

AMENDED IN SENATE SEPTEMBER 1, 2015

AMENDED IN ASSEMBLY MAY 28, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 172

Introduced by Assembly Member Rodriguez

January 22, 2015

An act to add Section 1317.5a to the Health and Safety Code, and to amend Sections 241 and 243 of the Penal Code, relating to hospital emergency departments.

LEGISLATIVE COUNSEL'S DIGEST

AB 172, as amended, Rodriguez. Emergency departments: assaults and batteries.

(1) Existing law defines an assault as an unlawful attempt, coupled with present ability, to commit a violent injury on the person of another. Under existing law, an assault committed against a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility is punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding \$2,000, or by both that fine and imprisonment.

This bill would also make an assault committed against a physician, nurse, or other health care worker of a hospital engaged in providing services within the emergency department punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding \$2,000, or by both that fine and imprisonment. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(2) Existing law defines a battery as any willful and unlawful use of force or violence upon the person of another. Under existing law a

battery committed against a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility is punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding \$2,000, or by both that fine and imprisonment.

This bill would also make a battery committed against a physician, nurse, or other health care worker of a hospital engaged in providing services within the emergency department punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding \$2,000, or by both that fine and imprisonment. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(3) This bill would ~~allow~~ authorize a health facility that maintains and operates an emergency department to post a notice in the emergency department stating that an assault or battery against staff is a crime, and may result in a criminal conviction, as provided.

(4) *This bill would incorporate additional changes to Section 243 of the Penal Code proposed by AB 545 that would become operative if this bill and AB 545 are both enacted and this bill is enacted last.*

~~(4)~~

(5) 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 1317.5a is added to the Health and Safety
2 Code, to read:

3 1317.5a. A health facility licensed under this chapter that
4 maintains and operates an emergency department may post a notice
5 in a conspicuous place in the emergency department stating
6 substantially the following:

7

8 WE WILL NOT TOLERATE any form of threatening or
9 aggressive behavior toward our staff. Assaults and batteries against
10 our staff are crimes and may result in a criminal conviction. All

1 staff have the right to carry out their work without fearing for their
2 safety.

3
4 SEC. 2. Section 241 of the Penal Code is amended to read:

5 241. (a) An assault is punishable by a fine not exceeding one
6 thousand dollars (\$1,000), or by imprisonment in the county jail
7 not exceeding six months, or by both the fine and imprisonment.

8 (b) When an assault is committed against the person of a parking
9 control officer engaged in the performance of his or her duties,
10 and the person committing the offense knows or reasonably should
11 know that the victim is a parking control officer, the assault is
12 punishable by a fine not exceeding two thousand dollars (\$2,000),
13 or by imprisonment in the county jail not exceeding six months,
14 or by both the fine and imprisonment.

15 (c) When an assault is committed against the person of a peace
16 officer, firefighter, emergency medical technician, mobile intensive
17 care paramedic, lifeguard, process server, traffic officer, code
18 enforcement officer, animal control officer, or search and rescue
19 member engaged in the performance of his or her duties, or a
20 physician or nurse engaged in rendering emergency medical care
21 outside a hospital, clinic, or other health care facility, or a
22 physician, nurse, or other health care worker of a hospital engaged
23 in providing services within the emergency department, and the
24 person committing the offense knows or reasonably should know
25 that the victim is a peace officer, firefighter, emergency medical
26 technician, mobile intensive care paramedic, lifeguard, process
27 server, traffic officer, code enforcement officer, animal control
28 officer, or search and rescue member engaged in the performance
29 of his or her duties, or a physician or nurse engaged in rendering
30 emergency medical care, or a physician, nurse, or other health care
31 worker of a hospital engaged in providing services within the
32 emergency department, the assault is punishable by a fine not
33 exceeding two thousand dollars (\$2,000), or by imprisonment in
34 a county jail not exceeding one year, or by both the fine and
35 imprisonment.

36 (d) As used in this section, the following definitions apply:

37 (1) Peace officer means any person defined in Chapter 4.5
38 (commencing with Section 830) of Title 3 of Part 2.

39 (2) "Emergency medical technician" means a person possessing
40 a valid course completion certificate from a program approved by

1 the State Department of Health Care Services for the medical
2 training and education of ambulance personnel, and who meets
3 the standards of Division 2.5 (commencing with Section 1797) of
4 the Health and Safety Code.

