

AMENDED IN ASSEMBLY MARCH 12, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 149

Introduced by Assembly Member Runner

January 22, 1997

An act to amend Sections 241 and 243 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 149, as amended, Runner. Crimes: assault and battery: punishment.

(1) Existing law makes an assault or battery against various persons including peace officers, firefighters, emergency medical technicians, mobile intensive care paramedics, lifeguards, or process servers punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

This bill instead would make these offenses punishable by a fine not exceeding \$10,000, by imprisonment in a county jail not exceeding one year or in the state prison for 16 months, or 2 or 3 years, or by both that fine and imprisonment. By increasing the penalties for existing crimes, this bill would impose a state-mandated local program.

(2) Under existing law, a battery that results in injury inflicted on the victim against the persons described in (1) above is punishable by a fine not exceeding \$2,000, by imprisonment in a county jail for a period not exceeding one

year, or by imprisonment in the state prison for 16 months, or 2 or 3 years, or by both that fine and imprisonment.

This bill instead would make this offense punishable by a fine not exceeding \$10,000, by imprisonment in ~~a county jail not exceeding one year or in~~ the state prison ~~to~~ for 2, 3, or 4 years, ~~or by both that fine and imprisonment~~. By increasing the penalty for an existing crime, it would impose a state-mandated local program.

(3) *This bill will make deductions from terms of imprisonment for work performance or good behavior inapplicable to any inmate who commits an assault or battery against a peace officer under specified circumstances.*

(4) 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 241 of the Penal Code is
2 amended to read:

3 241. (a) An assault is punishable by a fine not
4 exceeding one thousand dollars (\$1,000), or by
5 imprisonment in a county jail not exceeding six months,
6 or by both the fine and imprisonment.

7 (b) When an assault is committed against the person
8 of a peace officer, firefighter, emergency medical
9 technician, mobile intensive care paramedic, lifeguard,
10 process server, traffic officer, or animal control officer
11 engaged in the performance of his or her duties, or a
12 physician or nurse engaged in rendering emergency
13 medical care outside a hospital, clinic, or other health care
14 facility, and the person committing the offense knows or
15 reasonably should know that the victim is a peace officer,
16 firefighter, emergency medical technician, mobile
17 intensive care paramedic, lifeguard, process server,



1 traffic officer, or animal control officer engaged in the
2 performance of his or her duties, or a physician or nurse
3 engaged in rendering emergency medical care, the
4 assault is punishable by a fine not exceeding ten thousand
5 dollars (\$10,000), or by imprisonment in a county jail not
6 exceeding one year or in the state prison for 16 months,
7 or two or three years, or by both the fine and
8 imprisonment.

9 (c) As used in this section, the following definitions
10 apply:

11 (1) Peace officer means any person defined in Chapter
12 4.5 (commencing with Section 830) of Title 3 of Part 2.

13 (2) "Emergency medical technician" means a person
14 possessing a valid course completion certificate from a
15 program approved by the State Department of Health
16 Services for the medical training and education of
17 ambulance personnel, and who meets the standards of
18 Division 2.5 (commencing with Section 1797) of the
19 Health and Safety Code.

20 (3) "Mobile intensive care paramedic" refers to those
21 persons who meet the standards set forth in Division 2.5
22 (commencing with Section 1797) of the Health and
23 Safety Code.

24 (4) "Nurse" means a person who meets the standards
25 of Division 2.5 (commencing with Section 1797) of the
26 Health and Safety Code.

27 (5) "Lifeguard" means a person who is:

28 (A) Employed as a lifeguard by the state, a county, or
29 a city, and is designated by local ordinance as a public
30 officer who has a duty and responsibility to enforce local
31 ordinances and misdemeanors through the issuance of
32 citations.

33 (B) Wearing distinctive clothing which includes
34 written identification of the person's status as a lifeguard
35 and which clearly identifies the employing organization.

36 (6) "Process server" means any person who meets the
37 standards or is expressly exempt from the standards set
38 forth in Section 22350 of the Business and Professions
39 Code.



1 (7) “Traffic officer” means any person employed by a
2 county or city to monitor and enforce state laws and local
3 ordinances relating to parking and the operation of
4 vehicles.

5 (8) “Animal control officer” means any person
6 employed by a county or city for purposes of enforcing
7 animal control laws or regulations.

8 *(d) The provisions of Section 4019 relating to the*
9 *deduction of days earned for work performance or good*
10 *behavior shall not apply to any inmate who commits an*
11 *assault against a peace officer, as defined in Section 830,*
12 *while being conveyed to or from any jail or correctional*
13 *facility where the inmate is confined or while in the*
14 *custody of officials, officers, or employees of that jail or*
15 *correctional facility.*

16 SEC. 2. Section 243 of the Penal Code is amended to
17 read:

18 243. (a) A battery is punishable by a fine of not
19 exceeding two thousand dollars (\$2,000), or by
20 imprisonment in a county jail not exceeding six months,
21 or by both the fine and imprisonment.

