

AMENDED IN ASSEMBLY APRIL 16, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1272

Introduced by Assembly Member Grove

February 27, 2015

An act to add Section 729 to the Business and Professions Code, to amend Sections 6250 and 6251 of, and to add Section 6211.1 to, the Family Code, and to amend Section 836 of, and to add Section 268 to, the Penal Code, relating to developmental disabilities: *protective orders*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1272, as amended, Grove. ~~Persons—Protective orders: persons with developmental disabilities: sexual exploitation.~~

~~(1) Existing law establishes that the crime of sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor has occurred when any physician and surgeon, psychotherapist, alcohol and drug abuse counselor engages in specified sexual acts with a patient or client, or with a former patient or client, as provided.~~

~~This bill would provide that a developmental disability residential service provider is guilty of sexual exploitation when he or she engages in specified sexual acts with a person with a developmental disability who is an inpatient or resident of a treatment or care facility, unless the person is his or her spouse or domestic partner. Because this bill would create a new crime, it would impose a state-mandated local program.~~

~~(2) Existing~~

Existing law authorizes a judicial officer to issue an ex parte emergency protective order when a law enforcement officer ~~has asserts~~ reasonable grounds to believe, *or the judicial officer finds*, that a person is in immediate and present danger of domestic violence, a child is in immediate and present danger of abuse by a family or household member or may be abducted by a parent or relative, ~~or when~~ an elder or dependant adult is in immediate and present danger of abuse, as specified.

This bill would also authorize a judicial officer to issue an ex parte emergency protective order when a law enforcement officer ~~has asserts~~ reasonable grounds to believe, *or the judicial officer finds*, that a person with a developmental disability is in immediate and present danger of sexual exploitation by a developmental disability residential service provider.

~~(3) Existing law requires that any time a peace officer is called out on a domestic violence call, the officer make a good faith effort to inform the victim of his or her right to make a citizen’s arrest, except as specified.~~

~~This bill would, among other things, also require a peace officer who receives a call alleging that a person with a developmental disability is being sexually exploited by a developmental disability residential service provider, to inform the victim of his or her right to make a citizen’s arrest, except as specified. By imposing additional duties on local authorities, the bill would create a state-mandated local program.~~

~~(6) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

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

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

- 1 SECTION 1. Section 729 of the Business and Professions Code
- 2 is amended to read:

1 ~~729. (a) (1) Any physician and surgeon, psychotherapist,~~
2 ~~alcohol and drug abuse counselor or any person holding himself~~
3 ~~or herself out to be a physician and surgeon, psychotherapist, or~~
4 ~~alcohol and drug abuse counselor, who engages in an act of sexual~~
5 ~~intercourse, sodomy, oral copulation, or sexual contact with a~~
6 ~~patient or client, or with a former patient or client when the~~
7 ~~relationship was terminated primarily for the purpose of engaging~~
8 ~~in those acts, is guilty of sexual exploitation, unless the physician~~
9 ~~and surgeon, psychotherapist, or alcohol and drug abuse counselor~~
10 ~~has referred the patient or client to an independent and objective~~
11 ~~physician and surgeon, psychotherapist, or alcohol and drug abuse~~
12 ~~counselor recommended by a third-party physician and surgeon,~~
13 ~~psychotherapist, or alcohol and drug abuse counselor for treatment.~~

14 ~~(2) Any developmental disability residential service provider~~
15 ~~who engages in an act of sexual intercourse, sodomy, oral~~
16 ~~copulation, or sexual contact with a person with a developmental~~
17 ~~disability who is an inpatient or resident of a treatment or care~~
18 ~~facility where the provider is employed or holds himself or herself~~
19 ~~out to be employed, or any former developmental disability~~
20 ~~residential service provider who engages in any of those acts with~~
21 ~~an inpatient or resident when the inpatient or resident has not been~~
22 ~~informed or does not understand that the former provider is not~~
23 ~~employed by the treatment or care facility, is guilty of sexual~~
24 ~~exploitation.~~

25 ~~(b) Sexual exploitation by a physician and surgeon,~~
26 ~~psychotherapist, alcohol and drug abuse counselor, or a~~
27 ~~developmental disability residential service provider is a public~~
28 ~~offense:~~

