

AMENDED IN ASSEMBLY JUNE 13, 2000

AMENDED IN SENATE APRIL 10, 2000

AMENDED IN SENATE MARCH 28, 2000

SENATE BILL

No. 1486

Introduced by Senator Schiff

February 11, 2000

An act to amend Section 602.5 of the Penal Code, relating to trespass.

LEGISLATIVE COUNSEL'S DIGEST

SB 1486, as amended, Schiff. Aggravated trespass.

Existing law makes every person who enters and remains in any noncommercial dwelling without the consent of the owner guilty of a misdemeanor, with the exception of specified public officers and employees.

This bill would make every person, with the exception of specified public officers and employees, who enters—~~an~~ *a* noncommercial residence without the owner's consent, while a resident, or another person authorized to be in the dwelling, is present at any time during the course of the incident, guilty of aggravated trespass punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than \$1,000, or by both that fine and imprisonment. This bill would also authorize the court, if a person is convicted of a misdemeanor violation of aggravated trespass, to order up to 3 years of supervised probation and to issue an order restraining the defendant from any contact with the victim,

that may be valid for up to ~~5~~ 3 years, upon consideration of specified factors.

By changing the penalty for a crime, this bill would create 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 602.5 of the Penal Code is
2 amended to read:

3 602.5. (a) Every person other than a public officer or
4 employee acting within the course and scope of his or her
5 employment in performance of a duty imposed by law,
6 who enters or remains in any noncommercial dwelling
7 house, apartment, or other residential place without
8 consent of the owner, his or her agent, or the person in
9 lawful possession thereof, is guilty of a misdemeanor.

10 (b) Every person other than a public officer or an
11 employee acting within the course and scope of his
12 employment in performance of a duty imposed by law,
13 who, without the consent of the owner, his or her agent,
14 or the person in lawful possession thereof, enters or
15 remains in any noncommercial dwelling house,
16 apartment, or other residential place while a resident, or
17 another person authorized to be in the dwelling, is
18 present at any time during the course of the incident is
19 guilty of aggravated trespass punishable by
20 imprisonment in a county jail for not more than one year
21 or by a fine of not more than one thousand dollars
22 (\$1,000), or by both that fine and imprisonment.

23 (c) If the court grants probation, it may order a person
24 convicted of a misdemeanor under subdivision (b) to up
25 to three years of supervised probation. It shall be a



1 condition of probation that the person participate in
2 counseling, as designated by the court.

3 (d) If a person is convicted of a misdemeanor under
4 subdivision (b), the sentencing court shall also consider
5 issuing an order restraining the defendant from any
6 contact with the victim, that may be valid for up to ~~five~~
7 *three* years, as determined by the court. In determining
8 the length of the restraining order, the court shall
9 consider, among other factors, the seriousness of the facts
10 before the court, the probability of future violations, and
11 the safety of the victim and his or her immediate family.

12 (e) Nothing in this section shall preclude prosecution
13 under Section 459 or any other provision of law.

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

