

Introduced by Senator Ortiz

February 18, 1999

An act to add Section 6332 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 508, as introduced, Ortiz. Occupational safety and health standards: health care and community service work.

Existing law authorizes the Occupational Safety and Health Standards Board to adopt occupational safety and health standards and orders. Under existing law, these standards are enforced by the Division of Occupational Safety and Health of the Department of Industrial Relations.

This bill would require the standards board, prior to an unspecified date, to adopt, by emergency regulation, an interim standard that requires specific employer measures for protection of defined community health care workers from violence. The bill would require the standards board, following adoption of the emergency regulation and prior to an unspecified date, to complete the regulation adoption process and adopt a standard meeting criteria prescribed by the bill. Under the bill, the emergency regulation would remain in effect until the nonemergency standard takes effect or an unspecified date, whichever occurs first. The bill would require the Division of Occupational Safety and Health to propose expansion of the standard to cover other health care workers and employment settings where employees are at serious risk of workplace violence.

Because certain violations of the occupational safety and health standard required by the bill would be misdemeanors, 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. (a) The Legislature finds and declares
2 the following:

3 (1) Homicides are the second leading cause of
4 occupational death for all workers in the United States
5 and the leading cause for fatal occupational injuries for
6 women.

7 (2) For every homicide there are thousands more
8 violent incidents that result in serious injuries to workers.

9 (3) During the past decade, health care and
10 community service workers have been killed and injured
11 in a variety of employment environments.

12 (4) The Division of Occupational Safety and Health
13 has recognized the danger in these settings and has
14 published "Guidelines For Security and Safety Of Health
15 Care And Community Service Workers."

16 (5) Assaults that occur in the workplace are most often
17 predictable and preventable.

18 (b) Therefore, it is the intent of the Legislature in
19 enacting this act to require the Occupational Safety and
20 Health Standards Board expeditiously to adopt a standard
21 to protect community health care workers from violence
22 at work.

23 SEC. 2. Section 6332 is added to the Labor Code, to
24 read:

25 6332. (a) For purposes of this section, the following
26 definitions apply:



1 (1) “Community health care worker” means an
2 individual who provides health care, needs assessment,
3 social services, counseling or instruction, personal care
4 assistance, or domestic services to clients in home
5 settings.

6 (2) “Employer” means a person or entity that employs
7 a community health care worker to provide the services
8 listed in paragraph (1). “Employer” does not include an
9 individual who is a recipient of home-based services and
10 responsible for hiring his or her own community health
11 care worker.

12 (3) “Violence” means a physical assault, threat of
13 physical assault, verbal abuse, or sexual abuse against a
14 community health care worker.

15 (b) The standards board shall, no later than ____
16 __, ____, adopt by emergency regulation an
17 interim standard requiring employers to implement
18 specific measures to protect community health care
19 workers from violence in the performance of their duties.
20 Following adoption of the emergency regulation, the
21 standards board shall complete the regulation adoption
22 process and shall adopt a regulation meeting the
23 requirements of subdivision (c), which shall become
24 effective no later than ____ __, _____. The
25 emergency regulation will remain in effect until the
26 nonemergency standard takes effect or no later than
27 ____ __, ____, whichever occurs first.

28 (c) The standards board shall adopt a standard, for the
29 purposes described in subdivision (b), to be developed by
30 the division. The standard shall require employers to
31 include violence prevention measures recommended in
32 the division’s “Guidelines For Security and Safety Of
33 Health Care And Community Service Workers” as part
34 of the employer’s injury prevention program. The
35 standard shall require engineering controls and other
36 measures to be included in the injury prevention
37 programs necessary to protect community health care
38 workers from violence during the performance of their
39 work duties. Required elements of the standard include,
40 but are not limited to, all of the following:



1 (1) Employers shall review records and conduct a
2 worksite analysis that identifies existing hazards,
3 conditions, operations, and situations that create or
4 contribute to violence or potentially violent situations.

5 (2) Employers shall provide communication devices,
6 including cellular or car phones, or both, to each
7 community health care worker when performing duties
8 in the community. The employer shall also provide
9 hand-held alarm devices, beepers, and other protective
10 devices proven to offer effective alarm, notification, or
11 deterrence of an assailant.

12 (3) Employers shall provide for all emergency medical
13 care and ongoing treatment for physical and emotional
14 injuries that result from an assault or that are the result
15 of witnessing violence in the course of duty. The
16 employer shall provide accommodation to community
17 health care workers returning to work after a violent
18 incident occurs.

19 (4) Employers shall provide education and training to
20 all community health care workers in the provisions of
21 the employer's injury prevention program prior to
22 assignment, which shall cover specific prevention and
23 control measures provided to each employee for his or
24 her protection.

25 (5) Employers shall keep records of assaults, threats,
26 and abusive behavior against community health care
27 workers. An incident report shall be written for each
28 violence incident, regardless of whether physical injury
29 resulted.

30 (6) Employers shall post a notice of employer duties
31 and community health care worker rights under the
32 standard. The employer shall make all relevant records
33 available to a community health care worker in order to
34 evaluate the potential for violence prior to the worker's
35 being assigned to perform services to clients.

36 (7) Employers shall not require community health
37 care workers to perform services in situations where
38 there is a threat of violence. A community health care
39 worker who, acting in good faith, has reason to believe
40 that he or she faces an immediate risk of violence due to



1 the location of the work, the duty hours, the nature of the
2 client's home environment, or the client's history of
3 aggressive or assaultive behavior or potential for
4 aggressive acts, shall have the right to withhold services.
5 The community health care worker shall have the right
6 to withhold services until the employer evaluates the
7 specific situation and takes corrective action, such as,
8 without limitation, providing a companion, police escort,
9 or other measures that ensure the security and safety of
10 the worker. Employers shall not discipline or in any way
11 discriminate against community health care workers who
12 have exercised their rights under the standard.

13 (8) Employers shall obtain input from community
14 health care workers and their representatives as to
15 additional measures that are necessary to protect workers
16 from violence during the performance of their duties.

17 (d) The division shall propose further provisions, for
18 adoption by the standards board, expanding the scope of
19 the standard to protect additional workers employed in
20 health care and other employment settings where
21 employees are at serious risk of workplace violence.

22 SEC. 3. No reimbursement is required by this act
23 pursuant to Section 6 of Article XIII B of the California
24 Constitution because the only costs that may be incurred
25 by a local agency or school district will be incurred
26 because this act creates a new crime or infraction,
27 eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section
29 17556 of the Government Code, or changes the definition
30 of a crime within the meaning of Section 6 of Article
31 XIII B of the California Constitution.

