

AMENDED IN ASSEMBLY APRIL 19, 2016

AMENDED IN ASSEMBLY APRIL 6, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2221

Introduced by Assembly Members Cristina Garcia and Grove

February 18, 2016

An act to ~~amend Section 836 of, and to add Section 236.13 to,~~ to the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 2221, as amended, Cristina Garcia. Criminal procedure: ~~arrests;~~ human trafficking witnesses.

~~(1) Existing law authorizes a peace officer to arrest a person without a warrant if the officer has probable cause to believe that the person has committed a public offense in the officer's presence or if the officer has probable cause to believe that the person has committed a felony.~~

~~This bill would authorize a peace officer to arrest a person without a warrant if the officer has probable cause to believe that the person has committed the misdemeanor offense of soliciting a minor for prostitution.~~

~~(2)~~

~~(1) Under existing law, a person who deprives or violates another person's personal liberty with the intent to obtain forced labor or services or who deprives or violates another person's personal liberty for the purpose of prostitution or sexual exploitation is guilty of human trafficking, a felony.~~

This bill would require that a minor who is a victim of human trafficking be provided with assistance from the local county Victim Witness Assistance Center prior to ~~being made subject to a subpoena to testify~~ *testifying* as a witness in the case. ~~By imposing a duty on local county agencies to provide this assistance, this bill would impose a state-mandated local program.~~ *case if the minor so desires that assistance.*

~~(3) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

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

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

1 SECTION 1. Section 236.13 is added to the Penal Code, to
 2 read:

3 236.13. ~~Prior to being made subject to a subpoena to testify~~
 4 *testifying* as a witness in a case involving *a charge of* human
 5 ~~trafficking, trafficking under Section 236.1,~~ a minor who is a victim
 6 of the human trafficking shall be provided with assistance from
 7 the local county Victim Witness Assistance ~~Center.~~ *Center if the*
 8 *minor so desires.*

9 SEC. 2. ~~Section 836 of the Penal Code is amended to read:~~

10 836. ~~(a) A peace officer may arrest a person in obedience to~~
 11 ~~a warrant or, pursuant to the authority granted to him or her by~~
 12 ~~Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2,~~
 13 ~~without a warrant may arrest a person whenever any of the~~
 14 ~~following circumstances occur:~~

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

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

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

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

7 ~~(e) (1) When a peace officer is responding to a call alleging a~~
8 ~~violation of a domestic violence protective or restraining order~~
9 ~~issued under Section 527.6 of the Code of Civil Procedure, the~~
10 ~~Family Code, Section 136.2, 646.91, or paragraph (2) of~~
11 ~~subdivision (a) of Section 1203.097 of this code, Section 213.5 or~~
12 ~~15657.03 of the Welfare and Institutions Code, or of a domestic~~
13 ~~violence protective or restraining order issued by the court of~~
14 ~~another state, tribe, or territory and the peace officer has probable~~
15 ~~cause to believe that the person against whom the order is issued~~
16 ~~has notice of the order and has committed an act in violation of~~
17 ~~the order, the officer shall, consistent with subdivision (b) of~~
18 ~~Section 13701, make a lawful arrest of the person without a warrant~~
19 ~~and take that person into custody whether or not the violation~~
20 ~~occurred in the presence of the arresting officer. The officer shall,~~
21 ~~as soon as possible after the arrest, confirm with the appropriate~~
22 ~~authorities or the Domestic Violence Protection Order Registry~~
23 ~~maintained pursuant to Section 6380 of the Family Code that a~~
24 ~~true copy of the protective order has been registered, unless the~~
25 ~~victim provides the officer with a copy of the protective order.~~

26 ~~(2) The person against whom a protective order has been issued~~
27 ~~shall be deemed to have notice of the order if the victim presents~~
28 ~~to the officer proof of service of the order, the officer confirms~~
29 ~~with the appropriate authorities that a true copy of the proof of~~
30 ~~service is on file, or the person against whom the protective order~~
31 ~~was issued was present at the protective order hearing or was~~
32 ~~informed by a peace officer of the contents of the protective order.~~

33 ~~(3) In situations where mutual protective orders have been issued~~
34 ~~under Division 10 (commencing with Section 6200) of the Family~~
35 ~~Code, liability for arrest under this subdivision applies only to~~
36 ~~those persons who are reasonably believed to have been the~~
37 ~~dominant aggressor. In those situations, prior to making an arrest~~
38 ~~under this subdivision, the peace officer shall make reasonable~~
39 ~~efforts to identify, and may arrest, the dominant aggressor involved~~
40 ~~in the incident. The dominant aggressor is the person determined~~

1 to be the most significant, rather than the first, aggressor. In
2 identifying the dominant aggressor, an officer shall consider (A)
3 the intent of the law to protect victims of domestic violence from
4 continuing abuse, (B) the threats creating fear of physical injury,
5 (C) the history of domestic violence between the persons involved,
6 and (D) whether either person involved acted in self-defense.

7 (d) Notwithstanding paragraph (1) of subdivision (a), if a suspect
8 commits an assault or battery upon a current or former spouse,
9 fiancé, fiancée, a current or former cohabitant as defined in Section
10 6209 of the Family Code, a person with whom the suspect currently
11 is having or has previously had an engagement or dating
12 relationship, as defined in paragraph (10) of subdivision (f) of
13 Section 243, a person with whom the suspect has parented a child,
14 or is presumed to have parented a child pursuant to the Uniform
15 Parentage Act (Part 3 (commencing with Section 7600) of Division
16 12 of the Family Code), a child of the suspect, a child whose
17 parentage by the suspect is the subject of an action under the
18 Uniform Parentage Act, a child of a person in one of the above
19 categories, any other person related to the suspect by consanguinity
20 or affinity within the second degree, or any person who is 65 years
21 of age or older and who is related to the suspect by blood or legal
22 guardianship, a peace officer may arrest the suspect without a
23 warrant when both of the following circumstances apply:

24 (1) The peace officer has probable cause to believe that the
25 person to be arrested has committed the assault or battery, whether
26 or not it has in fact been committed.

27 (2) The peace officer makes the arrest as soon as probable cause
28 arises to believe that the person to be arrested has committed the
29 assault or battery, whether or not it has in fact been committed.

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

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

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

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

4 ~~(f) In addition to the authority to make an arrest without a~~
5 ~~warrant pursuant to subdivision (a), a peace officer may, without~~
6 ~~a warrant, arrest a person if the officer has probable cause to believe~~
7 ~~that the person to be arrested has violated subdivision (m) of~~
8 ~~Section 647, although not in the presence of the officer.~~

9 ~~SEC. 3. If the Commission on State Mandates determines that~~
10 ~~this act contains costs mandated by the state, reimbursement to~~
11 ~~local agencies and school districts for those costs shall be made~~
12 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
13 ~~4 of Title 2 of the Government Code.~~

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