22 (b) When a battery is committed against the person of
23 a peace officer, custodial officer, firefighter, emergency
24 medical technician, mobile intensive care paramedic,
25 lifeguard, process server, traffic officer, or animal control
26 officer engaged in the performance of his or her duties,
27 whether on or off duty, including when the peace officer
28 is in a police uniform and is concurrently performing the
29 duties required of him or her as a peace officer while also
30 employed in a private capacity as a part-time or casual
31 private security guard or patrolman, or a physician or
32 nurse engaged in rendering emergency medical care
33 outside a hospital, clinic, or other health care facility, and
34 the person committing the offense knows or reasonably
35 should know that the victim is a peace officer, custodial
36 officer, firefighter, emergency medical technician,
37 mobile intensive care paramedic, lifeguard, process
38 server, traffic officer, or animal control officer engaged in
39 the performance of his or her duties, or a physician or
40 nurse engaged in rendering emergency medical care, the



1 battery is punishable by a fine not exceeding ten thousand
2 dollars (\$10,000), or by imprisonment in a county jail not
3 exceeding one year or in the state prison for 16 months,
4 or two or three years, or by both the fine and
5 imprisonment.

6 (c) When a battery is committed against a peace
7 officer, custodial officer, firefighter, emergency medical
8 technician, mobile intensive care paramedic, lifeguard,
9 process server, traffic officer, or animal control officer
10 engaged in the performance of his or her duties, whether
11 on or off duty, including when the peace officer is in a
12 police uniform and is concurrently performing the duties
13 required of him or her as a peace officer while also
14 employed in a private capacity as a part-time or casual
15 private security guard or patrolman, or a physician or
16 nurse engaged in rendering emergency medical care
17 outside a hospital, clinic, or other health care facility, and
18 the person committing the offense knows or reasonably
19 should know that the victim is a peace officer, custodial
20 officer, firefighter, emergency medical technician,
21 mobile intensive care paramedic, lifeguard, process
22 server, traffic officer, or animal control officer engaged in
23 the performance of his or her duties, or a physician or
24 nurse engaged in rendering emergency medical care,
25 and an injury is inflicted on that victim, the battery is
26 punishable by a fine of not more than ten thousand dollars
27 (\$10,000), or by imprisonment in a county jail not
28 exceeding one year or in the state prison for two, three,
29 or four years, or by both the fine and imprisonment.

30 (d) When a battery is committed against any person
31 and serious bodily injury is inflicted on the person, the
32 ~~battery is punishable by imprisonment in a county jail not~~
33 ~~exceeding one year or~~ *battery is punishable by*
34 imprisonment in the state prison for two, three, or four
35 years.

36 (e) (1) When a battery is committed against a spouse,
37 person with whom the defendant is cohabiting, person
38 who is the parent of the defendant's child, noncohabiting
39 former spouse, fiancé, fiancée, or a person with whom the
40 defendant currently has, or has previously had, a dating



1 relationship, the battery is punishable by a fine not
2 exceeding two thousand dollars (\$2,000), or by
3 imprisonment in a county jail for a period of not more
4 than one year, or by both. If probation is granted, or the
5 execution or imposition of the sentence is suspended, it
6 shall be a condition thereof that the defendant participate
7 in, for no less than one year, and successfully complete, a
8 batterer's treatment program, as defined in Section
9 1203.097, or if none is available, another appropriate
10 counseling program designated by the court. However,
11 this provision shall not be construed as requiring a city, a
12 county, or a city and county to provide a new program or
13 higher level of service as contemplated by Section 6 of
14 Article XIII B of the California Constitution.

15 (2) Upon conviction of a violation of this subdivision,
16 if probation is granted, the conditions of probation may
17 include, in lieu of a fine, one or both of the following
18 requirements:

19 (A) That the defendant make payments to a battered
20 women's shelter, up to a maximum of five thousand
21 dollars (\$5,000).

22 (B) That the defendant reimburse the victim for
23 reasonable costs of counseling and other reasonable
24 expenses that the court finds are the direct result of the
25 defendant's offense.

26 For any order to pay a fine, make payments to a
27 battered women's shelter, or pay restitution as a
28 condition of probation under this subdivision, the court
29 shall make a determination of the defendant's ability to
30 pay. In no event shall any order to make payments to a
31 battered women's shelter be made if it would impair the
32 ability of the defendant to pay direct restitution to the
33 victim or court-ordered child support. Where the injury
34 to a married person is caused in whole or in part by the
35 criminal acts of his or her spouse in violation of this
36 section, the community property may not be used to
37 discharge the liability of the offending spouse for
38 restitution to the injured spouse, required by Section
39 1203.04, as operative on or before August 2, 1995, or
40 Section 1202.4, or to a shelter for costs with regard to the



1 injured spouse and dependents, required by this section,
2 until all separate property of the offending spouse is
3 exhausted.

