

AMENDED IN ASSEMBLY APRIL 5, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2195

Introduced by Assembly Member Bonilla

February 18, 2016

An act to ~~amend Sections 4602 and 4621 of the Business and Professions Code, relating to massage therapy; add Section 11105.09 to the Penal Code, relating to crimes.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2195, as amended, Bonilla. ~~California Massage Therapy Council: extension of sunset date. Crimes: felony murder: data.~~

Existing law establishes the Department of Justice under the direction and control of the Attorney General, and requires the department to perform duties in the investigation of crimes as may be assigned by the Attorney General. Existing law requires the Attorney General to compile and disseminate state summary criminal history information pertaining to the identification and criminal history of any person. Existing law also establishes the Department of Corrections and Rehabilitation to oversee the state prison system.

Existing law specifies which species of murder are murder of the first degree, including all murder that is committed in the perpetration of, or attempt to perpetrate, certain crimes, including, among others, burglary, arson, rape, robbery, and kidnapping. Existing law provides that all other kinds of murders are of the second degree.

This bill would, notwithstanding any other law, on or before January 1, 2018, require the Department of Justice, in consultation with the Department of Corrections and Rehabilitation, to collect data on the number of persons currently convicted of and sentenced for first and

second degree felony murder pursuant to the provisions described above. The bill would also require the Department of Justice to disaggregate that data by county. The bill would require the Department of Justice to update this data annually, and would require the department to post the data in a prominent place on the department's Internet Web site.

~~The Massage Therapy Act, until January 1, 2017, provides for certification of massage practitioners and massage therapists by the California Massage Therapy Council. Existing law also provides for the council to be governed by an interim board of directors until September 15, 2015, and for the appointment of a new board of directors having 4-year terms.~~

~~This bill would extend the operation of these provisions until January 1, 2019, and make nonsubstantive changes to delete obsolete provisions related to the interim board.~~

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

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

- 1 *SECTION 1. Section 11105.09 is added to the Penal Code, to*
- 2 *read:*
- 3 *11105.09. (a) Notwithstanding any other law, on or before*
- 4 *January 1, 2018, the Department of Justice, in consultation with*
- 5 *the Department of Corrections and Rehabilitation, shall collect*
- 6 *data on both of the following:*
- 7 *(1) The number of persons currently convicted of and sentenced*
- 8 *for first degree felony murder pursuant to Chapter 1 (commencing*
- 9 *with Section 187) of Title 8 of Part 1.*
- 10 *(2) The number of persons currently convicted of and sentenced*
- 11 *for second degree felony murder pursuant to Chapter 1*
- 12 *(commencing with Section 187) of Title 8 of Part 1.*
- 13 *(b) The Department of Justice shall also disaggregate the data*
- 14 *required by subdivision (a) by county.*
- 15 *(c) The Department of Justice shall update the data required*
- 16 *by this section annually.*
- 17 *(d) The Department of Justice shall post the data required by*
- 18 *this section in a prominent place on the department's Internet Web*
- 19 *site.*

1 ~~SECTION 1. Section 4602 of the Business and Professions~~
2 ~~Code is amended to read:~~

3 ~~4602. (a) The California Massage Therapy Council, as defined~~
4 ~~in subdivision (d) of Section 4601, is hereby established and shall~~
5 ~~carry out the responsibilities and duties set forth in this chapter.~~

6 ~~(b) The council may take any reasonable actions necessary to~~
7 ~~carry out the responsibilities and duties set forth in this chapter,~~
8 ~~including, but not limited to, hiring staff, entering into contracts,~~
9 ~~and developing policies, procedures, rules, and bylaws to~~
10 ~~implement this chapter.~~

11 ~~(c) The council may require background checks for all~~
12 ~~employees, contractors, volunteers, and board members as a~~
13 ~~condition of their employment, formation of a contractual~~
14 ~~relationship, or participation in council activities.~~

15 ~~(d) The council shall issue a certificate to an individual applicant~~
16 ~~who satisfies the requirements of this chapter for that certificate.~~

17 ~~(e) The council is authorized to determine whether the~~
18 ~~information provided to the council in relation to the certification~~
19 ~~of an applicant is true and correct and meets the requirements of~~
20 ~~this chapter. If the council has any reason to question whether the~~
21 ~~information provided is true or correct, or meets the requirements~~
22 ~~of this chapter, the council is authorized to make any investigation~~
23 ~~it deems necessary to establish that the information received is~~
24 ~~accurate and satisfies any criteria established by this chapter. The~~
25 ~~applicant has the burden to prove that he or she is entitled to~~
26 ~~certification.~~

27 ~~(f) The council shall be governed by a board of~~
28 ~~directors comprised of 13 members who shall be chosen in the~~
29 ~~following manner:~~

30 ~~(1) One member shall be a representative of the League of~~
31 ~~California Cities, unless that entity chooses not to exercise this~~
32 ~~right to appoint.~~

33 ~~(2) One member shall be a representative of the California Police~~
34 ~~Chiefs Association, unless that entity chooses not to exercise this~~
35 ~~right to appoint.~~

36 ~~(3) One member shall be a representative of the California State~~
37 ~~Association of Counties, unless that entity chooses not to exercise~~
38 ~~this right to appoint.~~

39 ~~(4) One member shall be a representative of an “anti-human~~
40 ~~trafficking” organization to be determined by the council. This~~

1 organization shall appoint one member, unless the organization
2 chooses not to exercise this right to appoint.