29 ~~(1) An act in violation of subdivision (a) shall be punishable by~~
30 ~~imprisonment in a county jail for a period of not more than six~~
31 ~~months, or a fine not exceeding one thousand dollars (\$1,000), or~~
32 ~~by both that imprisonment and fine.~~

33 ~~(2) Multiple acts in violation of subdivision (a) with a single~~
34 ~~victim, when the offender has no prior conviction for sexual~~
35 ~~exploitation, shall be punishable by imprisonment in a county jail~~
36 ~~for a period of not more than six months, or a fine not exceeding~~
37 ~~one thousand dollars (\$1,000), or by both that imprisonment and~~
38 ~~fine.~~

39 ~~(3) An act or acts in violation of subdivision (a) with two or~~
40 ~~more victims shall be punishable by imprisonment pursuant to~~

1 subdivision (h) of Section 1170 of the Penal Code for a period of
2 16 months, two years, or three years, and a fine not exceeding ten
3 thousand dollars (\$10,000); or the act or acts shall be punishable
4 by imprisonment in a county jail for a period of not more than one
5 year, or a fine not exceeding one thousand dollars (\$1,000), or by
6 both that imprisonment and fine.

7 (4) ~~Two or more acts in violation of subdivision (a) with a single~~
8 ~~victim, when the offender has at least one prior conviction for~~
9 ~~sexual exploitation, shall be punishable by imprisonment pursuant~~
10 ~~to subdivision (h) of Section 1170 of the Penal Code for a period~~
11 ~~of 16 months, two years, or three years, and a fine not exceeding~~
12 ~~ten thousand dollars (\$10,000); or the act or acts shall be punishable~~
13 ~~by imprisonment in a county jail for a period of not more than one~~
14 ~~year, or a fine not exceeding one thousand dollars (\$1,000), or by~~
15 ~~both that imprisonment and fine.~~

16 (5) ~~An act or acts in violation of subdivision (a) with two or~~
17 ~~more victims, and the offender has at least one prior conviction~~
18 ~~for sexual exploitation, shall be punishable by imprisonment~~
19 ~~pursuant to subdivision (h) of Section 1170 of the Penal Code for~~
20 ~~a period of 16 months, two years, or three years, and a fine not~~
21 ~~exceeding ten thousand dollars (\$10,000).~~

22 (e) ~~For purposes of subdivision (a), consent of the alleged victim~~
23 ~~is not a defense. However, physicians and surgeons shall not be~~
24 ~~guilty of sexual exploitation for touching any intimate part of a~~
25 ~~patient or client unless the touching is outside the scope of medical~~
26 ~~examination and treatment, or the touching is done for sexual~~
27 ~~gratification. In addition, developmental disability residential~~
28 ~~service providers shall not be guilty of sexual exploitation for~~
29 ~~touching any intimate part of an inpatient or resident unless the~~
30 ~~touching is outside the scope of his or her care or treatment~~
31 ~~responsibilities or the touching is done for sexual gratification.~~

32 (d) ~~For purposes of this section:~~

33 (1) ~~“Psychotherapist” has the same meaning as defined in~~
34 ~~Section 728.~~

35 (2) ~~“Alcohol and drug abuse counselor” means an individual~~
36 ~~who holds himself or herself out to be an alcohol or drug abuse~~
37 ~~professional or paraprofessional.~~

38 (3) ~~“Sexual contact” means sexual intercourse or the touching~~
39 ~~of an intimate part of a patient for the purpose of sexual arousal,~~
40 ~~gratification, or abuse.~~

1 (4) ~~“Intimate part” and “touching” have the same meanings as~~
2 ~~defined in Section 243.4 of the Penal Code.~~

3 (5) ~~“Developmental disability” has the same meaning as defined~~
4 ~~in Section 4512 of the Welfare and Institutions Code.~~

5 (6) ~~“Developmental disability residential service provider”~~
6 ~~means either of the following:~~

7 (A) ~~A person who is, or holds himself or herself out to be, an~~
8 ~~employee, contractor, or volunteer of a treatment or care facility~~
9 ~~for persons with developmental disabilities and who provides~~
10 ~~treatment or care to inpatients or residents of the facility.~~