5 (3) “Mobile intensive care paramedic” refers to those persons
6 who meet the standards set forth in Division 2.5 (commencing
7 with Section 1797) of the Health and Safety Code.

8 (4) “Nurse” means a person who meets the standards of Division
9 2.5 (commencing with Section 1797) of the Health and Safety
10 Code or a nurse of a hospital engaged in providing services within
11 the emergency department.

12 (5) “Lifeguard” means a person who is:

13 (A) Employed as a lifeguard by the state, a county, or a city,
14 and is designated by local ordinance as a public officer who has a
15 duty and responsibility to enforce local ordinances and
16 misdemeanors through the issuance of citations.

17 (B) Wearing distinctive clothing which includes written
18 identification of the person’s status as a lifeguard and which clearly
19 identifies the employing organization.

20 (6) “Process server” means any person who meets the standards
21 or is expressly exempt from the standards set forth in Section 22350
22 of the Business and Professions Code.

23 (7) “Traffic officer” means any person employed by a county
24 or city to monitor and enforce state laws and local ordinances
25 relating to parking and the operation of vehicles.

26 (8) “Animal control officer” means any person employed by a
27 county or city for purposes of enforcing animal control laws or
28 regulations.

29 (9) (A) “Code enforcement officer” means any person who is
30 not described in Chapter 4.5 (commencing with Section 830) of
31 Title 3 of Part 2 and who is employed by any governmental
32 subdivision, public or quasi-public corporation, public agency,
33 public service corporation, any town, city, county, or municipal
34 corporation, whether incorporated or chartered, that has
35 enforcement authority for health, safety, and welfare requirements,
36 and whose duties include enforcement of any statute, rules,
37 regulations, or standards, and who is authorized to issue citations,
38 or file formal complaints.

39 (B) “Code enforcement officer” also includes any person who
40 is employed by the Department of Housing and Community

1 Development who has enforcement authority for health, safety,
2 and welfare requirements pursuant to the Employee Housing Act
3 (Part 1 (commencing with Section 17000) of Division 13 of the
4 Health and Safety Code); the State Housing Law (Part 1.5
5 (commencing with Section 17910) of Division 13 of the Health
6 and Safety Code); the Manufactured Housing Act of 1980 (Part 2
7 (commencing with Section 18000) of Division 13 of the Health
8 and Safety Code); the Mobilehome Parks Act (Part 2.1
9 (commencing with Section 18200) of Division 13 of the Health
10 and Safety Code); and the Special Occupancy Parks Act (Part 2.3
11 (commencing with Section 18860) of Division 13 of the Health
12 and Safety Code).

13 (10) "Parking control officer" means any person employed by
14 a city, county, or city and county, to monitor and enforce state
15 laws and local ordinances relating to parking.

16 (11) "Search and rescue member" means any person who is part
17 of an organized search and rescue team managed by a governmental
18 agency.

19 (12) "Health care worker" means a person who, in the course
20 and scope of employment or as a volunteer, performs duties directly
21 associated with the care and treatment rendered by the hospital's
22 emergency department or the security thereof.

23 SEC. 3. Section 243 of the Penal Code is amended to read:

24 243. (a) A battery is punishable by a fine not exceeding two
25 thousand dollars (\$2,000), or by imprisonment in a county jail not
26 exceeding six months, or by both that fine and imprisonment.

27 (b) When a battery is committed against the person of a peace
28 officer, custodial officer, firefighter, emergency medical technician,
29 lifeguard, security officer, custody assistant, process server, traffic
30 officer, code enforcement officer, animal control officer, or search
31 and rescue member engaged in the performance of his or her duties,
32 whether on or off duty, including when the peace officer is in a
33 police uniform and is concurrently performing the duties required
34 of him or her as a peace officer while also employed in a private
35 capacity as a part-time or casual private security guard or
36 patrolman, or a nonsworn employee of a probation department
37 engaged in the performance of his or her duties, whether on or off
38 duty, or a physician or nurse engaged in rendering emergency
39 medical care outside a hospital, clinic, or other health care facility,
40 or a physician, nurse, or other health care worker of a hospital

1 engaged in providing services within the emergency department,
2 and the person committing the offense knows or reasonably should
3 know that the victim is a peace officer, custodial officer, firefighter,
4 emergency medical technician, lifeguard, security officer, custody
5 assistant, process server, traffic officer, code enforcement officer,
6 animal control officer, or search and rescue member engaged in
7 the performance of his or her duties, nonsworn employee of a
8 probation department, or a physician or nurse engaged in rendering
9 emergency medical care, or a physician, nurse, or other health care
10 worker of a hospital engaged in providing services within the
11 emergency department, the battery is punishable by a fine not
12 exceeding two thousand dollars (\$2,000), or by imprisonment in
13 a county jail not exceeding one year, or by both that fine and
14 imprisonment.