3 (5) One member shall be appointed by the Office of the
4 Chancellor of the California Community Colleges, unless that
5 office chooses not to exercise this right to appoint.

6 (6) One member shall be a member of the public appointed by
7 the Director of the Department of Consumer Affairs, unless the
8 director chooses not to exercise this right to appoint.

9 (7) One member shall be appointed by the California Association
10 of Private Postsecondary Schools, unless that entity chooses not
11 to exercise this right to appoint.

12 (8) One member shall be appointed by the American Massage
13 Therapy Association, California Chapter, who shall be a
14 California-certified massage therapist or massage practitioner who
15 is a California resident and who has been practicing massage for
16 at least three years, unless that entity chooses not to exercise this
17 right to appoint.

18 (9) One member shall be a public health official representing a
19 city, county, city and county, or state health department, to be
20 determined by the council. The city, county, city and county, or
21 state health department chosen, shall appoint one member unless
22 that entity chooses not to exercise this right to appoint.

23 (10) (A) One member shall be a certified massage therapist or
24 a certified massage practitioner who is a California resident who
25 has practiced massage for at least three years prior to the
26 appointment, selected by a professional society, association, or
27 other entity which membership is comprised of massage therapist
28 professionals, and that chooses to participate in the council. To
29 qualify, a professional society, association, or other entity shall
30 have a dues-paying membership in California of at least 1,000
31 individuals, have been established since 2000, and shall have
32 bylaws that require its members to comply with a code of ethics.

33 (B) If there is more than one professional society, association,
34 or other entity that meets the requirements of subparagraph (A),
35 the appointment shall rotate based on a four-year term between
36 each of the qualifying entities. The qualifying entity shall maintain
37 its appointment authority during the entirety of the four-year term
38 during which it holds the appointment authority. The order in
39 which a qualifying professional society, association, or other entity
40 has the authority to appoint shall be determined by alphabetical

1 order based on the full legal name of the entity as of January 1,
2 2014.

3 (11) The members appointed to the board in accordance with
4 paragraphs (1) to (10), inclusive, shall appoint three additional
5 members, at a duly held board meeting in accordance with the
6 board's bylaws. One of those appointees shall be an attorney
7 licensed by the State Bar of California, who has been practicing
8 law for at least three years and who at the time of appointment
9 represents a city in the state. One of those appointees shall represent
10 a massage business entity that has been operating in the state for
11 at least three years. The council shall establish in its bylaws a
12 process for appointing an additional member, provided that the
13 member has knowledge of the massage industry or can bring
14 needed expertise to the operation of the council for purposes of
15 complying with Section 4603.

16 (g) Board member terms shall be for four years.

17 (h) The board of directors shall establish fees reasonably related
18 to the cost of providing services and carrying out its ongoing
19 responsibilities and duties. Initial and renewal fees for certificates
20 shall be in an amount sufficient to support the functions of the
21 council in the administration of this chapter, but in no event shall
22 exceed three hundred dollars (\$300). The renewal fee shall be
23 reassessed biennially by the board.

24 (i) The meetings of the council shall be subject to the rules of
25 the Bagley-Keene Open Meeting Act (Article 9 (commencing with
26 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
27 the Government Code). The board may adopt additional policies
28 and procedures that provide greater transparency to certificate
29 holders and the public than required by the Bagley-Keene Open
30 Meeting Act.

31 (j) Prior to holding a meeting to vote upon a proposal to increase
32 the certification fees, the board shall provide at least 90 days'
33 notice of the meeting, including posting a notice on the council's
34 Internet Web site unless at least two-thirds of the board members
35 concur that there is an active threat to public safety and that voting
36 at a meeting without prior notice is necessary. However, the board
37 shall not waive the requirements of subdivision (j).

38 (k) If the board approves an increase in the certification fees;
39 the council shall update all relevant areas of its Internet Web site

1 and notify all certificate holders and affected applicants by email
2 within 14 days of the board's action.

3 SEC. 2. Section 4621 of the Business and Professions Code is
4 amended to read:

5 4621. (a) This chapter shall remain in effect only until January
6 1, 2019, and as of that date is repealed, unless a later enacted
7 statute, that is enacted before January 1, 2019, deletes or extends
8 that date.

9 (b) Notwithstanding any other law, the powers and duties of the
10 council shall be subject to review by the appropriate policy
11 committees of the Legislature.