

Assembly Bill No. 1284

CHAPTER 703

An act to amend Section 1270.1 of, and to add Section 646.93 to, the Penal Code, relating to stalking.

[Approved by Governor October 6, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1284, Jackson. Stalking.

Existing law provides that before a person who is arrested for specified crimes may be released on bail for an amount more or less than the scheduled amount for the offense, or on the person's own recognizance, a hearing must be held.

This bill would add to the list of specified crimes, intimidating a witness or victim, or making terrorist threats, as specified.

This bill would also require the county sheriff to give notice of the release on bail of any person arrested on a charge of stalking to the prosecuting attorney's office. By imposing additional duties on local law enforcement agencies, this bill would impose a state-mandated local program.

This bill would also require the offender to provide certain information regarding addresses and telephone numbers of the offender to the court, as specified. The bill would also require, unless good cause is shown, as conditions of release on bail for a person charged with stalking, that the person not initiate contact with the alleged victim, as specified, possess any firearms or other deadly or dangerous weapons, and that the offender obey all laws.

This bill would also declare findings of the Legislature.

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. (a) The Legislature finds that in 1996, nearly 2,000 murders in the United States were committed by intimates, and in almost three out of four of these killings, the victim was a woman. The Legislature also finds that each year, approximately 30 percent of all women killed in this country die at the hands of a current or former intimate, that stalkers are estimated to be violent toward their victims between 25 and 35 percent of the time, and that the group most likely to be violent is composed of those persons who have had an intimate relationship with the victim. The Legislature also finds that, according to a National Violence Against Women survey conducted by the federal Department of Justice, 8 percent of women and 2 percent of men in the United States have been stalked at some time in their life, that 12.1 million women and 3.7 million men in the United States are stalked at some time during their life, and that 6 million women and 1.4 million men are stalked annually in the United States. The Legislature also finds that 81 percent of the women who were stalked by a current or former husband or cohabiting partner were also physically assaulted by that same partner, and 31 percent of the women who were stalked by a current or former husband or cohabiting partner were also sexually assaulted by that same partner.

(b) The Legislature further finds that it is necessary that a judge or magistrate be fully informed of all aspects of the charged crimes and any and all possible relevant background information about the defendant, including prior violent acts, the threat of prior violent acts, possession of dangerous and deadly weapons, prior arrests and convictions, violations of law, jail incident reports, and the existence of any other relevant information and, in particular, information that may bear on the danger the defendant may present to the public and the likelihood that defendant may commit future crimes if released pending trial.

(c) The Legislature further finds that it is necessary for both the victim or victims to have the opportunity to be heard regarding the setting of bail in order to bring relevant information to the court's attention.

SEC. 2. Section 1270.1 of the Penal Code is amended to read:

1270.1. (a) Before any person who is arrested for any of the following crimes may be released on bail in an amount that is either more or less than the amount contained in the schedule of bail for the offense, or may be released on his or her own recognizance, a hearing shall be held in open court before the magistrate or judge:

(1) A serious felony, as defined in subdivision (c) of Section 1192.7, or a violent felony, as defined in subdivision (c) of Section 667.5, but not including a violation of subdivision (a) of Section 460 (residential burglary).



(2) A violation of Section 136.1 where punishment is imposed pursuant to subdivision (c) of Section 136.1, 262, 273.5, 422 where the offense is punished as a felony, or 646.9.

(3) A violation of paragraph (1) of subdivision (e) of Section 243.

(b) The prosecuting attorney and defense attorney shall be given a two court-day written notice and an opportunity to be heard on the matter. If the detained person does not have counsel, the court shall appoint counsel for purposes of this section only. The hearing required by this section shall be held within the time period prescribed in Section 825.

(c) At the hearing, the court shall consider evidence of past court appearances of the detained person, the maximum potential sentence that could be imposed, and the danger that may be posed to other persons if the detained person is released. In making the determination whether to release the detained person on his or her own recognizance, the court shall consider the potential danger to other persons, including threats that have been made by the detained person and any past acts of violence. The court shall also consider any evidence offered by the detained person regarding his or her ties to the community and his or her ability to post bond.

(d) If the judge or magistrate sets the bail in an amount that is either more or less than the amount contained in the schedule of bail for the offense, the judge or magistrate shall state the reasons for that decision and shall address the issue of threats made against the victim or witness, if they were made, in the record. This statement shall be included in the record.

SEC. 3. Section 646.93 is added to the Penal Code, to read:

646.93. (a) The county sheriff shall give notice of the release on bail of any person arrested for violating Section 646.9. The notice shall be directed to the domestic violence unit of the prosecuting agency of the county or city where the victim resides or any person so designated by that agency. The prosecuting agency in each county or city shall inform the county jail in writing as to the specific person or persons who should be contacted in their agency.

(b) Any request to lower bail shall be heard in open court in accordance with Section 1270.1. In addition, the prosecutor shall make all reasonable efforts to notify the victim or victims of the bail hearing. The victims may be present at the hearing and shall be permitted to address the court on the issue of bail.

(c) Unless good cause is shown not to impose the following conditions, the judge shall impose as additional conditions of release on bail that:

(1) The defendant shall not initiate contact in person, by telephone, or any other means with the alleged victims.

(2) The defendant shall not knowingly go within 100 yards of the alleged victims, their residence, or place of employment.



(3) The defendant shall not possess any firearms or other deadly or dangerous weapons.

(4) The defendant shall obey all laws.

(5) The defendant, upon request at the time of his or her appearance in court, shall provide the court with an address where he or she is residing or will reside, a business address and telephone number if employed, and a residence telephone number if the defendant's residence has a telephone.

A showing by declaration that any of these conditions are violated shall, unless good cause is shown, result in the issuance of a no-bail warrant.

SEC. 4. 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.