11 (B) ~~A person who is, or holds himself or herself out to be, an~~
12 ~~owner, officer, manager, or supervisor of a treatment or care facility~~
13 ~~that provides treatment or care to inpatients or residents who are~~
14 ~~persons with developmental disabilities.~~

15 (e) ~~In the investigation and prosecution of a violation of this~~
16 ~~section, a person shall not seek to obtain disclosure of any~~
17 ~~confidential files of other patients, clients, or former patients or~~
18 ~~clients of the physician and surgeon, psychotherapist, alcohol and~~
19 ~~drug abuse counselor, or developmental disability residential~~
20 ~~service provider.~~

21 (f) (1) ~~This section does not apply to sexual contact between a~~
22 ~~physician and surgeon and his or her spouse or person in an~~
23 ~~equivalent domestic relationship when that physician and surgeon~~
24 ~~provides medical treatment, other than psychotherapeutic treatment,~~
25 ~~to his or her spouse or person in an equivalent domestic~~
26 ~~relationship.~~

27 (2) ~~This section does not apply to sexual contact between a~~
28 ~~developmental disability residential service provider and his or~~
29 ~~her spouse or person in an equivalent domestic relationship when~~
30 ~~that service provider provides care or treatment to, or is an owner,~~
31 ~~officer, manager, or supervisor of the facility that provides care~~
32 ~~or treatment to, his or her spouse or person in an equivalent~~
33 ~~domestic relationship.~~

34 (g) ~~If a physician and surgeon, psychotherapist, alcohol and~~
35 ~~drug abuse counselor, or developmental disability residential~~
36 ~~service provider in a professional partnership or similar group has~~
37 ~~sexual contact with a patient, client, or resident in violation of this~~
38 ~~section, another physician and surgeon, psychotherapist, alcohol~~
39 ~~and drug abuse counselor, or developmental disability residential~~
40 ~~service provider in the partnership or group shall not be subject to~~

1 ~~action under this section solely because of the occurrence of that~~
 2 ~~sexual contact.~~

3 ~~(h) This section does not preclude arrest, prosecution, or~~
 4 ~~conviction of any person under any other law.~~

5 ~~(i) This section and Section 268 of the Penal Code are~~
 6 ~~substantially identical. It is the intent of Legislature that this section~~
 7 ~~and Section 268 of the Penal Code remain substantially identical~~
 8 ~~following any future amendments.~~

9 ~~SEC. 2. Section 6211.1 is added to the Family Code, to read:~~

10 ~~6211.1. Nothing in this division shall be interpreted to define~~
 11 ~~as domestic violence any crimes against children, elders, dependent~~
 12 ~~adults, or persons with developmental disabilities who are not~~
 13 ~~described in Section 6211.~~

14 ~~SEC. 3.~~

15 ~~SECTION 1. Section 6250 of the Family Code is amended to~~
 16 ~~read:~~

17 ~~6250. A judicial officer may issue an ex parte emergency~~
 18 ~~protective order if a law enforcement officer asserts reasonable~~
 19 ~~grounds to believe any of the following:~~

20 ~~(a) That a person is in immediate and present danger of domestic~~
 21 ~~violence, based on the person’s allegation of a recent incident of~~
 22 ~~abuse or threat of abuse by the person against whom the order is~~
 23 ~~sought.~~

24 ~~(b) That a child is in immediate and present danger of abuse by~~
 25 ~~a family or household member, based on an allegation of a recent~~
 26 ~~incident of abuse or threat of abuse by the family or household~~
 27 ~~member.~~

28 ~~(c) That a child is in immediate and present danger of being~~
 29 ~~abducted by a parent or relative, based on a reasonable belief that~~
 30 ~~a person has an intent to abduct the child or flee with the child~~
 31 ~~from the jurisdiction or based on an allegation of a recent threat~~
 32 ~~to abduct the child or flee with the child from the jurisdiction.~~

33 ~~(d) That an elder or dependent adult is in immediate and present~~
 34 ~~danger of abuse as defined in Section 15610.07 of the Welfare and~~
 35 ~~Institutions Code, based on an allegation of a recent incident of~~
 36 ~~abuse or threat of abuse by the person against whom the order is~~
 37 ~~sought, except that no emergency protective order shall be issued~~
 38 ~~based solely on an allegation of financial abuse.~~