15 (c) (1) When a battery is committed against a custodial officer,
16 firefighter, emergency medical technician, lifeguard, process server,
17 traffic officer, or animal control officer engaged in the performance
18 of his or her duties, whether on or off duty, or a nonsworn
19 employee of a probation department engaged in the performance
20 of his or her duties, whether on or off duty, or a physician or nurse
21 engaged in rendering emergency medical care outside a hospital,
22 clinic, or other health care facility, and the person committing the
23 offense knows or reasonably should know that the victim is a
24 nonsworn employee of a probation department, custodial officer,
25 firefighter, emergency medical technician, lifeguard, process server,
26 traffic officer, or animal control officer engaged in the performance
27 of his or her duties, or a physician or nurse engaged in rendering
28 emergency medical care and an injury is inflicted on that victim,
29 the battery is punishable by a fine of not more than two thousand
30 dollars (\$2,000), by imprisonment in a county jail not exceeding
31 one year, or by both that fine and imprisonment, or by
32 imprisonment pursuant to subdivision (h) of Section 1170 for 16
33 months, or two or three years.

34 (2) When the battery specified in paragraph (1) is committed
35 against a peace officer engaged in the performance of his or her
36 duties, whether on or off duty, including when the peace officer
37 is in a police uniform and is concurrently performing the duties
38 required of him or her as a peace officer while also employed in
39 a private capacity as a part-time or casual private security guard
40 or patrolman and the person committing the offense knows or

1 reasonably should know that the victim is a peace officer engaged
2 in the performance of his or her duties, the battery is punishable
3 by a fine of not more than ten thousand dollars (\$10,000), or by
4 imprisonment in a county jail not exceeding one year or pursuant
5 to subdivision (h) of Section 1170 for 16 months, or two or three
6 years, or by both that fine and imprisonment.

7 (d) When a battery is committed against any person and serious
8 bodily injury is inflicted on the person, the battery is punishable
9 by imprisonment in a county jail not exceeding one year or
10 imprisonment pursuant to subdivision (h) of Section 1170 for two,
11 three, or four years.

12 (e) (1) When a battery is committed against a spouse, a person
13 with whom the defendant is cohabiting, a person who is the parent
14 of the defendant's child, former spouse, fiancé, or fiancée, or a
15 person with whom the defendant currently has, or has previously
16 had, a dating or engagement relationship, the battery is punishable
17 by a fine not exceeding two thousand dollars (\$2,000), or by
18 imprisonment in a county jail for a period of not more than one
19 year, or by both that fine and imprisonment. If probation is granted,
20 or the execution or imposition of the sentence is suspended, it shall
21 be a condition thereof that the defendant participate in, for no less
22 than one year, and successfully complete, a batterer's treatment
23 program, as described in Section 1203.097, or if none is available,
24 another appropriate counseling program designated by the court.
25 However, this provision shall not be construed as requiring a city,
26 a county, or a city and county to provide a new program or higher
27 level of service as contemplated by Section 6 of Article XIII B of
28 the California Constitution.

29 (2) Upon conviction of a violation of this subdivision, if
30 probation is granted, the conditions of probation may include, in
31 lieu of a fine, one or both of the following requirements:

32 (A) That the defendant make payments to a battered women's
33 shelter, up to a maximum of five thousand dollars (\$5,000).

34 (B) That the defendant reimburse the victim for reasonable costs
35 of counseling and other reasonable expenses that the court finds
36 are the direct result of the defendant's offense.

