

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1769

Introduced by Assembly Member Rodriguez

February 3, 2016

An act to amend ~~Section~~ *Sections 653x and 653y* of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1769, as amended, Rodriguez. 911 emergency system: nuisance communications.

Existing law makes it an offense for a person to telephone the 911 emergency system with the intent to annoy or harass another person, and makes the offender liable for all reasonable costs incurred by any unnecessary emergency response.

This bill would expand those provisions to include communicating with the 911 emergency system using an electronic communication device for those purposes.

Existing law makes it an offense for a person to knowingly allow the use or to use the 911 emergency system for any reason other than because of an emergency, and makes the parent or legal guardian having custody and control of an unemancipated minor who commits that offense jointly and severally liable with the minor for the fine imposed as punishment for that offense.

This bill would expand those provisions to include making a communication from an electronic communication device to commit the offense.

By expanding the scope of ~~an existing crime~~, *existing crimes*, 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 653x of the Penal Code is amended to
2 read:

3 653x. (a) ~~Any~~A person who telephones or uses an electronic
4 communication device to initiate communication with the 911
5 emergency system with the intent to annoy or harass another person
6 is guilty of a misdemeanor punishable by a fine of not more than
7 one thousand dollars (\$1,000), by imprisonment in a county jail
8 for not more than six months, or by both the fine and imprisonment.
9 Nothing in this section shall apply to telephone calls or
10 communications using electronic devices made in good faith.

11 (b) An intent to annoy or harass is established by proof of
12 repeated calls or communications over a period of time, however
13 short, that are unreasonable under the circumstances.

14 (c) Upon conviction of a violation of this section, a person also
15 shall be liable for all reasonable costs incurred by any unnecessary
16 emergency response.

17 *SEC. 2. Section 653y of the Penal Code is amended to read:*

18 653y. (a) ~~Any~~A person who knowingly allows the use or who
19 uses the 911 ~~telephone~~ emergency system for any reason other
20 than because of an emergency is guilty of an infraction, punishable
21 as follows:

22 (1) For a first violation, a written warning shall be issued to the
23 violator by the public safety entity originally receiving the ~~call~~
24 *telephone call or the communication from an electronic device*
25 describing the punishment for subsequent violations. The written
26 warning shall inform the recipient to notify the issuing agency that
27 the warning was issued inappropriately if the recipient did not
28 make, or knowingly allow the use of the 911 ~~telephone~~ emergency
29 system for, the nonemergency 911 ~~call~~. *telephone call or the*
30 *communication from an electronic device.* The law enforcement

1 agency may provide educational materials regarding the appropriate
2 use of the 911 ~~telephone~~ *emergency* system.

3 (2) For a second or subsequent violation, a citation may be
4 issued by the public safety entity originally receiving the ~~call~~
5 *telephone call or the communication from an electronic device*
6 pursuant to which the violator shall be subject to the following
7 penalties that may be reduced by a court upon consideration of the
8 violator's ability to pay:

9 (A) For a second violation, a fine of fifty dollars (\$50).

10 (B) For a third violation, a fine of one hundred dollars (\$100).

11 (C) For a fourth or subsequent violation, a fine of two hundred
12 and fifty dollars (\$250).

13 (b) The parent or legal guardian having custody and control of
14 an unemancipated minor who violates this section shall be jointly
15 and severally liable with the minor for the fine imposed pursuant
16 to this section.

17 (c) For purposes of this section, "emergency" means any
18 condition in which emergency services will result in the saving of
19 a life, a reduction in the destruction of property, quicker
20 apprehension of criminals, or assistance with potentially
21 life-threatening medical problems, a fire, a need for rescue, an
22 imminent potential crime, or a similar situation in which immediate
23 assistance is required.

24 (d) Notwithstanding subdivision (a), this section shall not apply
25 to a telephone corporation or any other entity for acts or omissions
26 relating to the routine maintenance, repair, or operation of the 911
27 *emergency system* or *the 311 telephone system*.

28 ~~SEC. 2.~~

29 *SEC. 3.* No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.