39 ~~(e) That a person with a developmental disability, as defined in~~
 40 ~~Section 4512 of the Welfare and Institutions Code, is in immediate~~

1 and present danger of sexual exploitation by a developmental
2 disability residential service provider, as described in Section 729
3 of the Business and Professions Code and Section 268 of the Penal
4 Code. *provider.*

5 ~~SEC. 4.~~

6 *SEC. 2.* Section 6251 of the Family Code is amended to read:

7 6251. An emergency protective order may be issued only if
8 the judicial officer finds both of the following:

9 (a) That reasonable grounds have been asserted to believe that
10 an immediate and present danger of domestic violence exists, that
11 a child is in immediate and present danger of abuse or abduction,
12 that an elder or dependent adult is in immediate and present danger
13 of abuse as defined in Section 15610.07 of the Welfare and
14 Institutions Code, or that a person with a developmental disability
15 is in immediate and present danger of sexual exploitation by a
16 developmental disability residential service provider as described
17 in Section 729 of the Business and Professions Code and Section
18 268 of the Penal Code. *provider.*

19 (b) That an emergency protective order is necessary to prevent
20 the occurrence or recurrence of domestic violence, child abuse,
21 child abduction, abuse of an elder or dependent adult, or sexual
22 exploitation of a person with a developmental disability.

23 ~~SEC. 5.~~ Section 268 is added to the Penal Code, to read:

24 268. ~~(a) (1) Any physician and surgeon, psychotherapist,~~
25 ~~alcohol and drug abuse counselor or any person holding himself~~
26 ~~or herself out to be a physician and surgeon, psychotherapist, or~~
27 ~~alcohol and drug abuse counselor, who engages in an act of sexual~~
28 ~~intereourse, sodomy, oral copulation, or sexual contact with a~~
29 ~~patient or client, or with a former patient or client when the~~
30 ~~relationship was terminated primarily for the purpose of engaging~~
31 ~~in those acts, is guilty of sexual exploitation, unless the physician~~
32 ~~and surgeon, psychotherapist, or alcohol and drug abuse counselor~~
33 ~~has referred the patient or client to an independent and objective~~
34 ~~physician and surgeon, psychotherapist, or alcohol and drug abuse~~
35 ~~counselor recommended by a third-party physician and surgeon,~~
36 ~~psychotherapist, or alcohol and drug abuse counselor for treatment.~~

37 ~~(2) Any developmental disability residential service provider~~
38 ~~who engages in an act of sexual intereourse, sodomy, oral~~
39 ~~copulation, or sexual contact with a person with a developmental~~
40 ~~disability who is an inpatient or resident of a treatment or care~~

1 facility where the provider is employed or holds himself or herself
2 out to be employed, or any former developmental disability
3 residential service provider who engages in any of those acts with
4 an inpatient or resident when the inpatient or resident has not been
5 informed or does not understand that the former provider is not
6 employed by the treatment or care facility, is guilty of sexual
7 exploitation.

8 (b) Sexual exploitation by a physician and surgeon,
9 psychotherapist, alcohol and drug abuse counselor, or a
10 developmental disability residential service provider is a public
11 offense:

12 (1) An act in violation of subdivision (a) shall be punishable by
13 imprisonment in a county jail for a period of not more than six
14 months, or a fine not exceeding one thousand dollars (\$1,000), or
15 by both that imprisonment and fine.

16 (2) Multiple acts in violation of subdivision (a) with a single
17 victim, when the offender has no prior conviction for sexual
18 exploitation, shall be punishable by imprisonment in a county jail
19 for a period of not more than six months, or a fine not exceeding
20 one thousand dollars (\$1,000), or by both that imprisonment and
21 fine.

22 (3) An act or acts in violation of subdivision (a) with two or
23 more victims shall be punishable by imprisonment pursuant to
24 subdivision (h) of Section 1170 of the Penal Code for a period of
25 16 months, two years, or three years, and a fine not exceeding ten
26 thousand dollars (\$10,000); or the act or acts shall be punishable
27 by imprisonment in a county jail for a period of not more than one
28 year, or a fine not exceeding one thousand dollars (\$1,000), or by
29 both that imprisonment and fine.