37 For any order to pay a fine, make payments to a battered
38 women's shelter, or pay restitution as a condition of probation
39 under this subdivision, the court shall make a determination of the
40 defendant's ability to pay. In no event shall any order to make

1 payments to a battered women's shelter be made if it would impair
2 the ability of the defendant to pay direct restitution to the victim
3 or court-ordered child support. If the injury to a married person is
4 caused in whole or in part by the criminal acts of his or her spouse
5 in violation of this section, the community property shall not be
6 used to discharge the liability of the offending spouse for restitution
7 to the injured spouse, required by Section 1203.04, as operative
8 on or before August 2, 1995, or Section 1202.4, or to a shelter for
9 costs with regard to the injured spouse and dependents, required
10 by this section, until all separate property of the offending spouse
11 is exhausted.

12 (3) Upon conviction of a violation of this subdivision, if
13 probation is granted or the execution or imposition of the sentence
14 is suspended and the person has been previously convicted of a
15 violation of this subdivision and sentenced under paragraph (1),
16 the person shall be imprisoned for not less than 48 hours in addition
17 to the conditions in paragraph (1). However, the court, upon a
18 showing of good cause, may elect not to impose the mandatory
19 minimum imprisonment as required by this subdivision and may,
20 under these circumstances, grant probation or order the suspension
21 of the execution or imposition of the sentence.

22 (4) The Legislature finds and declares that these specified crimes
23 merit special consideration when imposing a sentence so as to
24 display society's condemnation for these crimes of violence upon
25 victims with whom a close relationship has been formed.

26 (5) If a peace officer makes an arrest for a violation of paragraph
27 (1), the peace officer is not required to inform the victim of his or
28 her right to make a citizen's arrest pursuant to subdivision (b) of
29 Section 836.

30 (f) As used in this section:

31 (1) "Peace officer" means any person defined in Chapter 4.5
32 (commencing with Section 830) of Title 3 of Part 2.

33 (2) "Emergency medical technician" means a person who is
34 either an EMT-I, EMT-II, or EMT-P (paramedic), and possesses
35 a valid certificate or license in accordance with the standards of
36 Division 2.5 (commencing with Section 1797) of the Health and
37 Safety Code.

38 (3) "Nurse" means a person who meets the standards of Division
39 2.5 (commencing with Section 1797) of the Health and Safety

1 Code or a nurse of a hospital engaged in providing services within
2 the emergency department.

3 (4) “Serious bodily injury” means a serious impairment of
4 physical condition, including, but not limited to, the following:
5 loss of consciousness; concussion; bone fracture; protracted loss
6 or impairment of function of any bodily member or organ; a wound
7 requiring extensive suturing; and serious disfigurement.

8 (5) “Injury” means any physical injury which requires
9 professional medical treatment.

10 (6) “Custodial officer” means any person who has the
11 responsibilities and duties described in Section 831 and who is
12 employed by a law enforcement agency of any city or county or
13 who performs those duties as a volunteer.

14 (7) “Lifeguard” means a person defined in paragraph (5) of
15 subdivision (d) of Section 241.

16 (8) “Traffic officer” means any person employed by a city,
17 county, or city and county to monitor and enforce state laws and
18 local ordinances relating to parking and the operation of vehicles.

19 (9) “Animal control officer” means any person employed by a
20 city, county, or city and county for purposes of enforcing animal
21 control laws or regulations.

22 (10) “Dating relationship” means frequent, intimate associations
23 primarily characterized by the expectation of affectional or sexual
24 involvement independent of financial considerations.

25 (11) (A) “Code enforcement officer” means any person who
26 is not described in Chapter 4.5 (commencing with Section 830) of
27 Title 3 of Part 2 and who is employed by any governmental
28 subdivision, public or quasi-public corporation, public agency,
29 public service corporation, any town, city, county, or municipal
30 corporation, whether incorporated or chartered, who has
31 enforcement authority for health, safety, and welfare requirements,
32 and whose duties include enforcement of any statute, rules,
33 regulations, or standards, and who is authorized to issue citations,
34 or file formal complaints.

35 (B) “Code enforcement officer” also includes any person who
36 is employed by the Department of Housing and Community
37 Development who has enforcement authority for health, safety,
38 and welfare requirements pursuant to the Employee Housing Act
39 (Part 1 (commencing with Section 17000) of Division 13 of the
40 Health and Safety Code); the State Housing Law (Part 1.5

(commencing with Section 17910) of Division 13 of the Health and Safety Code); the Manufactured Housing Act of 1980 (Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code); the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code); and the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

(12) “Custody assistant” means any person who has the responsibilities and duties described in Section 831.7 and who is employed by a law enforcement agency of any city, county, or city and county.

