

AMENDED IN SENATE APRIL 28, 2015

SENATE BILL

No. 473

Introduced by Senator Bates

February 26, 2015

An act to ~~amend Section 1796.19 of the Health and Safety Code, relating to public health.~~ *add Section 369 to the Penal Code, relating to elder abuse.*

LEGISLATIVE COUNSEL'S DIGEST

SB 473, as amended, Bates. ~~Home care services.~~ *Elder abuse: registry.*

Existing law, the Elder Abuse and Dependent Adult Civil Protection Act, establishes various procedures for the reporting, investigation, and prosecution of elder and dependent adult abuse, and provides that the purpose of the act is to, among other things, collect information on the number of abuse victims, circumstances surrounding the abuse, and other data. The act defines the term "abuse of an elder or a dependent adult" for its purposes.

Existing law also makes it a crime for a person who knows or reasonably should know that a person is an elder or dependent adult to willfully cause or permit the person or health of the elder or dependent adult to be injured, or willfully cause or permit the elder or dependent adult to be placed in a situation in which his or her person or health is endangered. Existing law specifies penalties for a person who violates any law proscribing theft, embezzlement, forgery, or fraud, or specified identity theft laws, when the victim is an elder or a dependent adult.

This bill would require a person who is convicted for a crime involving the abuse of an elder adult, as defined in the Elder Abuse and Dependent

Adult Civil Protection Act, to register for the remainder of his or her life with all police departments and the sheriff in the county in which the person was convicted and in the county in which he or she resides. The bill would require the police department or county sheriff to forward the registration information to the Department of Justice. The bill would require the Department of Justice to maintain a publicly accessible Internet Web site containing certain information concerning persons who are required to register pursuant to these provisions. The bill would make it a crime to use information obtained from the Internet Web site to commit a crime, and would subject a person who uses information obtained from the Internet Web site for any other reason than to protect an at-risk person to civil liability, as specified. The bill would relieve a person from the duty to register pursuant to these provisions if he or she receives a certificate of rehabilitation and he or she is not in custody, on parole, or on probation. The bill would make it a misdemeanor for a person who is required to register pursuant to these provisions to willfully violate any requirements related to registration. By creating new crimes and imposing new duties on local police departments and county sheriffs related to registering individuals convicted of a crime involving the abuse of an elder adult, 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 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.

~~The Home Care Services Consumer Protection Act, operative January 1, 2016, provides for the registration of home care aides. Existing law requires the State Department of Social Services to consider specified information when determining whether to approve a home care aide's registration application, including, among other things, evidence satisfactory to the department of the home care aide applicant's ability to comply with the act and the rules and regulations promulgated by the department under the act.~~

~~This bill would make technical, nonsubstantive changes to those 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 369 is added to the Penal Code,
2 immediately following Section 368.5, to read:
3 369. (a) (1) (A) Upon conviction for a crime involving abuse
4 of an elder adult, as defined in Section 15610.07 of the Welfare
5 and Institutions Code, a person shall register for the remainder
6 of his or her life with all police departments and the sheriff in the
7 county in which the person was convicted and in the county in
8 which he or she resides.
9 (B) The court shall notify a person required to register pursuant
10 to this section of his or her duty to register at the time of his or
11 her conviction.
12 (2) (A) If a person described in paragraph (1) does not serve
13 a term of imprisonment as a result of his or her conviction, he or
14 she shall register within five business days of the conviction.
15 (B) If a person described in paragraph (1) serves a term of
16 imprisonment as a result of his or her conviction, he or she shall
17 register within five business days of his or her release.
18 (3) (A) A person required to register pursuant to this section
19 shall notify all police departments and the sheriff in the county in
20 which the person was convicted, in the county in which he or she
21 resides, and, if applicable, in which he or she previously resided
22 and was required to register within five business days of moving
23 or changing his or her name.
24 (B) A person required to register pursuant to this section shall
25 annually renew his or her registration within five business days
26 of his or her birthday.
27 (b) Upon receipt of a registration pursuant to this section, a
28 police department or county sheriff shall forward the registration
29 information to the Department of Justice.
30 (c) (1) The Department of Justice shall make available to the
31 public via an Internet Web site the information specified in
32 paragraph (2) concerning persons who are required to register
33 pursuant to this section. The department shall update the Internet

1 Web site on an ongoing basis with information received from police
2 departments and county sheriffs pursuant to this section. All
3 information identifying the victim by name, birth date, address, or
4 relationship to the registrant shall be excluded from the Internet
5 Web site. The Internet Web site shall be translated into languages
6 other than English, as determined by the department.