4 (3) Upon conviction of a violation of this subdivision,
5 if probation is granted or the execution or imposition of
6 the sentence is suspended and the person has been
7 previously convicted of a violation of this subdivision and
8 sentenced under paragraph (1), the person shall be
9 imprisoned for not less than 48 hours in addition to the
10 conditions in paragraph (1). However, the court, upon a
11 showing of good cause, may elect not to impose the
12 mandatory minimum imprisonment as required by this
13 subdivision and may, under these circumstances, grant
14 probation or order the suspension of the execution or
15 imposition of the sentence.

16 The Legislature finds and declares that these specified
17 crimes merit special consideration when imposing a
18 sentence so as to display society's condemnation for these
19 crimes of violence upon victims with whom a close
20 relationship has been formed.

21 (f) As used in this section:

22 (1) "Peace officer" means any person defined in
23 Chapter 4.5 (commencing with Section 830) of Title 3 of
24 Part 2.

25 (2) "Emergency medical technician" means a person
26 possessing a valid course completion certificate from a
27 program approved by the State Department of Health
28 Services for the medical training and education of
29 ambulance personnel, and who meets the standards of
30 Division 2.5 (commencing with Section 1797) of the
31 Health and Safety Code.

32 (3) "Mobile intensive care paramedic" means any
33 person who meets the standards set forth in Section
34 1797.84 of, and Division 2.5 (commencing with Section
35 1797) of, the Health and Safety Code.

36 (4) "Nurse" means a person who meets the standards
37 of Division 2.5 (commencing with Section 1797) of the
38 Health and Safety Code.

39 (5) "Serious bodily injury" means a serious
40 impairment of physical condition, including, but not



1 limited to, the following: loss of consciousness; concussion;
2 bone fracture; protracted loss or impairment of function
3 of any bodily member or organ; a wound requiring
4 extensive suturing; and serious disfigurement.

5 (6) “Injury” means any physical injury which requires
6 professional medical treatment.

7 (7) “Custodial officer” means any person who has the
8 responsibilities and duties described in Section 831 and
9 who is employed by a law enforcement agency of any city
10 or county or who performs those duties as a volunteer.

11 (8) “Lifeguard” means a person defined in paragraph
12 (5) of subdivision (c) of Section 241.

13 (9) “Traffic officer” means any person employed by a
14 city, county, or city and county, to monitor and enforce
15 state laws and local ordinances relating to parking and the
16 operation of vehicles.

17 (10) “Animal control officer” means any person
18 employed by a city, county, or city and county for
19 purposes of enforcing animal control laws or regulations.

20 (11) “Dating relationship” means frequent, intimate
21 associations primarily characterized by the expectation of
22 affectional or sexual involvement independent of
23 financial considerations.

24 †

25 (g) *The provisions of Section 4019 relating to the*
26 *deduction of days earned for work performance or good*
27 *behavior shall not apply to any inmate who commits a*
28 *battery against a peace officer, as defined in Section 830,*
29 *while being conveyed to or from any jail or correctional*
30 *facility where the inmate is confined or while in the*
31 *custody of officials, officers, or employees of that jail or*
32 *correctional facility.*

33 (h) *It is the intent of the Legislature by amendments*
34 *to this section at the 1981–82 and 1983–84 Regular Sessions*
35 *to abrogate the holdings in cases such as People v. Corey,*
36 *21 Cal. 3d 738, and Cervantez v. J.C. Penney Co., 24 Cal.*
37 *3d 579, and to reinstate prior judicial interpretations of*
38 *this section as they relate to criminal sanctions for battery*
39 *on peace officers who are employed, on a part-time or*
40 *casual basis, while wearing a police uniform as private*



1 security guards or patrolmen and to allow the exercise of
2 peace officer powers concurrently with that
3 employment.

4 SEC. 3. No reimbursement is required by this act
5 pursuant to Section 6 of Article XIII B of the California
6 Constitution because the only costs that may be incurred
7 by a local agency or school district will be incurred
8 because this act creates a new crime or infraction,
9 eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section
11 17556 of the Government Code, or changes the definition
12 of a crime within the meaning of Section 6 of Article
13 XIII B of the California Constitution.

14 Notwithstanding Section 17580 of the Government
15 Code, unless otherwise specified, the provisions of this act
16 shall become operative on the same date that the act
17 takes effect pursuant to the California Constitution.