(13) “Search and rescue member” means any person who is part of an organized search and rescue team managed by a government agency.

(14) “Security officer” means any person who has the responsibilities and duties described in Section 831.4 and who is employed by a law enforcement agency of any city, county, or city and county.

(15) “Health care worker” means a person who, in the course and scope of employment or as a volunteer, performs duties directly associated with the care and treatment rendered by the hospital’s emergency department or the security thereof.

(g) It is the intent of the Legislature by amendments to this section at the 1981–82 and 1983–84 Regular Sessions to abrogate the holdings in cases such as *People v. Corey*, 21 Cal.3d 738, and *Cervantez v. J.C. Penney Co.*, 24 Cal.3d 579, and to reinstate prior judicial interpretations of this section as they relate to criminal sanctions for battery on peace officers who are employed, on a part-time or casual basis, while wearing a police uniform as private security guards or patrolmen and to allow the exercise of peace officer powers concurrently with that employment.

SEC. 3.5. Section 243 of the Penal Code is amended to read:

243. (a) A battery is punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment.

(b) When a battery is committed against the person of a peace officer, custodial officer, firefighter, emergency medical technician, lifeguard, security officer, custody assistant, process server, traffic officer, code enforcement officer, animal control officer, or search

1 and rescue member engaged in the performance of his or her duties,
2 whether on or off duty, including when the peace officer is in a
3 police uniform and is concurrently performing the duties required
4 of him or her as a peace officer while also employed in a private
5 capacity as a part-time or casual private security guard or
6 patrolman, or a nonsworn employee of a probation department
7 engaged in the performance of his or her duties, whether on or off
8 duty, or a physician or nurse engaged in rendering emergency
9 medical care outside a hospital, clinic, or other health care facility,
10 *or a physician, nurse, or other health care worker of a hospital*
11 *engaged in providing services within the emergency department,*
12 and the person committing the offense knows or reasonably should
13 know that the victim is a peace officer, custodial officer, firefighter,
14 emergency medical technician, lifeguard, security officer, custody
15 assistant, process server, traffic officer, code enforcement officer,
16 animal control officer, or search and rescue member engaged in
17 the performance of his or her duties, nonsworn employee of a
18 probation department, or a physician or nurse engaged in rendering
19 emergency medical care, *or a physician, nurse, or other health*
20 *care worker of a hospital engaged in providing services within the*
21 *emergency department,* the battery is punishable by a fine not
22 exceeding two thousand dollars (\$2,000), or by imprisonment in
23 a county jail not exceeding one year, or by both that fine and
24 imprisonment.

25 (c) (1) When a battery is committed against a custodial officer,
26 firefighter, emergency medical technician, lifeguard, process server,
27 traffic officer, or animal control officer engaged in the performance
28 of his or her duties, whether on or off duty, or a nonsworn
29 employee of a probation department engaged in the performance
30 of his or her duties, whether on or off duty, or a physician or nurse
31 engaged in rendering emergency medical care outside a hospital,
32 clinic, or other health care facility, and the person committing the
33 offense knows or reasonably should know that the victim is a
34 nonsworn employee of a probation department, custodial officer,
35 firefighter, emergency medical technician, lifeguard, process server,
36 traffic officer, or animal control officer engaged in the performance
37 of his or her duties, or a physician or nurse engaged in rendering
38 emergency medical ~~care~~, *care* and an injury is inflicted on that
39 victim, the battery is punishable by a fine of not more than two
40 thousand dollars (\$2,000), by imprisonment in a county jail not

1 exceeding one year, or by both that fine and imprisonment, or by
2 imprisonment pursuant to subdivision (h) of Section 1170 for 16
3 months, or two or three years.

4 (2) When the battery specified in paragraph (1) is committed
5 against a peace officer engaged in the performance of his or her
6 duties, whether on or off duty, including when the peace officer
7 is in a police uniform and is concurrently performing the duties
8 required of him or her as a peace officer while also employed in
9 a private capacity as a part-time or casual private security guard
10 or patrolman and the person committing the offense knows or
11 reasonably should know that the victim is a peace officer engaged
12 in the performance of his or her duties, the battery is punishable
13 by a fine of not more than ten thousand dollars (\$10,000), or by
14 imprisonment in a county jail not exceeding one year or pursuant
15 to subdivision (h) of Section 1170 for 16 months, or two or three
16 years, or by both that fine and imprisonment.

