

Assembly Bill No. 2523

CHAPTER 478

An act to amend Sections 417 and 417.6 of the Penal Code, relating to firearms.

[Approved by Governor September 16, 2000. Filed with Secretary of State September 18, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2523, Thomson. Firearms: unlawful display.

(1) Existing law provides that every person who, except in self-defense, in the presence of another draws or exhibits any firearm, loaded or unloaded, in a rude, angry or threatening manner, or who in any manner unlawfully uses a firearm in any fight or quarrel, is guilty of a misdemeanor punishable by imprisonment in a county jail for not less than 3 months.

This bill would provide that if the violation occurs in a public place, as defined, and the firearm is a pistol, revolver, or other firearm capable of being concealed upon the person, the violation of these provisions is punishable by imprisonment in a county jail for not less than 3 months and not more than one year, by a fine not to exceed \$1,000, or by both that fine and imprisonment. This bill would also make technical, nonsubstantive changes to these and related provisions. By creating a new crime, this bill would impose a state-mandated local program.

(2) Existing law provides that every person who, except in self-defense, in the presence of any other person, draws or exhibits any loaded firearm in a rude, angry, or threatening manner, or who unlawfully uses any loaded firearm in any fight upon the grounds of certain facilities, as specified, is punishable by imprisonment in the state prison for one, 2, or 3 years, or in a county jail for not less than 3 months and not more than one year.

This bill would punish the above-described offense by imprisonment in the state prison for 16 months, or 2 or 3 years, or in a county jail for not less than 3 months and not more than one year.

(3) 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.

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

SECTION 1. Section 417 of the Penal Code is amended to read:

417. (a) (1) Every person who, except in self-defense, in the presence of any other person, draws or exhibits any deadly weapon whatsoever, other than a firearm, in a rude, angry, or threatening manner, or who in any manner, unlawfully uses a deadly weapon other than a firearm in any fight or quarrel is guilty of a misdemeanor, punishable by imprisonment in a county jail for not less than 30 days.

(2) Every person who, except in self-defense, in the presence of any other person, draws or exhibits any firearm, whether loaded or unloaded, in a rude, angry, or threatening manner, or who in any manner, unlawfully uses a firearm in any fight or quarrel is punishable as follows:

(A) If the violation occurs in a public place and the firearm is a pistol, revolver, or other firearm capable of being concealed upon the person, by imprisonment in a county jail for not less than three months and not more than one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

(B) In all cases other than that set forth in subparagraph (A), a misdemeanor, punishable by imprisonment in a county jail for not less than three months.

(b) Every person who, except in self-defense, in the presence of any other person, draws or exhibits any loaded firearm in a rude, angry, or threatening manner, or who, in any manner, unlawfully uses any loaded firearm in any fight or quarrel upon the grounds of any day care center, as defined in Section 1596.76 of the Health and Safety Code, or any facility where programs, including day care programs or recreational programs, are being conducted for persons under 18 years of age, including programs conducted by a nonprofit organization, during the hours in which the center or facility is open for use, shall be punished by imprisonment in the state prison for 16 months, or two or three years, or by imprisonment in a county jail for not less than three months, nor more than one year.

(c) Every person who, in the immediate presence of a peace officer, draws or exhibits any firearm, whether loaded or unloaded, in a rude, angry, or threatening manner, and who knows, or reasonably should know, by the officer's uniformed appearance or other action of identification by the officer, that he or she is a peace officer engaged in the performance of his or her duties, and that peace officer is engaged in the performance of his or her duties, shall be punished by imprisonment in a county jail for not less than nine months and not to exceed one year, or in the state prison.

(d) Except where a different penalty applies, every person who violates this section when the other person is in the process of cleaning up graffiti or vandalism is guilty of a misdemeanor,



punishable by imprisonment in a county jail for not less than three months nor more than one year.

(e) As used in this section, “peace officer” means any person designated as a peace officer pursuant to Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(f) As used in this section, “public place” means any of the following:

- (1) A public place in an incorporated city.
- (2) A public street in an incorporated city.
- (3) A public street in an unincorporated area.

SEC. 2. Section 417.6 of the Penal Code is amended to read:

417.6. (a) If, in the commission of a violation of Section 417 or 417.8, serious bodily injury is intentionally inflicted by the person drawing or exhibiting the firearm or deadly weapon, the offense shall be punished by imprisonment in the county jail not exceeding one year or by imprisonment in the state prison.

(b) As used in this section, “serious bodily injury” means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

(c) When a person is convicted of a violation of Section 417 or 417.8 and the deadly weapon or firearm used by the person is owned by that person, the court shall order that the weapon or firearm be deemed a nuisance and disposed of in the manner provided by Section 12028.

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