30 (4) Two or more acts in violation of subdivision (a) with a single
31 victim, when the offender has at least one prior conviction for
32 sexual exploitation, shall be punishable by imprisonment pursuant
33 to subdivision (h) of Section 1170 of the Penal Code for a period
34 of 16 months, two years, or three years, and a fine not exceeding
35 ten thousand dollars (\$10,000); or the act or acts shall be punishable
36 by imprisonment in a county jail for a period of not more than one
37 year, or a fine not exceeding one thousand dollars (\$1,000), or by
38 both that imprisonment and fine.

39 (5) An act or acts in violation of subdivision (a) with two or
40 more victims, and the offender has at least one prior conviction

1 ~~for sexual exploitation, shall be punishable by imprisonment~~
2 ~~pursuant to subdivision (h) of Section 1170 of the Penal Code for~~
3 ~~a period of 16 months, two years, or three years, and a fine not~~
4 ~~exceeding ten thousand dollars (\$10,000).~~

5 ~~(e) For purposes of subdivision (a), consent of the alleged victim~~
6 ~~is not a defense. However, physicians and surgeons shall not be~~
7 ~~guilty of sexual exploitation for touching any intimate part of a~~
8 ~~patient or client unless the touching is outside the scope of medical~~
9 ~~examination and treatment, or the touching is done for sexual~~
10 ~~gratification. In addition, developmental disability residential~~
11 ~~service providers shall not be guilty of sexual exploitation for~~
12 ~~touching any intimate part of an inpatient or resident unless the~~
13 ~~touching is outside the scope of his or her care or treatment~~
14 ~~responsibilities or the touching is done for sexual gratification.~~

15 ~~(d) For purposes of this section:~~

16 ~~(1) "Psychotherapist" has the same meaning as defined in~~
17 ~~Section 728 of the Business Professions Code.~~

18 ~~(2) "Alcohol and drug abuse counselor" means an individual~~
19 ~~who holds himself or herself out to be an alcohol or drug abuse~~
20 ~~professional or paraprofessional.~~

21 ~~(3) "Sexual contact" means sexual intercourse or the touching~~
22 ~~of an intimate part of a patient for the purpose of sexual arousal,~~
23 ~~gratification, or abuse.~~

24 ~~(4) "Intimate part" and "touching" have the same meanings as~~
25 ~~defined in Section 243.4.~~

26 ~~(5) "Developmental disability" has the same meaning as defined~~
27 ~~in Section 4512 of the Welfare and Institutions Code.~~

28 ~~(6) "Developmental disability residential service provider"~~
29 ~~means either of the following:~~

30 ~~(A) A person who is, or holds himself or herself out to be, an~~
31 ~~employee, contractor, or volunteer of a treatment or care facility~~
32 ~~for persons with developmental disabilities who provides treatment~~
33 ~~or care to inpatients or residents of the facility.~~

34 ~~(B) A person who is, or holds himself or herself out to be, an~~
35 ~~owner, officer, manager, or supervisor of a treatment or care facility~~
36 ~~that provides treatment or care to inpatients or residents who are~~
37 ~~persons with developmental disabilities.~~

38 ~~(e) In the investigation and prosecution of a violation of this~~
39 ~~section, a person shall not seek to obtain disclosure of any~~
40 ~~confidential files of other patients, clients, or former patients or~~

1 clients of the physician and surgeon, psychotherapist, alcohol and
2 drug abuse counselor, or developmental disability residential
3 service provider.

4 (f) (1) This section does not apply to sexual contact between a
5 physician and surgeon and his or her spouse or person in an
6 equivalent domestic relationship when that physician and surgeon
7 provides medical treatment, other than psychotherapeutic treatment,
8 to his or her spouse or person in an equivalent domestic
9 relationship.

10 (2) This section does not apply to sexual contact between a
11 developmental disability residential service provider and his or
12 her spouse or person in an equivalent domestic relationship when
13 that service provider provides care or treatment to, or is an owner,
14 officer, manager, or supervisor of the facility that provides care
15 or treatment to, his or her spouse or person in an equivalent
16 domestic relationship.

17 (g) If a physician and surgeon, psychotherapist, alcohol and
18 drug abuse counselor, or developmental disability residential
19 service provider in a professional partnership or similar group has
20 sexual contact with a patient, client, or resident in violation of this
21 section, another physician and surgeon, psychotherapist, alcohol
22 and drug abuse counselor, or developmental disability residential
23 service provider in the partnership or group shall not be subject to
24 action under this section solely because of the occurrence of that
25 sexual contact.

