

## Senate Bill No. 136

### CHAPTER 684

An act to add and repeal Section 4032 of the Penal Code, relating to crime.

[Approved by Governor October 4, 1997. Filed  
with Secretary of State October 6, 1997.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 136, Costa. Crimes: gassing.

(1) Under existing law, every person confined in a state prison who commits battery upon the person of any individual who is not confined in the prison is guilty of a felony and shall be imprisoned in the state prison for 2, 3, or 4 years, to be served consecutively.

This bill would do the following until January 1, 2001:

(a) Require the sheriff or other person in charge of a local correctional facility to refer all reports of battery by gassing by persons confined in the local correctional facility to the local district attorney for prosecution.

(b) Require the sheriff or other person in charge of a local correctional facility to use every available means to immediately investigate all reported or suspected batteries by gassing by persons confined in the local correctional facility.

(c) Authorize the chief medical officer of the local correctional facility, when he or she deems it medically necessary to protect the health of an officer or employee who may have been subject to a battery by gassing, to order the person who committed the battery to receive an examination or test for hepatitis and tuberculosis, as specified.

(d) Authorize the chief medical officer of the local correctional facility to provide the results of any examination or test to the officer or employee who was the target of the battery.

(e) Require the sheriff or other person in charge of a local correctional facility to report to the Board of Corrections information about each gassing incident in the local correctional facility.

By imposing new duties on the sheriff or other person in charge of a local correctional facility with respect to battery by gassing by persons confined in the local correctional facility, this bill would impose a state-mandated local program.

The bill also would require the Board of Corrections to report to the Legislature by January 1, 2000, its findings and recommendations on gassing incidents at local correctional facilities and the medical testing authorized by this bill.

(2) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

SECTION 1. Section 4032 is added to the Penal Code, to read:

4032. (a) The sheriff or other person in charge of a local correctional facility shall refer all reports of battery by gassing by persons confined in the local correctional facility to the local district attorney for prosecution.

(b) For purposes of this section, “gassing” means intentionally placing or throwing, or causing to be placed or thrown, upon the person of another, any mixture of human excrement or other bodily fluids or substances.

(c) The sheriff or other person in charge of the local correctional facility shall use every available means to immediately investigate all reported or suspected batteries by gassing by persons confined in the local correctional facility. If there is probable cause to believe that an inmate of a local correctional facility has committed a battery by gassing, the chief medical officer of the local correctional facility, or his or her designee, may, when he or she deems it medically necessary to protect the health of an officer or employee who may have been subject to a battery by gassing, order the inmate to receive an examination or test for hepatitis and tuberculosis immediately after the event, and periodically thereafter as determined to be necessary by the medical officer. The results of any examination or test shall be provided to the officer or employee who was the target of the battery. Nothing in this subdivision shall be construed to otherwise supersede the operation of Title 8 (commencing with Section 7500).

(d) The sheriff or other person in charge of the local correctional facility shall report to the Board of Corrections, as required by the board, information about each gassing incident in the local correctional facility.

(e) The Board of Corrections shall report to the Legislature by January 1, 2000, its findings and recommendations on gassing incidents at local correctional facilities and the medical testing authorized by this section. The report may be included in the report



required by Section 4501.1. The report shall include, but not be limited to, all of the following:

(1) The total number of gassing incidents at each local correctional facility up to the date of the report.

(2) The disposition of each gassing incident, including the administrative penalties imposed and the number of incidents that are prosecuted and the result of those prosecutions, including any penalties imposed.

(3) A profile of the inmates who committed the batteries, including the number of inmates who have one or more prior serious or violent felony convictions.

(4) Efforts that the sheriff or other person in charge of the local correctional facility has taken to limit these incidents, including staff training and the use of protective clothing and goggles.

(5) The results and costs of the medical testing authorized by this section.

(f) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

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

