

AMENDED IN SENATE APRIL 9, 2013

SENATE BILL

No. 606

Introduced by Senator De León

February 22, 2013

An act to amend Section ~~16220~~ 11414 of the Penal Code, relating to ~~deadly weapons~~: *harassment*.

LEGISLATIVE COUNSEL'S DIGEST

SB 606, as amended, De León. ~~Deadly weapons: ballistic knives.~~
Harassment: child or ward.

Under existing law, any person who intentionally harasses the child or ward of any other person because of that person's employment is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding 6 months, or by a fine not exceeding \$1,000, or both. Under existing law that crime is punishable by mandatory imprisonment in a county jail for not less than 5 days for a 2nd conviction, and by mandatory imprisonment in a county jail for not less than 30 days for a 3rd or subsequent conviction.

This bill would make a violation of the above provisions punishable by imprisonment in a county jail not exceeding one year or by imprisonment in a county jail for 16 months, or 2 or 3 years for a first conviction. For a 2nd conviction, the bill would require a fine not exceeding \$10,000 and either imprisonment in county jail for a period of not less than 5 days but not exceeding one year or by imprisonment in a county jail for 16 months, or 2 or 3 years. For a 3rd or subsequent conviction, the bill would require a fine not exceeding \$10,000 and either imprisonment in county jail for a period of not less than 30 days but not exceeding one year or by imprisonment in a county jail for 16 months, or 2 or 3 years. The bill would specify that harassment may

include any actual or attempted recording of the child’s image or voice without the written consent of the child’s parent or legal guardian, by following the child’s activities or lying in wait. The bill would specify that a violation of the above provisions would give rise to civil liability in an action for damages, as specified.

By increasing the punishment for a crime and imposing new duties on local prosecutors, 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.

~~Existing law generally makes it a crime to manufacture, import, keep for sale, offer or expose for sale, give, lend, or possess any ballistic knife. Under existing law a ballistic knife is a nuisance. Existing law defines a ballistic knife as a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material, or compressed gas.~~

~~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. Section 11414 of the Penal Code is amended to
- 2 read:
- 3 11414. (a) Any person who intentionally harasses the child or
- 4 ward of any other person because of that person’s ~~employment, is~~
- 5 ~~guilty of a misdemeanor.~~ *employment shall be punished by*
- 6 *imprisonment in a county jail not exceeding one year or by*
- 7 *imprisonment pursuant to subdivision (h) of Section 1170.*
- 8 (b) For purposes of this section, the following definitions shall
- 9 apply:
- 10 (1) “Child” and “ward” mean a person under ~~the age of 16 years~~
- 11 *of age.*
- 12 (2) “Harasses” means knowing and willful conduct directed at
- 13 a specific child that seriously alarms, annoys, torments, or terrorizes

1 the child, and that serves no legitimate ~~purpose.~~ *purpose, including,*
2 *but not limited to, any actual or attempted recording of the child's*
3 *image or voice, or both, without the written consent of the child's*
4 *parent or legal guardian, by following the child's activities or*
5 *lying in wait.* The conduct must be such as would cause a
6 reasonable child to suffer substantial emotional distress, and
7 actually cause the victim to suffer substantial emotional distress.

8 (3) "Employment" means the job, vocation, occupation, or
9 profession of the parent or legal guardian of the child or ward.

10 (c) A second conviction under this section shall be punished by
11 a fine not exceeding ten thousand dollars (\$10,000) and by either
12 imprisonment in a county jail for not less than five days *but not*
13 *exceeding one year or by imprisonment pursuant to subdivision*
14 *(h) of Section 1170.* A third or subsequent conviction under this
15 section shall be punished by a fine not exceeding ten thousand
16 dollars (\$10,000) and by either imprisonment in a county jail for
17 not less than 30 days *but not exceeding one year or by*
18 *imprisonment pursuant to subdivision (h) of Section 1170.*

19 (d) A violation of this section shall also give rise to civil liability
20 in an action for damages in which the parent or legal guardian of
21 the child may seek actual damages, disgorgement of profits,
22 punitive damages, reasonable attorney's fees, and costs.

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.

32 SECTION 1. ~~Section 16220 of the Penal Code is amended to~~
33 ~~read:~~

34 ~~16220. As used in this part, "ballistic knife" means a device~~
35 ~~which propels a knifelike blade as a projectile by means of a coil~~
36 ~~spring, elastic material, or compressed gas. Ballistic knife does~~
37 ~~not include any device that propels an arrow or a bolt by means~~
38 ~~of any common bow, compound bow, crossbow, or underwater~~
39 ~~speargun.~~

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