

Introduced by Senator Solis

January 23, 1997

An act to amend Sections 12022.3 and 12022.8 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 186, as introduced, Solis. Crimes: sentence enhancements: attempted sex offenses.

Existing law provides for enhanced prison sentences for any person who uses a firearm or deadly weapon or who inflicts great bodily injury during the commission of specified sex offenses.

This bill would provide that these enhanced prison sentences also shall apply to any person who uses a firearm or deadly weapon or who inflicts great bodily injury during the attempted commission of those offenses. By expanding the scope of existing sentence enhancements, 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.

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 12022.3 of the Penal Code is
2 amended to read:

3 12022.3. For each violation *or attempted violation* of
4 Section 261, 262, 264.1, 286, 288, 288a, or 289, and in
5 addition to the sentence provided, any person shall
6 receive the following:

7 (a) A 3-, 4-, or 10-year enhancement if the person uses
8 a firearm or a deadly weapon in the commission of the
9 violation.

10 (b) A one-, two-, or five-year enhancement if the
11 person is armed with a firearm or a deadly weapon. The
12 court shall order the middle term unless there are
13 circumstances in aggravation or mitigation. The court
14 shall state the reasons for its enhancement choice on the
15 record at the time of the sentence.

16 SEC. 2. Section 12022.8 of the Penal Code is amended
17 to read:

18 12022.8. Any person who inflicts great bodily injury,
19 as defined in Section 12022.7, on any victim in a violation
20 *or attempted violation* of paragraph (2), (3), or (6) of
21 subdivision (a) of Section 261, paragraph (1) or (4) of
22 subdivision (a) of Section 262, Section 264.1, subdivision
23 (b) of Section 288, subdivision (a) of Section 289, or
24 sodomy or oral copulation by force, violence, duress,
25 menace, or fear of immediate and unlawful bodily injury
26 on the victim or another person as provided in Section 286
27 or 288a shall receive a five-year enhancement for each
28 such violation in addition to the sentence provided for the
29 felony conviction.

30 SEC. 3. No reimbursement is required by this act
31 pursuant to Section 6 of Article XIII B of the California
32 Constitution because the only costs that may be incurred
33 by a local agency or school district will be incurred
34 because this act creates a new crime or infraction,
35 eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section
37 17556 of the Government Code, or changes the definition



1 of a crime within the meaning of Section 6 of Article
2 XIII B of the California Constitution.
3 Notwithstanding Section 17580 of the Government
4 Code, unless otherwise specified, the provisions of this act
5 shall become operative on the same date that the act
6 takes effect pursuant to the California Constitution.

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