

AMENDED IN ASSEMBLY AUGUST 25, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 880

Introduced by Assembly Member Hertzberg

February 27, 1997

An act to amend Sections ~~653.1 and 654.3~~ of the ~~Welfare and Institutions~~ *Section 13700 of the Penal Code*, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

AB 880, as amended, Hertzberg. ~~Juvenile—offenders: domestic—~~*Domestic violence: minors.*

Existing law provides that every law enforcement agency in this state shall develop written policies and standards for police officers' responses to domestic violence calls, punishes domestic violence as a crime, and defines domestic violence to include abuse committed against an adult or a fully emancipated minor, as specified.

This bill would revise the definition of domestic violence to include any minor who is abused as specified. By expanding the definition of a crime, 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 no reimbursement is required by this act for a specified reason.

~~(1) Existing law provides that whenever any person applies to the probation officer to commence proceedings in the juvenile court concerning a minor, the application must be in the form of an affidavit, as specified. Existing law authorizes the probation officer to make any investigation necessary to determine whether proceedings in the juvenile court to declare a minor to be a ward of the court should be commenced. However, if the minor is alleged to have committed any one of certain serious or violent offenses when he or she was 14 years of age or older, as specified, the probation officer is required to cause the affidavit to be immediately taken to the prosecuting attorney. Juvenile court proceedings to declare a minor a ward of the court on the basis of criminal conduct are commenced by the filing of a petition by the prosecuting attorney.~~

~~This bill would additionally require the probation officer to cause an affidavit to be taken to the prosecuting attorney immediately if the minor is alleged to have committed an act of domestic violence, as specified.~~

~~(2) Existing law authorizes the probation officer to delineate specific programs of supervision for a minor in lieu of the filing of a petition to declare the minor a ward of the juvenile court. A similar provision applies where the prosecuting attorney has filed a petition before the juvenile court to declare the minor a ward of the court on the basis of criminal conduct. In that case, the court is authorized to continue a hearing on the petition without adjudging the minor a ward of the court, and to order the minor to participate in a program of supervision delineated by the probation officer. Existing law provides, however, that a minor who is alleged to have committed any one of certain serious or violent offenses is not eligible for those programs of supervision.~~

~~This bill would provide that a minor who is alleged to have committed an act of domestic violence, as specified, would not be eligible for these programs of supervision.~~

~~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 653.1 of the Welfare and~~
2 *SECTION 1. Section 13700 of the Penal Code is*
3 *amended to read:*

4 13700. As used in this title:

5 (a) “Abuse” means intentionally or recklessly causing
6 or attempting to cause bodily injury, or placing another
7 person in reasonable apprehension of imminent serious
8 bodily injury to himself or herself, or another.

9 (b) “Domestic violence” means abuse committed
10 against an adult or ~~a fully emancipated~~ minor who is a
11 spouse, former spouse, cohabitant, former cohabitant, or
12 person with whom the suspect has had a child or is having
13 or has had a dating or engagement relationship. For
14 purposes of this subdivision, “cohabitant” means two
15 unrelated adult persons living together for a substantial
16 period of time, resulting in some permanency of
17 relationship. Factors that may determine whether
18 persons are cohabiting include, but are not limited to, (1)
19 sexual relations between the parties while sharing the
20 same living quarters, (2) sharing of income or expenses,
21 (3) joint use or ownership of property, (4) whether the
22 parties hold themselves out as husband and wife, (5) the
23 continuity of the relationship, and (6) the length of the
24 relationship.

25 (c) “Officer” means any officer or employee of a local
26 police department or sheriff’s office, and any peace
27 officer of the Department of the California Highway
28 Patrol, the Department of Parks and Recreation, the
29 University of California Police Department, or the
30 California State University and College Police
31 Departments, as defined in Section 830.2, or a housing
32 authority patrol officer, as defined in subdivision (d) of
33 Section 830.31.

34 (d) “Victim” means a person who is a victim of
35 domestic violence.

36 *SEC. 2. No reimbursement is required by this act*
37 *pursuant to Section 6 of Article XIII B of the California*
38 *Constitution because the only costs that may be incurred*



1 by a local agency or school district will be incurred
2 because this act creates a new crime or infraction,
3 eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section
5 17556 of the Government Code, or changes the definition
6 of a crime within the meaning of Section 6 of Article
7 XIII B of the California Constitution.

8 Notwithstanding Section 17580 of the Government
9 Code, unless otherwise specified, the provisions of this act
10 shall become operative on the same date that the act
11 takes effect pursuant to the California Constitution.

