

Introduced by Senators Morrell and BerryhillFebruary 17, 2016

An act to add Section 594.38 to the Penal Code, relating to memorials.

LEGISLATIVE COUNSEL'S DIGEST

SB 1080, as introduced, Morrell. Memorials.

Existing law makes it a crime for a person to destroy, cut, mutilate, deface, or otherwise injure, tear down, or remove any tomb, monument, memorial, or marker in a cemetery. Existing law also makes it a crime to knowingly buy or receive any property that has been stolen or that has been obtained in any manner constituting theft or extortion.

This bill would make it a crime to receive a grave marker or other structure designed to commemorate the grave of a veteran, peace officer, firefighter, or other first responder that the person knows, or reasonably should know, is stolen. The bill would also specifically make it a crime to damage, deface, destroy, mutilate, or remove, among other things, an American flag or veteran's grave marker from the grave of a veteran, peace officer, firefighter, or other first responder. The bill would also make it a crime to damage, deface, destroy, mutilate, or remove any object or structure set to memorialize a veteran, peace officer, firefighter, or other first responder.

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 594.38 is added to the Penal Code, to
2 read:

3 594.38. A person is guilty of a crime and punishable by
4 imprisonment pursuant to subdivision (h) of Section 1170 or by
5 imprisonment in a county jail not exceeding one year, or by a fine
6 of not more than five thousand dollars (\$5,000), or by both that
7 fine and imprisonment, who maliciously does any of the following:

8 (a) Receives, retains, or disposes of a grave marker or other
9 structure designed to commemorate the grave of a veteran, peace
10 officer, as defined in Chapter 4.5 (commencing with Section 830)
11 of Title 3 of Part 2 of the Penal Code, firefighter, as defined in
12 Section 3251 of the Government Code, or other first responder,
13 which the person knows or should reasonably know to be stolen,
14 unless the intent is to return the stolen marker to a cemetery, a
15 member of law enforcement, a member of the Department of
16 Veterans Affairs or a nonprofit veterans' services group, a veteran's
17 agent of a town or court, or to a person who disposes of veterans'
18 grave marker or other structures or things in a like manner.

19 (b) Damages, defaces, destroys, mutilates, or removes an
20 American flag, veteran's grave marker, metal plaque, veteran's
21 commemorative flag holder, or commemorative flag holder
22 representing service in both the police and fire department, from
23 the grave of a veteran, peace officer, as defined in Chapter 4.5
24 (commencing with Section 830) of Title 3 of Part 2 of the Penal
25 Code, firefighter, as defined in Section 3251 of the Government
26 code, or other first responder.

27 (c) Damages, defaces, destroys, mutilates, or removes any object
28 or structure set to memorialize a veteran, peace officer, as defined
29 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
30 2 of the Penal Code, firefighter, as defined in Section 3251 of the
31 Government Code, or other first responder.

32 SEC. 2. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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