

ASSEMBLY BILL

No. 1100

Introduced by Assembly Member House

February 25, 1999

An act to amend Section 12022.7 of the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1100, as introduced, House. Sentencing.

Under existing law, any person who personally inflicts great bodily injury on any person other than an accomplice in the commission or attempted commission of a felony shall, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of 3 years, unless infliction of great bodily injury is an element of the offense of which he or she is convicted. Existing law further provides that any person found to have inflicted great bodily injury pursuant to this provision that causes the victim to become comatose due to brain injury or to suffer paralysis of a permanent nature, shall be punished by an additional and consecutive term of 5 years.

This bill would provide that any person found to have inflicted great bodily injury pursuant to this provision that causes the victim to become comatose due to brain injury in a permanent unconscious condition shall be punished by a term of imprisonment of 15 years in the state prison, which shall be imposed in addition and consecutive to the punishment prescribed for that felony. By creating a new

sentence enhancement, the 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 12022.7 of the Penal Code is
2 amended to read:

3 12022.7. (a) Any person who personally inflicts great
4 bodily injury on any person other than an accomplice in
5 the commission or attempted commission of a felony
6 shall, in addition and consecutive to the punishment
7 prescribed for the felony or attempted felony of which he
8 or she has been convicted, be punished by an additional
9 term of three years, unless infliction of great bodily injury
10 is an element of the offense of which he or she is
11 convicted.

12 (b) (1) Any person found to have inflicted great
13 bodily injury pursuant to subdivision (a)—~~which~~ that
14 causes the victim to become comatose due to brain injury
15 or to suffer paralysis, as defined in Section 12022.9, of a
16 permanent nature, shall be punished by an additional and
17 consecutive term of five years.

18 (2) *Any person found to have inflicted great bodily*
19 *injury pursuant to subdivision (a) that causes the victim*
20 *to become comatose due to brain injury in a permanent*
21 *unconscious condition, as defined in subdivision (e) of*
22 *Section 7186 of the Health and Safety Code, shall be*
23 *punished by a term of imprisonment of 15 years in the*
24 *state prison, which shall be imposed in addition and*
25 *consecutive to the punishment prescribed for that felony.*

26 (c) Any person who personally inflicts great bodily
27 injury on another person who is 70 years of age or older



1 other than an accomplice in the commission or attempted
2 commission of a felony shall, in addition and consecutive
3 to the punishment prescribed for the felony or attempted
4 felony of which he or she has been convicted, be punished
5 by an additional term of five years, unless infliction of
6 great bodily injury is an element of the offense of which
7 he or she is convicted.

8 (d) Any person who personally inflicts great bodily
9 injury under circumstances involving domestic violence
10 in the commission or attempted commission of a felony
11 shall, in addition and consecutive to the punishment
12 prescribed for the felony or attempted felony of which he
13 or she has been convicted, be punished by an additional
14 term of three, four, or five years. The court shall order
15 imposition of the middle term unless there are
16 circumstances in aggravation or mitigation. The court
17 shall state its reasons for its enhancement choice on the
18 record at the time of sentencing. As used in this section,
19 “domestic violence” has the meaning provided in
20 subdivision (b) of Section 13700.

21 (e) As used in this section, “great bodily injury” means
22 a significant or substantial physical injury.

23 (f) This section shall not apply to murder or
24 manslaughter or a violation of Section 451 or 452. The
25 additional term provided in this section shall not be
26 imposed unless the fact of great bodily injury is charged
27 in the accusatory pleading and admitted or found to be
28 true by the trier of fact.

29 (g) The court shall impose the additional terms of
30 imprisonment under either subdivision (a), (b), or (c),
31 but may not impose more than one of those terms for the
32 same offense.

33 SEC. 2. No reimbursement is required by this act
34 pursuant to Section 6 of Article XIII B of the California
35 Constitution because the only costs that may be incurred
36 by a local agency or school district will be incurred
37 because this act creates a new crime or infraction,
38 eliminates a crime or infraction, or changes the penalty
39 for a crime or infraction, within the meaning of Section
40 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.

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