

Introduced by Senator Kehoe

(Coauthors: Assembly Members Atkins and Fletcher)

February 16, 2011

An act to add Section 249 to the Penal Code, relating to strangulation.

LEGISLATIVE COUNSEL'S DIGEST

SB 430, as introduced, Kehoe. Strangulation.

Existing law establishes various crimes against the person, such as assault and battery, and provides that any person who willfully inflicts upon a person who is his or her spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child, corporal injury resulting in a traumatic condition, is guilty of a felony punishable by imprisonment in the state prison for 2, 3, or 4 years, or as a misdemeanor with specified penalties.

This bill would provide that any person who willfully and unlawfully strangles, suffocates, or attempts to suffocate a person is guilty of a felony punishable by incarceration in the state prison for a term of 2, 3, or 4 years. The bill would provide that if the defendant and victim are in a specified relationship, the defendant would be subject to an enhancement of an additional 2 years in state prison. The bill would provide that evidence of either an intent to kill or injure the victim or visible injuries is not required to convict a defendant of violating these provisions.

By creating a new crime, this 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 249 is added to the Penal Code, to read:
2 249. (a) Any person who willfully and unlawfully strangles,
3 suffocates, or attempts to suffocate a person is guilty of a felony
4 punishable by incarceration in the state prison for a term of two,
5 three, or four years.
6 (b) For a defendant to be convicted of a violation of subdivision
7 (a), evidence of either of the following is not required:
8 (1) An intent to kill or injure the victim.
9 (2) Visible injuries.
10 (c) If the defendant and the victim are in a relationship described
11 in subdivision (b) of Section 13700, the defendant shall be subject
12 to an enhanced penalty of two additional years imprisonment in
13 the state prison.
14 (d) (1) “Strangle” for purposes of this section means to
15 intentionally, knowingly, or recklessly impede the normal breathing
16 or circulation of the blood of a person by applying pressure on the
17 throat or neck.
18 (2) “Suffocate” for purposes of this section means to
19 intentionally, knowingly, or recklessly impede the normal breathing
20 of a person.
21 (e) Nothing in this section shall preclude prosecution of a person
22 under any other provision of this code.
23 SEC. 2. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.

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