

AMENDED IN SENATE MAY 10, 1999

SENATE BILL

No. 795

Introduced by Senator McPherson

February 25, 1999

An act to add *and repeal* Section 4501.3 ~~to~~ of the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

SB 795, as amended, McPherson. ~~Prisoners~~ *State youth correctional facilities: wards: gassing: medical testing.*

Under existing law, if there is probable cause to believe that an inmate has committed a battery upon the person of any officer or employee of the state prison by gassing, as defined, the chief medical officer of the state prison may, when he or she deems it medically necessary to protect the health of an officer or employee who may have been subject to a battery by gassing, order the inmate to receive an examination or test for hepatitis and tuberculosis immediately after the event, and periodically thereafter as determined to be necessary by the medical officer. The results of any examination or test are required to be provided to the officer or employee who was the target of the aggravated battery. Existing law also requires the Department of Corrections to report to the Legislature by January 1, 2000, its findings and recommendations on gassing incidents at the state prison and the medical testing authorized by this provision.

~~This bill, in addition, would apply these provisions to youth correctional facilities except that it would extend the reporting date to would provide, until January 1, 2001, that~~

the person in charge of a state youth correctional facility shall use every available means to immediately investigate all reported or suspected incidents of gassing, as defined, and, if there is probable cause to believe that a ward has committed a battery by gassing, the chief medical officer shall, under certain circumstances, order the ward to receive an examination or test for hepatitis or tuberculosis, as specified. The Department of the Youth Authority would be required to make a report to the Legislature regarding its findings and recommendations on gassing incidents at the department's facility by January 1, 2001. ~~By creating a new crime, 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 no.*

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

- 1 SECTION 1. Section 4501.3 is added to the Penal
- 2 Code, to read:
- 3 ~~4501.3. (a) Every person confined in the state youth~~
- 4 ~~correctional facility who commits a battery upon the~~
- 5 ~~person of any officer or employee of that youth~~
- 6 ~~correctional facility by gassing is guilty or aggravated~~
- 7 ~~battery and shall be punished as specified in Section~~
- 8 ~~4501.5.~~
- 9 ~~(b)~~
- 10 4501.3. (a) For purposes of this section, "gassing"
- 11 means *intentionally* placing or throwing, or causing to be
- 12 placed or thrown, upon the person of another, any
- 13 mixture of excrement or other bodily fluids or substances
- 14 *which results in actual contact with the person's skin or*
- 15 *membranes.*
- 16 ~~(c)~~



1 (b) The superintendent or other person in charge of
2 the *state* youth correctional facility shall use every
3 available means to immediately investigate all reported
4 or suspected violations of subdivision (a). ~~If there is a~~
5 ~~reasonable suspicion that the inmate or ward has violated~~
6 ~~subdivision (a), the chief medical officer of the youth~~
7 ~~correctional facility, or his or her designee, shall order the~~
8 ~~inmate or ward to receive an examination or test for~~
9 ~~suspected incidents of gassing. If there is probable cause~~
10 ~~to believe that a ward has committed a battery by gassing,~~
11 ~~the chief medical officer of the state correctional facility,~~
12 ~~or his or her designee, shall, when he or she deems it~~
13 ~~medically necessary to protect the health of an officer or~~
14 ~~employee who may have been subject to a battery by~~
15 ~~gassing, order the ward to receive an examination or test~~
16 ~~on either a voluntary or involuntary basis for hepatitis and~~
17 ~~tuberculosis immediately after the event, and~~
18 ~~periodically thereafter as determined to be necessary by~~
19 ~~the medical officer. The results of any examination or test~~
20 ~~shall be provided to the officer or employee who ~~was the~~~~
21 ~~target of the assault or battery.~~

22 ~~(d) has been subject to a reported or suspected~~
23 ~~battery by gassing.~~

24 (c) The superintendent or other person in charge of
25 the detention facility shall refer all reports of ~~assault or a~~
26 ~~battery by gassing to the local district attorney for~~
27 ~~prosecution.~~

28 ~~(e)~~

29 (d) The Department of the Youth Authority shall
30 report to the Legislature, by January 1, 2001, its findings
31 and recommendations on gassing incidents at the ~~state~~
32 ~~prison department's facilities~~ and the medical testing
33 authorized by this section. The report shall include, but
34 not *be* limited to, all of the following:

35 (1) The total number of gassing incidents at each state
36 youth correctional facility up to the date of the report.

37 (2) The disposition of each gassing incident, including
38 the administrative penalties imposed, the number of
39 incidents that are prosecuted, and the results of those
40 prosecutions, including any penalties imposed.



1 (3) A profile of the inmates wards who commit the
2 aggravated batteries, including the number of inmates
3 batteries by gassing, including the number of wards who
4 have one or more prior serious or violent felony
5 convictions felonies.

6 (4) Efforts that the department has taken to limit
7 these incidents, including staff training and the use of
8 protective clothing and goggles.

9 (5) The results and costs of the medical testing
10 authorized by this section.

11 (e) This section shall remain in effect until January 1,
12 2001, and as of that date is repealed, unless a later enacted
13 statute, that is enacted before January 1, 2001, deletes or
14 extends that date.

15 ~~SEC. 2. No reimbursement is required by this act~~
16 ~~pursuant to Section 6 of Article XIII B of the California~~
17 ~~Constitution because the only Section 6 of Article XIII B~~
18 ~~of the California Constitution because the only costs that~~
19 ~~may be incurred by a local agency or school district will~~
20 ~~be incurred because this act creates a new crime or~~
21 ~~infraction, eliminates a crime or infraction, or changes~~
22 ~~the penalty for a crime or infraction, within the meaning~~
23 ~~of Section 17556 of the Government Code, or changes the~~
24 ~~definition of a crime within the meaning of Section 6 of~~
25 ~~Article XIII B of the California Constitution.~~

