14) “Security officer” means any person who has the
20 responsibilities and duties described in Section 831.4 and who is
21 employed by a law enforcement agency of any city, county, or city
22 and county.

23 (g) It is the intent of the Legislature by amendments to this
24 section at the 1981–82 and 1983–84 Regular Sessions to abrogate
25 the holdings in cases such as *People v. Corey*, 21 Cal. 3d 738, and
26 *Cervantez v. J.C. Penney Co.*, 24 Cal. 3d 579, and to reinstate prior
27 judicial interpretations of this section as they relate to criminal
28 sanctions for battery on peace officers who are employed, on a
29 part-time or casual basis, while wearing a police uniform as private
30 security guards or patrolmen and to allow the exercise of peace
31 officer powers concurrently with that employment.

32 SEC. 2. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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