17 (d) When a battery is committed against any person and serious
18 bodily injury is inflicted on the person, the battery is punishable
19 by imprisonment in a county jail not exceeding one year or
20 imprisonment pursuant to subdivision (h) of Section 1170 for two,
21 three, or four years.

22 (e) (1) When a battery is committed against a spouse, a person
23 with whom the defendant is cohabiting, a person who is the parent
24 of the defendant's child, former spouse, fiancé, or fiancée, or a
25 person with whom the defendant currently has, or has previously
26 had, a dating or engagement relationship, the battery is punishable
27 by a fine not exceeding two thousand dollars (\$2,000), or by
28 imprisonment in a county jail for a period of not more than one
29 year, or by both that fine and imprisonment. If probation is granted,
30 or the execution or imposition of the sentence is suspended, it shall
31 be a condition thereof that the defendant participate in, for no less
32 than one year, and successfully complete, a batterer's treatment
33 program, as described in Section 1203.097, or if none is available,
34 another appropriate counseling program designated by the court.
35 However, this provision shall not be construed as requiring a city,
36 a county, or a city and county to provide a new program or higher
37 level of service as contemplated by Section 6 of Article XIII B of
38 the California Constitution.

1 (2) Upon conviction of a violation of this subdivision, if
2 probation is granted, the conditions of probation may include, in
3 lieu of a fine, one or both of the following requirements:

4 (A) That the defendant make payments to a battered women's
5 shelter, up to a maximum of five thousand dollars (\$5,000).

6 (B) That the defendant reimburse the victim for reasonable costs
7 of counseling and other reasonable expenses that the court finds
8 are the direct result of the defendant's offense.

9 For any order to pay a fine, make payments to a battered
10 women's shelter, or pay restitution as a condition of probation
11 under this subdivision, the court shall make a determination of the
12 defendant's ability to pay. In no event shall any order to make
13 payments to a battered women's shelter be made if it would impair
14 the ability of the defendant to pay direct restitution to the victim
15 or court-ordered child support. If the injury to a married person is
16 caused in whole or in part by the criminal acts of his or her spouse
17 in violation of this section, the community property shall not be
18 used to discharge the liability of the offending spouse for restitution
19 to the injured spouse, required by Section 1203.04, as operative
20 on or before August 2, 1995, or Section 1202.4, or to a shelter for
21 costs with regard to the injured spouse and dependents, required
22 by this section, until all separate property of the offending spouse
23 is exhausted.

24 (3) Upon conviction of a violation of this subdivision, if
25 probation is granted or the execution or imposition of the sentence
26 is suspended and the person has been previously convicted of a
27 violation of this subdivision ~~and sentenced under paragraph (1);~~
28 ~~or Section 273.5,~~ the person shall be imprisoned for not less than
29 48 hours in addition to the conditions in paragraph (1). However,
30 the court, upon a showing of good cause, may elect not to impose
31 the mandatory minimum imprisonment as required by this
32 subdivision and may, under these circumstances, grant probation
33 or order the suspension of the execution or imposition of the
34 sentence.

35 (4) The Legislature finds and declares that these specified crimes
36 merit special consideration when imposing a sentence so as to
37 display society's condemnation for these crimes of violence upon
38 victims with whom a close relationship has been formed.

39 (5) If a peace officer makes an arrest for a violation of paragraph
40 ~~(1) of subdivision (c) of this section,~~ (1), the peace officer is not

1 required to inform the victim of his or her right to make a citizen's
2 arrest pursuant to subdivision (b) of Section 836.

3 (f) As used in this section:

4 (1) "Peace officer" means any person defined in Chapter 4.5
5 (commencing with Section 830) of Title 3 of Part 2.

6 (2) "Emergency medical technician" means a person who is
7 either an EMT-I, EMT-II, or EMT-P (paramedic), and possesses
8 a valid certificate or license in accordance with the standards of
9 Division 2.5 (commencing with Section 1797) of the Health and
10 Safety Code.

11 (3) "Nurse" means a person who meets the standards of Division
12 2.5 (commencing with Section 1797) of the Health and Safety
13 ~~Code. Code or a nurse of a hospital engaged in providing services~~
14 *within the emergency department.*

15 (4) "Serious bodily injury" means a serious impairment of
16 physical condition, including, but not limited to, the following:
17 loss of consciousness; concussion; bone fracture; protracted loss
18 or impairment of function of any bodily member or organ; a wound
19 requiring extensive suturing; and serious disfigurement.