12 Institutions Code is amended to read:

13 ~~653.1. (a) Notwithstanding Section 653, in the case of~~
14 ~~an affidavit alleging that the minor committed an offense~~
15 ~~described in Section 602, the probation officer shall cause~~
16 ~~the affidavit to be immediately taken to the prosecuting~~
17 ~~attorney if it appears to the probation officer that the~~
18 ~~minor has been referred to the probation officer for any~~
19 ~~violation of any of the following:~~

20 ~~(1) An offense listed in subdivision (b) of Section 707~~
21 ~~and that offense was allegedly committed when the~~
22 ~~minor was 16 years of age or older.~~

23 ~~(2) An offense listed in paragraph (2) of subdivision~~
24 ~~(d) or subdivision (e) of Section 707 and that offense was~~
25 ~~allegedly committed when the minor was 14 years of age~~
26 ~~or older.~~

27 ~~(3) A domestic violence offense. As used in this~~
28 ~~paragraph, “domestic violence offense” means conduct~~
29 ~~which violates paragraph (4) of subdivision (a) of Section~~
30 ~~166 of the Penal Code or Section 242, 243, 245, 273.5, 273.6,~~
31 ~~422, or 646.9 of the Penal Code committed by a minor~~
32 ~~against any of the following:~~

33 ~~(A) A person with whom the minor currently has, or~~
34 ~~previously had, a dating relationship, as defined in~~
35 ~~paragraph (11) of subdivision (f) of Section 243 of the~~
36 ~~Penal Code.~~

37 ~~(B) An adult or emancipated minor who is a spouse,~~
38 ~~former spouse, cohabitant, former cohabitant, or person~~
39 ~~with whom the minor has had a child.~~



1 ~~(C) Any other person related by consanguinity or any~~
2 ~~person who regularly resides or who within the previous~~
3 ~~six months resided in the household with the minor.~~

4 ~~(b) If the prosecuting attorney decides not to file a~~
5 ~~petition, he or she may return the affidavit to the~~
6 ~~probation officer for any other appropriate action.~~

7 ~~SEC. 2. Section 654.3 of the Welfare and Institutions~~
8 ~~Code is amended to read:~~

9 ~~654.3. No minor shall be eligible for the program of~~
10 ~~supervision set forth in Section 654 or 654.2 in the~~
11 ~~following cases, except in an unusual case where the~~
12 ~~interests of justice would best be served and the court~~
13 ~~specifies on the record the reasons for its decision:~~

14 ~~(a) A petition alleges that the minor has violated an~~
15 ~~offense listed in subdivision (b) or (c) or paragraph (2)~~
16 ~~of subdivision (d) of Section 707.~~

17 ~~(b) A petition alleges that the minor has sold or~~
18 ~~possessed for sale a controlled substance as defined in~~
19 ~~Chapter 2 (commencing with Section 11053) of Division~~
20 ~~10 of the Health and Safety Code.~~

21 ~~(c) A petition alleges that the minor has violated~~
22 ~~Section 11350 or 11377 of the Health and Safety Code~~
23 ~~where the violation takes place at a public or private~~
24 ~~elementary, vocational, junior high school, or high school,~~
25 ~~or a violation of Section 245.5, 626.9, or 626.10 of the Penal~~
26 ~~Code.~~

27 ~~(d) A petition alleges that the minor has violated~~
28 ~~Section 186.22 of the Penal Code.~~

29 ~~(e) The minor has previously participated in a~~
30 ~~program of supervision pursuant to Section 654.~~

31 ~~(f) The minor has previously been adjudged a ward of~~
32 ~~the court pursuant to Section 602.~~

33 ~~(g) A petition alleges that the minor has violated an~~
34 ~~offense in which the restitution owed to the victim~~
35 ~~exceeds one thousand dollars (\$1,000). For purposes of~~
36 ~~this subdivision, the definition of "victim" in paragraph~~
37 ~~(1) of subdivision (a) of Section 730.6 and "restitution" in~~
38 ~~subdivision (h) of Section 730.6 shall apply.~~

39 ~~(h) A petition alleges that the minor has violated~~
40 ~~paragraph (4) of subdivision (a) of Section 166 of the~~



1 ~~Penal Code or Section 242, 243, 245, 273.5, 273.6, 422, or~~
2 ~~646.9 of the Penal Code committed by a minor against any~~
3 ~~of the following:~~

4 ~~(1) A person with whom the minor currently has, or~~
5 ~~previously had, a dating relationship, as defined in~~
6 ~~paragraph (11) of subdivision (f) of Section 243 of the~~
7 ~~Penal Code.~~

8 ~~(2) An adult or emancipated minor who is a spouse,~~
9 ~~former spouse, cohabitant, former cohabitant, or person~~
10 ~~with whom the minor has had a child.~~

11 ~~(3) Any other person related by consanguinity or any~~
12 ~~person who regularly resides or who within the previous~~
13 ~~six months resided in the household with the minor.~~