26 (h) This section does not preclude arrest, prosecution, or
27 conviction of any person under any other law.

28 (i) This section and Section 729 of the Business and Professions
29 Code are substantially identical. It is the intent of Legislature that
30 this section and Section 729 of the Business and Professions Code
31 remain substantially identical following any future amendments.

32 SEC. 6. Section 836 of the Penal Code is amended to read:

33 836. (a) A peace officer may arrest a person in obedience to
34 a warrant, or, pursuant to the authority granted to him or her by
35 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2,
36 without a warrant, may arrest a person whenever any of the
37 following circumstances occur:

38 (1) The officer has probable cause to believe that the person to
39 be arrested has committed a public offense in the officer's presence.

1 ~~(2) The person arrested has committed a felony, although not~~
2 ~~in the officer's presence.~~

3 ~~(3) The officer has probable cause to believe that the person to~~
4 ~~be arrested has committed a felony, whether or not a felony, in~~
5 ~~fact, has been committed.~~

6 ~~(b) (1) Any time a peace officer is called out on a domestic~~
7 ~~violence call, it shall be mandatory that the officer make a good~~
8 ~~faith effort to inform the victim of his or her right to make a~~
9 ~~citizen's arrest, unless the peace officer makes an arrest for a~~
10 ~~violation of paragraph (1) of subdivision (c) of Section 243 or~~
11 ~~273.5. This information shall include advising the victim how to~~
12 ~~safely execute the arrest.~~

13 ~~(2) Any time a peace officer receives a call alleging a violation~~
14 ~~of Section 729 of the Business and Professions Code and Section~~
15 ~~268 of this code, the officer shall make a good faith effort to inform~~
16 ~~the victim of his or her right to make a citizen's arrest, unless the~~
17 ~~peace officer makes an arrest. This information shall include~~
18 ~~advising the victim or other person how to safely execute the arrest.~~
19 ~~If the call was made by a person other than the victim and the~~
20 ~~victim is unable to understand the information or is unable to~~
21 ~~execute the citizen's arrest, the officer shall make a good faith~~
22 ~~effort to inform the person who made the call of his or her right~~
23 ~~to make the citizen's arrest.~~

24 ~~(e) (1) (A) When a peace officer is responding to a call alleging~~
25 ~~a violation of a domestic violence protective or restraining order~~
26 ~~issued under Section 527.6 of the Code of Civil Procedure, the~~
27 ~~Family Code, Section 136.2, 646.91, or paragraph (2) of~~
28 ~~subdivision (a) of Section 1203.097 of this code, Section 213.5 or~~
29 ~~15657.03 of the Welfare and Institutions Code, or of a domestic~~
30 ~~violence protective or restraining order issued by the court of~~
31 ~~another state, tribe, or territory and the peace officer has probable~~
32 ~~cause to believe that the person against whom the order is issued~~
33 ~~has notice of the order and has committed an act in violation of~~
34 ~~the order, the officer shall, consistent with subdivision (b) of~~
35 ~~Section 13701, make a lawful arrest of the person without a warrant~~
36 ~~and take that person into custody whether or not the violation~~
37 ~~occurred in the presence of the arresting officer. The officer shall,~~
38 ~~as soon as possible after the arrest, confirm with the appropriate~~
39 ~~authorities or the Domestic Violence Protection Order Registry~~
40 ~~maintained pursuant to Section 6380 of the Family Code that a~~

