

AMENDED IN ASSEMBLY APRIL 3, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2707**

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**Introduced by Assembly Member Keene**

February 24, 2006

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An act to ~~amend Section 273a of~~ *add Section 594.37 to the Penal Code, relating to crime.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2707, as amended, Keene. Crime: ~~child abuse~~ *picketing.*

*Existing law makes it a crime for a person to disturb, obstruct, detain or interfere with any person carrying or accompanying human remains to a cemetery or funeral establishment, or engaged in a funeral service or an interment.*

*This bill would make it a crime, punishable by a fine not exceeding \$1,000, imprisonment in a county jail not exceeding 6 months, or by both, for a person to engage in picketing at a funeral, as defined, during the time period beginning one hour prior to the funeral and ending one hour after the conclusion of the funeral. The bill would also authorize a court to award damages, including punitive damages, injunctive relief, attorney's fees, and any other appropriate relief against a person who violates those provisions. The bill would set forth related findings and declarations.*

*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 provides that it is a crime to willfully cause or permit any child to suffer, or inflict thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully cause or permit the person or health of that child to be injured, or willfully cause or permit that child to be placed in a situation in which his or her person or health may be endangered.~~

~~This bill would make a technical, nonsubstantive change to these provisions:~~

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

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

- 1     *SECTION 1. (a) The Legislature hereby finds and declares*
- 2     *the following:*
- 3         *(1) It is generally recognized that families have a substantial*
- 4         *interest in organizing and attending funerals for deceased*
- 5         *relatives.*
- 6         *(2) The interests of families in privately and peacefully*
- 7         *mourning the loss of deceased relatives are violated when*
- 8         *funerals are disrupted by picketing.*
- 9         *(3) Picketing of funerals causes emotional disturbance and*
- 10         *distress to grieving families who participate in funerals.*
- 11         *(4) Full opportunity exists for the exercise of freedom of*
- 12         *speech and other constitutional rights at times other than within*
- 13         *one hour prior to or during the funeral and one hour following*
- 14         *the conclusion of a funeral.*
- 15         *(b) The purpose of this act is to protect the privacy of grieving*
- 16         *families and to preserve the peaceful character of cemeteries,*
- 17         *mortuaries, and churches during the time one hour before and*
- 18         *one hour after a funeral.*
- 19     *SEC. 2. Section 594.37 is added to the Penal Code, to read:*
- 20         *594.37. (a) It is unlawful for a person to engage in picketing*
- 21         *at a funeral during the time period beginning one hour prior to*
- 22         *the funeral and ending one hour after the conclusion of the*
- 23         *funeral.*
- 24         *(b) Any violation of subdivision (a) is punishable by a fine not*
- 25         *exceeding one thousand dollars (\$1,000), imprisonment in a*
- 26         *county jail not exceeding six months, or by both that fine and*
- 27         *imprisonment.*

1 (c) A court may award damages, including, but not limited to,  
2 punitive damages, and may also award injunctive relief,  
3 attorney's fees, and any other appropriate relief against a person  
4 who violates subdivision (a).

5 (d) For purposes of this section:

6 (1) "Funeral" means the ceremony, procession, or memorial  
7 service held in connection with the burial or cremation of a  
8 deceased person.

9 (2) "Picketing" means protest activities engaged in by any  
10 person within 300 feet of a cemetery, mortuary, or church.

11 (3) "Protest activities" includes oration, speech, or similar  
12 conduct before an assembled group of people that is not part of  
13 the funeral, the display of placards, banners, posters, flags, or  
14 similar devices that are not part of the funeral, and the  
15 distribution of any handbill, pamphlet, leaflet, or other written  
16 material that is not part of the funeral.

17 (e) The provisions of this section are severable. If any  
18 provision of this section or its application is held invalid, that  
19 invalidity shall not affect other provisions or applications that  
20 can be given effect without the invalid provision or application.

21 SEC. 3. No reimbursement is required by this act pursuant to  
22 Section 6 of Article XIII B of the California Constitution because  
23 the only costs that may be incurred by a local agency or school  
24 district will be incurred because this act creates a new crime or  
25 infraction, eliminates a crime or infraction, or changes the  
26 penalty for a crime or infraction, within the meaning of Section  
27 17556 of the Government Code, or changes the definition of a  
28 crime within the meaning of Section 6 of Article XIII B of the  
29 California Constitution.

30 SECTION 1. ~~Section 273a of the Penal Code is amended to~~  
31 ~~read:~~

32 ~~273a. (a) Any person who, under circumstances or conditions~~  
33 ~~likely to produce great bodily harm or death, willfully causes or~~  
34 ~~permits any child to suffer, or inflicts thereon unjustifiable~~  
35 ~~physical pain or mental suffering, or having the care or custody~~  
36 ~~of any child, willfully causes or permits the person or health of~~  
37 ~~that child to be injured, or willfully causes or permits that child to~~  
38 ~~be placed in a situation in which his or her person or health is~~  
39 ~~endangered, shall be punished by imprisonment in a county jail~~

1 not exceeding one year, or in the state prison for two, four, or six  
2 years.

3 ~~(b) Any person who, under circumstances or conditions other  
4 than those likely to produce great bodily harm or death, willfully  
5 causes or permits any child to suffer, or inflicts thereon  
6 unjustifiable physical pain or mental suffering, or having the care  
7 or custody of any child, willfully causes or permits the person or  
8 health of that child to be injured, or willfully causes or permits  
9 that child to be placed in a situation in which his or her person or  
10 health may be endangered, is guilty of a misdemeanor.~~

11 ~~(c) If a person is convicted of violating this section and  
12 probation is granted, the court shall require the following  
13 minimum conditions of probation:~~

14 ~~(1) A mandatory minimum period of probation of 48 months.~~

15 ~~(2) A criminal court protective order protecting the victim  
16 from further acts of violence or threats, and, if appropriate,  
17 residence exclusion or stay-away conditions.~~

18 ~~(3) (A) Successful completion of no less than one year of a  
19 child abuser's treatment counseling program approved by the  
20 probation department. The defendant shall be ordered to begin  
21 participation in the program immediately upon the grant of  
22 probation. The counseling program shall meet the criteria  
23 specified in Section 273.1. The defendant shall produce  
24 documentation of program enrollment to the court within 30 days  
25 of enrollment, along with quarterly progress reports.~~

26 ~~(B) The terms of probation for offenders shall not be lifted  
27 until all reasonable fees due to the counseling program have been  
28 paid in full, but in no case shall probation be extended beyond  
29 the term provided in subdivision (a) of Section 1203.1. If the  
30 court finds that the defendant does not have the ability to pay the  
31 fees based on the defendant's changed circumstances, the court  
32 may reduce or waive the fees.~~

33 ~~(4) If the offense was committed while the defendant was  
34 under the influence of drugs or alcohol, the defendant shall  
35 abstain from the use of drugs or alcohol during the period of  
36 probation and shall be subject to random drug testing by his or  
37 her probation officer.~~

38 ~~(5) The court may waive any of the above minimum  
39 conditions of probation upon a finding that the condition would~~

- 1 ~~not be in the best interests of justice. The court shall state on the~~
- 2 ~~record its reasons for any waiver.~~

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