20 (5) "Injury" means any physical injury which requires
21 professional medical treatment.

22 (6) "Custodial officer" means any person who has the
23 responsibilities and duties described in Section 831 and who is
24 employed by a law enforcement agency of any city or county or
25 who performs those duties as a volunteer.

26 (7) "Lifeguard" means a person defined in paragraph (5) of
27 subdivision (d) of Section 241.

28 (8) "Traffic officer" means any person employed by a city,
29 county, or city and county to monitor and enforce state laws and
30 local ordinances relating to parking and the operation of vehicles.

31 (9) "Animal control officer" means any person employed by a
32 city, county, or city and county for purposes of enforcing animal
33 control laws or regulations.

34 (10) "Dating relationship" means frequent, intimate associations
35 primarily characterized by the expectation of affectional or sexual
36 involvement independent of financial considerations.

37 (11) (A) "Code enforcement officer" means any person who
38 is not described in Chapter 4.5 (commencing with Section 830) of
39 Title 3 of Part 2 and who is employed by any governmental
40 subdivision, public or quasi-public corporation, public agency,

1 public service corporation, any town, city, county, or municipal
2 corporation, whether incorporated or chartered, who has
3 enforcement authority for health, safety, and welfare requirements,
4 and whose duties include enforcement of any statute, rules,
5 regulations, or standards, and who is authorized to issue citations,
6 or file formal complaints.

7 (B) “Code enforcement officer” also includes any person who
8 is employed by the Department of Housing and Community
9 Development who has enforcement authority for health, safety,
10 and welfare requirements pursuant to the Employee Housing Act
11 (Part 1 (commencing with Section 17000) of Division 13 of the
12 Health and Safety Code); the State Housing Law (Part 1.5
13 (commencing with Section 17910) of Division 13 of the Health
14 and Safety Code); the Manufactured Housing Act of 1980 (Part 2
15 (commencing with Section 18000) of Division 13 of the Health
16 and Safety Code); the Mobilehome Parks Act (Part 2.1
17 (commencing with Section 18200) of Division 13 of the Health
18 and Safety Code); and the Special Occupancy Parks Act (Part 2.3
19 (commencing with Section 18860) of Division 13 of the Health
20 and Safety Code).

21 (12) “Custody assistant” means any person who has the
22 responsibilities and duties described in Section 831.7 and who is
23 employed by a law enforcement agency of any city, county, or city
24 and county.

25 (13) “Search and rescue member” means any person who is part
26 of an organized search and rescue team managed by a government
27 agency.

28 (14) “Security officer” means any person who has the
29 responsibilities and duties described in Section 831.4 and who is
30 employed by a law enforcement agency of any city, county, or city
31 and county.

32 (15) *“Health care worker” means a person who, in the course*
33 *and scope of employment or as a volunteer, performs duties directly*
34 *associated with the care and treatment rendered by the hospital’s*
35 *emergency department or the security thereof.*

36 (g) It is the intent of the Legislature by amendments to this
37 section at the 1981–82 and 1983–84 Regular Sessions to abrogate
38 the holdings in cases such as *People v. Corey*, 21-Cal.3d Cal.3d
39 738, and *Cervantez v. J.C. Penney Co.*, 24-Cal.3d Cal.3d 579, and
40 to reinstate prior judicial interpretations of this section as they

1 relate to criminal sanctions for battery on peace officers who are
2 employed, on a part-time or casual basis, while wearing a police
3 uniform as private security guards or patrolmen and to allow the
4 exercise of peace officer powers concurrently with that
5 employment.

6 *SEC. 4. Section 3.5 of this bill incorporates amendments to*
7 *Section 243 of the Penal Code proposed by both this bill and*
8 *Assembly Bill 545. It shall only become operative if (1) both bills*
9 *are enacted and become effective on or before January 1, 2016,*
10 *(2) each bill amends Section 243 of the Penal Code, and (3) this*
11 *bill is enacted after Assembly Bill 545, in which case Section 3 of*
12 *this bill shall not become operative.*

13 ~~SEC. 4.~~

14 *SEC. 5.* No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.