

ASSEMBLY BILL

No. 835

Introduced by Assembly Member Gipson

February 26, 2015

An act to amend ~~Section 523~~ *Sections 191.5 and 193* of the Penal Code, relating to ~~crime~~: *vehicular manslaughter*.

LEGISLATIVE COUNSEL'S DIGEST

AB 835, as amended, Gipson. ~~Extortion~~. *Vehicular manslaughter: fleeing the scene of an accident.*

Existing law proscribes various types of vehicular manslaughter, including gross vehicular manslaughter while intoxicated, vehicular manslaughter while intoxicated, and vehicular manslaughter, as defined. Existing law prescribes the punishment for those crimes, including imprisonment in the state prison for 4, 6, or 10 years for gross vehicular manslaughter and imprisonment in the state prison for 2, 4, or 6 years, or in a county jail for not more than one year, as specified, for vehicular manslaughter. Existing law imposes an additional term of imprisonment of 5 years in the state prison upon a person who flees the scene of the crime after committing certain types of vehicular manslaughter, as specified.

Existing law also provides that the crime of 2nd degree murder is generally punishable by imprisonment in the state prison for a term of 15 years to life, as specified.

This bill would make a person who commits an act of vehicular manslaughter and flees the scene of the accident guilty of 2nd degree murder and subject to imprisonment in the state prison for a term of

15 years to life, as specified. By changing the penalty for existing crimes, 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.

Existing law makes a person who, with the intent to extort money or other property from another, sends or delivers to any person a letter or other writing expressing or implying a threat, as specified, punishable in the same manner as if that money or property were actually obtained by means of the threat.

This bill would make technical, nonsubstantive changes to these provisions.

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

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

1 SECTION 1. Section 191.5 of the Penal Code is amended to
2 read:

3 191.5. (a) Gross vehicular manslaughter while intoxicated is
4 the unlawful killing of a human being without malice aforethought,
5 in the driving of a vehicle, where the driving was in violation of
6 Section 23140, 23152, or 23153 of the Vehicle Code, and the
7 killing was either the proximate result of the commission of an
8 unlawful act, not amounting to a felony, and with gross negligence,
9 or the proximate result of the commission of a lawful act that might
10 produce death, in an unlawful manner, and with gross negligence.

11 (b) Vehicular manslaughter while intoxicated is the unlawful
12 killing of a human being without malice aforethought, in the
13 driving of a vehicle, where the driving was in violation of Section
14 23140, 23152, or 23153 of the Vehicle Code, and the killing was
15 either the proximate result of the commission of an unlawful act,
16 not amounting to a felony, but without gross negligence, or the
17 proximate result of the commission of a lawful act that might
18 produce death, in an unlawful manner, but without gross
19 negligence.

1 (c) (1) Except as provided in subdivision (d), gross vehicular
2 manslaughter while intoxicated in violation of subdivision (a) is
3 punishable by imprisonment in the state prison for 4, 6, or 10 years.

4 (2) Vehicular manslaughter while intoxicated in violation of
5 subdivision (b) is punishable by imprisonment in a county jail for
6 not more than one year or by imprisonment pursuant to subdivision
7 (h) of Section 1170 for 16 months or two or four years.

8 (d) (1) A person convicted of violating subdivision (a) who
9 has one or more prior convictions of this section or of paragraph
10 (1) of subdivision (c) of Section 192, subdivision (a) or (b) of
11 Section 192.5 of this code, or of violating Section 23152 punishable
12 under Sections 23540, 23542, 23546, 23548, 23550, or 23552 of,
13 or convicted of Section 23153 of, the Vehicle Code, shall be
14 punished by imprisonment in the state prison for a term of 15 years
15 to life. Article 2.5 (commencing with Section 2930) of Chapter 7
16 of Title 1 of Part 3 shall apply to reduce the term imposed pursuant
17 to this subdivision.

18 (2) *Notwithstanding any other law, a person who violates*
19 *subdivision (a) or (b) and flees the scene of the accident, is guilty*
20 *of murder in the second degree.*

21 (e) This section shall not be construed as prohibiting or
22 precluding a charge of murder under Section 188 upon facts
23 exhibiting wantonness and a conscious disregard for life to support
24 a finding of implied malice, or upon facts showing malice
25 consistent with the holding of the California Supreme Court in
26 *People v. Watson*, 30 Cal. 3d 290.

27 (f) This section shall not be construed as making any homicide
28 in the driving of a vehicle or the operation of a vessel punishable
29 which is not a proximate result of the commission of an unlawful
30 act, not amounting to felony, or of the commission of a lawful act
31 which might produce death, in an unlawful manner.

32 (g) For the penalties in subdivision ~~(d)~~ (c) to apply, the existence
33 of any fact required under subdivision ~~(d)~~ (c) shall be alleged in
34 the information or indictment and either admitted by the defendant
35 in open court or found to be true by the trier of fact.

36 *SEC. 2. Section 193 of the Penal Code is amended to read:*

37 193. (a) Voluntary manslaughter is punishable by
38 imprisonment in the state prison for 3, 6, or 11 years.

1 (b) Involuntary manslaughter is punishable by imprisonment
2 pursuant to subdivision (h) of Section 1170 for two, three, or four
3 years.

4 (c) Vehicular manslaughter is punishable as follows:

5 (1) A violation of paragraph (1) of subdivision (c) of Section
6 192 is punishable either by imprisonment in the county jail for not
7 more than one year or by imprisonment in the state prison for two,
8 four, or six years.

9 (2) A violation of paragraph (2) of subdivision (c) of Section
10 192 is punishable by imprisonment in the county jail for not more
11 than one year.

12 (3) A violation of paragraph (3) of subdivision (c) of Section
13 192 is punishable by imprisonment in the state prison for 4, 6, or
14 10 years.

15 (4) *Notwithstanding any other law, a person who commits*
16 *vehicular manslaughter and flees the scene of the accident, is guilty*
17 *of murder in the second degree.*

18 *SEC. 3. No reimbursement is required by this act pursuant to*
19 *Section 6 of Article XIII B of the California Constitution because*
20 *the only costs that may be incurred by a local agency or school*
21 *district will be incurred because this act creates a new crime or*
22 *infraction, eliminates a crime or infraction, or changes the penalty*
23 *for a crime or infraction, within the meaning of Section 17556 of*
24 *the Government Code, or changes the definition of a crime within*
25 *the meaning of Section 6 of Article XIII B of the California*
26 *Constitution.*

27 ~~SECTION 1. Section 523 of the Penal Code is amended to~~
28 ~~read:~~

29 ~~523. A person who, with intent to extort money or other~~
30 ~~property from another, sends or delivers to any person a letter or~~
31 ~~other writing, whether subscribed or not, expressing or implying,~~
32 ~~or adapted to imply, a threat, as specified in Section 519, is~~
33 ~~punishable in the same manner as if that money or property were~~
34 ~~actually obtained by means of the threat.~~