7 (2) The Department of Justice shall include all of the following
8 information, as to each person required to register pursuant to
9 this section, on the publicly accessible Internet Web site:

10 (A) The name and address of the registrant.

11 (B) The offense for which he or she is required to register,
12 including all of the following:

13 (i) The offense for which he or she was convicted.

14 (ii) Where the offense occurred, including, but not limited to,
15 the city and, if applicable, the name of the facility at which it
16 occurred.

17 (iii) The punishment imposed, including, but not limited to, if
18 applicable, his or her date of release from imprisonment for the
19 offense.

20 (3) (A) A person who uses information disclosed pursuant to
21 this subdivision to commit a misdemeanor shall be subject to, in
22 addition to any other penalty or fine imposed, a fine of not less
23 than ten thousand dollars (\$10,000), and not more than fifty
24 thousand dollars (\$50,000).

25 (B) A person who uses information disclosed pursuant to this
26 subdivision to commit a felony shall be punished, in addition and
27 consecutive to any other punishment, by a five-year term of
28 imprisonment pursuant to subdivision (h) of Section 1170.

29 (4) (A) A person may use information disclosed pursuant to
30 this subdivision only to protect a person at risk.

31 (B) The use of information disclosed pursuant to this subdivision
32 for any purpose other than that provided by subparagraph (A)
33 shall make the user liable for the actual damages, and any amount
34 that may be determined by a jury or a court sitting without a jury,
35 not exceeding three times the amount of actual damage, and not
36 less than two hundred fifty dollars (\$250), and attorney's fees,
37 exemplary damages, and a civil penalty not exceeding twenty-five
38 thousand dollars (\$25,000).

1 (d) (1) A person required to register pursuant to this section
2 is not relieved of the duty to register if the person's conviction is
3 dismissed pursuant to Section 1203.4.

4 (2) A person required to register pursuant to this section, upon
5 obtaining a certificate of rehabilitation under Chapter 3.5
6 (commencing with Section 4852.01) of Title 6 of Part 3, is relieved
7 of any further duty to register under this section if he or she is not
8 in custody, on parole, or on probation.

9 (e) A person who is required to register pursuant to this section
10 who willfully violates any requirement of this section is guilty of
11 a misdemeanor punishable by imprisonment in a county jail not
12 exceeding one year.

13 SEC. 2. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution for certain
15 costs that may be incurred by a local agency or school district
16 because, in that regard, this act creates a new crime or infraction,
17 eliminates a crime or infraction, or changes the penalty for a crime
18 or infraction, within the meaning of Section 17556 of the
19 Government Code, or changes the definition of a crime within the
20 meaning of Section 6 of Article XIII B of the California
21 Constitution.

22 However, if the Commission on State Mandates determines that
23 this act contains other costs mandated by the state, reimbursement
24 to local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.

27 SECTION 1. ~~Section 1796.19 of the Health and Safety Code~~
28 ~~is amended to read:~~

29 ~~1796.19. (a) The department shall consider, but is not limited~~
30 ~~to considering, all of the following when determining whether to~~
31 ~~approve a registration application:~~

32 ~~(1) Evidence satisfactory to the department of the home care~~
33 ~~aid applicant's ability to comply with this chapter and the rules~~
34 ~~and regulations promulgated under this chapter by the department.~~

35 ~~(2) Evidence satisfactory to the department that the home care~~
36 ~~aid applicant is of reputable and responsible character. The~~
37 ~~evidence shall include, but is not limited to, a review of the~~
38 ~~independent home care aid applicant's criminal offender record~~
39 ~~information pursuant to Section 1522.~~

1 ~~(3) Any revocation or other disciplinary action taken, or in the~~
2 ~~process of being taken, related to the care of individuals against~~
3 ~~the home care aide applicant.~~

4 ~~(4) Any other information that may be required by the~~
5 ~~department for the proper administration and enforcement of this~~
6 ~~chapter.~~

7 ~~(b) Failure of the home care aide applicant to cooperate with~~
8 ~~the department in the completion of the Home Care Aide~~
9 ~~application shall result in the withdrawal of the registration~~
10 ~~application. “Failure to cooperate” means that the information~~
11 ~~described in this chapter and by any rules and regulations~~
12 ~~promulgated under this chapter has not been provided, or has not~~
13 ~~been provided in the form requested by the department, or both.~~