

ASSEMBLY BILL

No. 59

Introduced by Assembly Member Cohn

December 6, 2004

An act to add Section 273.55 to the Penal Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

AB 59, as introduced, Cohn. Domestic violence: presence of minors: enhancements

Existing law proscribes specified acts of domestic violence, as defined.

This bill would provide that a person convicted of the commission of felony domestic violence in the presence of any child under 18 years of age shall receive an enhancement of one year in the state prison. The bill would also provide that a person convicted of the commission of misdemeanor domestic violence in the presence of any child under 18 years of age shall receive a mandatory jail term of at least 90 days for the offense. For a misdemeanor domestic violence offense with an existing mandatory minimum term, that term would be increased by 90 days, as specified. Furthermore, the bill would provide that a person convicted of inflicting great bodily injury, as defined, on any victim of felony domestic violence committed in the presence of any child under 18 years of age shall receive an enhancement of 2 years in the state prison. By increasing the term of imprisonment in a county jail or by imposing mandatory jail time, this bill would impose a state-mandated local program upon local government.

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 273.55 is added to the Penal Code, to
2 read:

3 273.55. (a) Any person convicted of a felony for the
4 commission of an act constituting domestic violence, as defined
5 in Section 13700, when the commission occurs in the presence
6 of, or is witnessed by, any child under 18 years of age, shall, in
7 addition and consecutive to the punishment prescribed for the
8 felony of which he or she has been convicted, be punished by an
9 additional term of one year in the state prison.

10 (b) (1) Any person convicted of a misdemeanor for the
11 commission of an act constituting domestic violence, as defined
12 in Section 13700, when the commission occurs in the presence
13 of, or is witnessed by, any child under 18 years of age, shall be
14 sentenced to at least 90 days for the offense.

15 (2) If a mandatory jail term is required for the underlying
16 misdemeanor offense, that mandatory term shall be increased by
17 90 days.

18 (c) Any person who inflicts great bodily injury, as defined in
19 Section 12022.7, on any victim in the commission of felony
20 domestic violence, as defined in Section 13700, when the
21 commission occurs in the presence of, or is witnessed by, any
22 child under 18 years of age, shall, in addition and consecutive to
23 the punishment prescribed for the felony of which he or she has
24 been convicted, be punished by an additional term of two years
25 in the state prison.

26 SEC. 2. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the
31 penalty for a crime or infraction, within the meaning of Section

1 17556 of the Government Code, or changes the definition of a
2 crime within the meaning of Section 6 of Article XIII B of the
3 California Constitution.

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