

AMENDED IN ASSEMBLY APRIL 21, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1022

Introduced by Assembly Member Walters

February 22, 2005

An act to amend Section ~~190.2~~ 273ab of the Penal Code, relating to murder.

LEGISLATIVE COUNSEL'S DIGEST

AB 1022, as amended, Walters. Murder: ~~special circumstances.~~ assault on a child.

Existing law provides that any person who, having the care or custody of a child who is under 8 years of age, assaults the child by means of force that to a reasonable person would be likely to produce great bodily injury, resulting in the child's death, shall be punished by imprisonment in the state prison for 25 years to life.

This bill would raise that age to 14 years. By expanding the scope of a 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.

~~Existing law, as amended by initiative statute, provides that the penalty for a defendant found guilty of murder in the first degree shall be death, or confinement in the state prison for a term of life without the possibility of parole, where one or more special circumstances have been charged and found to be true. In this connection, existing~~

~~law provides for special circumstances for certain categories of victims:~~

~~This bill would add to the list of special circumstances a situation in which the defendant intentionally killed the victim who was under 14 years of age, and the defendant knew, or reasonably should have known that the victim was under 14 years of age.~~

~~The bill would provide that it shall become effective only when submitted to, and approved by, the voters of California.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no-yes.~~

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

1 *SECTION 1. Section 273ab of the Penal Code is amended to*
2 *read:*

3 *273ab. Any person who, having the care or custody of a child*
4 *who is under-eight 14 years of age, assaults the child by means of*
5 *force that to a reasonable person would be likely to produce great*
6 *bodily injury, resulting in the child’s death, shall be punished by*
7 *imprisonment in the state prison for 25 years to life. Nothing in*
8 *this section shall be construed as affecting the applicability of*
9 *subdivision (a) of Section 187 or Section 189.*

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

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**All matter omitted in this version of the bill
appears in the bill as introduced in
Assembly, February 22, 3005. (JR11)**