1 true copy of the protective order has been registered, unless the
2 victim provides the officer with a copy of the protective order.
3 (B) When a peace officer is responding to a call alleging
4 violation of a protective or restraining order against a
5 developmental disability residential service provider issued under
6 Section 6250 of the Family Code, and the peace officer has
7 probable cause to believe that the person against whom the order
8 is issued has notice of the order and has committed an act in
9 violation of the order, the officer shall make a lawful arrest of the
10 person without a warrant and take that person into custody whether
11 or not the violation occurred in the presence of the arresting officer.
12 The officer shall, as soon as possible after the arrest, confirm with
13 the appropriate authorities that a true copy of the protective or
14 restraining order has been registered, unless the victim or another
15 person provides the officer with a copy of the order.
16 (2) The person against whom a protective order has been issued
17 shall be deemed to have notice of the order if the victim or, in the
18 case of a person with a developmental disability, another person
19 presents to the officer proof of service of the order, the officer
20 confirms with the appropriate authorities that a true copy of the
21 proof of service is on file, or the person against whom the
22 protective order was issued was present at the protective order
23 hearing or was informed by a peace officer of the contents of the
24 protective order.
25 (3) In situations where mutual protective orders have been issued
26 under Division 10 (commencing with Section 6200) of the Family
27 Code, liability for arrest under this subdivision applies only to
28 those persons who are reasonably believed to have been the
29 dominant aggressor. In those situations, prior to making an arrest
30 under this subdivision, the peace officer shall make reasonable
31 efforts to identify, and may arrest, the dominant aggressor involved
32 in the incident. The dominant aggressor is the person determined
33 to be the most significant, rather than the first, aggressor. In
34 identifying the dominant aggressor, an officer shall consider (A)
35 the intent of the law to protect victims of domestic violence from
36 continuing abuse, (B) the threats creating fear of physical injury,
37 (C) the history of domestic violence between the persons involved,
38 and (D) whether either person involved acted in self-defense.
39 (d) (1) Notwithstanding paragraph (1) of subdivision (a), if a
40 suspect commits an assault or battery upon a current or former

1 spouse, fiancé, fiancée, a current or former cohabitant as defined
2 in Section 6209 of the Family Code, a person with whom the
3 suspect currently is having or has previously had an engagement
4 or dating relationship, as defined in paragraph (10) of subdivision
5 (f) of Section 243, a person with whom the suspect has parented
6 a child, or is presumed to have parented a child pursuant to the
7 Uniform Parentage Act (Part 3 (commencing with Section 7600)
8 of Division 12 of the Family Code), a child of the suspect, a child
9 whose parentage by the suspect is the subject of an action under
10 the Uniform Parentage Act, a child of a person in one of the above
11 categories, any other person related to the suspect by consanguinity
12 or affinity within the second degree, or any person who is 65 years
13 of age or older and who is related to the suspect by blood or legal
14 guardianship, a peace officer may arrest the suspect without a
15 warrant where both of the following circumstances apply:

16 (A) The peace officer has probable cause to believe that the
17 person to be arrested has committed the crime, whether or not it
18 has in fact been committed.

19 (B) The peace officer makes the arrest as soon as probable cause
20 arises to believe that the person to be arrested has committed the
21 crime, whether or not it has in fact been committed.

22 (2) If a suspect violates Section 729 of the Business and
23 Professions Code and Section 268 of this code, a peace officer
24 may arrest the suspect without a warrant if the conditions of
25 subparagraphs (A) and (B) of paragraph (1) are satisfied.

26 (e) In addition to the authority to make an arrest without a
27 warrant pursuant to paragraphs (1) and (3) of subdivision (a), a
28 peace officer may, without a warrant, arrest a person for a violation
29 of Section 25400 when all of the following apply:

30 (1) The officer has reasonable cause to believe that the person
31 to be arrested has committed the violation of Section 25400.

32 (2) The violation of Section 25400 occurred within an airport,
33 as defined in Section 21013 of the Public Utilities Code, in an area
34 to which access is controlled by the inspection of persons and
35 property.

36 (3) The peace officer makes the arrest as soon as reasonable
37 cause arises to believe that the person to be arrested has committed
38 the violation of Section 25400.

39 SEC. 7. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution for certain

1 ~~costs that may be incurred by a local agency or school district~~
2 ~~because, in that regard, this act creates a new crime or infraction,~~
3 ~~eliminates a crime or infraction, or changes the penalty for a crime~~
4 ~~or infraction, within the meaning of Section 17556 of the~~
5 ~~Government Code, or changes the definition of a crime within the~~
6 ~~meaning of Section 6 of Article XIII B of the California~~
7 ~~Constitution.~~
8 However, if the Commission on State Mandates determines that
9 this act contains other costs mandated by the state, reimbursement
10 to local agencies and school districts for those costs shall be made
11 pursuant to Part 7 (commencing with Section 17500) of Division
12 4 of Title 2 of the Government Code.