

Introduced by Senator Burton

January 6, 1997

An act to amend Section 1377 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 115, as introduced, Burton. Criminal procedure: civil compromise.

Under existing law, when a person injured by an act constituting a misdemeanor has a remedy by a civil action, the offense may be compromised by the victim upon receiving compensation for the injury. Civil compromise is not allowed in cases of domestic violence when the defendant previously has civilly compromised a domestic violence offense within 7 years.

This bill would eliminate the condition on civil compromise in domestic violence cases, thereby prohibiting civil compromise in all domestic violence cases.

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

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

- 1 SECTION 1. Section 1377 of the Penal Code is
- 2 amended to read:
- 3 1377. When ~~the~~ a person injured by an act
- 4 constituting a misdemeanor has a remedy by a civil
- 5 action, the offense may be compromised, as provided in
- 6 Section 1378, except when it is committed as follows:



1 (a) By or upon an officer of justice, while in the
2 execution of the duties of his or her office.

3 (b) Riotously.

4 (c) With an intent to commit a felony.

5 (d) In violation of any court order as described in
6 Section 273.6.

7 (e) By or upon any family or household member, or
8 upon any person, when the violation involves any person
9 described in Section 6211 of the Family Code or
10 subdivision (b) of Section 13700 of this code, ~~and when~~
11 ~~the defendant has civilly compromised any domestic~~
12 ~~violence offense committed upon any victim within~~
13 ~~seven years of the commission of the currently charged~~
14 ~~offense.~~

15 ~~When an offense by or upon any family or household~~
16 ~~member, or upon any person, when the violation involves~~
17 ~~any person described in Section 6211 of the Family Code~~
18 ~~or subdivision (b) of Section 13700 of this code, is sought~~
19 ~~to be compromised and the prosecution objects to that~~
20 ~~civil compromise pursuant to this section, the court shall~~
21 ~~hold a hearing that is noticed within 10 court days where~~
22 ~~the victim is present and acknowledges and presents~~
23 ~~proof of satisfaction for injury. During the hearing, the~~
24 ~~prosecution shall have an opportunity to present~~
25 ~~evidence and make arguments with regard to the~~
26 ~~proposed civil compromise, and the court may question~~
27 ~~the victim in open court on the issue of the satisfaction~~
28 ~~being presented as a basis for the compromise. The court~~
29 ~~shall require a defendant who enters into a civil~~
30 ~~compromise to attend a batterer's program. The amount~~
31 ~~of program sessions shall be determined by the court, but~~
32 ~~shall not be less than eight hours.~~

33 ~~For purposes of this subdivision, a victim of a domestic~~
34 ~~violence offense is a person described in Section 6211 of~~
35 ~~the Family Code or subdivision (b) of Section 13700 of this~~
36 ~~code.~~

O

