

ASSEMBLY BILL

No. 2261

Introduced by Assembly Member Matthews

February 22, 2006

An act to amend Section 7052 of the Health and Safety Code, relating to human remains.

LEGISLATIVE COUNSEL'S DIGEST

AB 2261, as introduced, Matthews. Human remains: sexual contact.

Under existing law, every person who willfully mutilates, disinters, removes from the place of interment, or commits an act of sexual penetration on, or has sexual contact with, any remains known to be human, without authority of law, is guilty of a felony. Under existing law, the penalty for a person who commits first degree murder in the commission or attempted commission of rape, is death or imprisonment in the state prison for life without the possibility of parole.

This bill would provide that if sexual contact or penetration on human remains is found to have occurred after the person killed the victim, the punishment shall be imprisonment in the state prison for life without the possibility of parole. Because the bill would create 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.

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

1 SECTION 1. Section 7052 of the Health and Safety Code is
2 amended to read:

3 7052. (a) Every person who willfully mutilates, disinters,
4 removes from the place of interment, or commits an act of sexual
5 penetration on, or has sexual contact with, any remains known to
6 be human, without authority of law, is guilty of a felony. This
7 section does not apply to any person who, under authority of law,
8 removes the remains for reinterment, or performs a cremation.

9 (b) For purposes of this section, the following definitions
10 apply:

11 (1) "Sexual penetration" means the unlawful penetration of the
12 vagina or anus, however slight, by any part of a person's body or
13 other object, or any act of sexual contact between the sex organs
14 of a person and the mouth or anus of a dead body, or any oral
15 copulation of a dead human body for the purpose of sexual
16 arousal, gratification, or abuse.

17 (2) "Sexual contact" means any willful touching by a person
18 of an intimate part of a dead human body for the purpose of
19 sexual arousal, gratification, or abuse.

20 (c) *If the sexual contact or penetration is found to have*
21 *occurred after the person killed the victim, the punishment shall*
22 *be imprisonment in the state prison for life without the possibility*
23 *of parole.*

24 SEC. 2. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the
29 penalty for a crime or infraction, within the meaning of Section
30 17556 of the Government Code, or changes the definition of a
31 crime within the meaning of Section 6 of Article XIII B of the
32 California Constitution.

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