
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: SB 1334 **Hearing Date:** April 5, 2016
Author: Stone
Version: March 28, 2016
Urgency: No **Fiscal:** Yes
Consultant: AA

Subject: *Crime Reporting: Health Practitioners*

HISTORY

Source: California Clinical Forensic Medical Training Center

Prior Legislation: AB 1652 (Speier) – Chapter 992, Stats. 1993

Support: California District Attorneys Association; California State Sheriffs' Association;
County Health Executives Association of California

Opposition: None Known

PURPOSE

The purpose of this bill is to provide that the existing mandatory reporting law applicable to health practitioners includes patients who disclose they are seeking treatment due to being the victim of assaultive or abusive conduct, as specified.

Current law requires that any “health practitioner employed in a health facility, clinic, physician’s office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department who, in his or her professional capacity or within the scope of his or her employment, provides medical services for a physical condition to a patient whom he or she knows or reasonably suspects is a person described as follows, shall immediately make a report” to a local law enforcement agency, as specified:

- (1) Any person suffering from any wound or other physical injury inflicted by his or her own act or inflicted by another where the injury is by means of a firearm.
- (2) Any person suffering from any wound or other physical injury inflicted upon the person where the injury is the result of assaultive or abusive conduct. (Penal Code § 11160.) (emphasis added.)

Current law provides, for the purpose of this section, “assaultive or abusive conduct” includes specific crimes enumerated in this section.¹ (Penal Code § 11160 (d).) *Current law* additionally

¹ Those sections are: (1) Murder, in violation of Section 187.(2) Manslaughter, in violation of Section 192 or 192.5. (3) Mayhem, in violation of Section 203. (4) Aggravated mayhem, in violation of Section 205. (5) Torture, in violation of Section 206. (6) Assault with intent to commit mayhem, rape, sodomy, or oral copulation, in violation of

provides that, for “the purposes of this section, “injury” shall not include any psychological or physical condition brought about solely through the voluntary administration of a narcotic or restricted dangerous drug.” (Penal Code § 11160(c).)

Current law additionally recommends that any medical records of a person about whom the physician or surgeon is required to report include the following:

- (1) Any comments by the injured person regarding past domestic violence, as defined in Section 13700, or regarding the name of any person suspected of inflicting the wound, other physical injury, or assaultive or abusive conduct upon the person.
- (2) A map of the injured person’s body showing and identifying injuries and bruises at the time of the health care.
- (3) A copy of the law enforcement reporting form. (Penal Code § 11161.)

Current law further states that it “is recommended that the physician or surgeon refer the person to local domestic violence services if the person is suffering or suspected of suffering from domestic violence,” as specified. (*Id.*)

This bill would amend section 11160 to require a “health practitioner employed in a health facility, clinic, physician’s office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department who, in his or her professional capacity or within the scope of his or her employment, provides medical services to a patient who discloses that he or she is seeking treatment due to being the victim of assaultive or abusive conduct, shall immediately make a report “ pursuant to these provisions.

This bill makes additional technical, conforming amendments.

This bill additionally adds human trafficking to the definition of “assaultive or abusive conduct” in the context of these provisions, but as noted in Comment 2 below, the author intends to amend the bill in Committee to delete this provision.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past several years this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state’s ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee

Section 220. (7) Administering controlled substances or anesthetic to aid in commission of a felony, in violation of Section 222. (8) Battery, in violation of Section 242. (9) Sexual battery, in violation of Section 243.4. (10) Incest, in violation of Section 285. (11) Throwing any vitriol, corrosive acid, or caustic chemical with intent to injure or disfigure, in violation of Section 244. (12) Assault with a stun gun or taser, in violation of Section 244.5. (13) Assault with a deadly weapon, firearm, assault weapon, or machinegun, or by means likely to produce great bodily injury, in violation of Section 245. (14) Rape, in violation of Section 261. (15) Spousal rape, in violation of Section 262. (16) Procuring any female to have sex with another man, in violation of Section 266, 266a, 266b, or 266c. (17) Child abuse or endangerment, in violation of Section 273a or 273d. (18) Abuse of spouse or cohabitant, in violation of Section 273.5. (19) Sodomy, in violation of Section 286. (20) Lewd and lascivious acts with a child, in violation of Section 288. (21) Oral copulation, in violation of Section 288a. (22) Sexual penetration, in violation of Section 289. (23) Elder abuse, in violation of Section 368. (24) An attempt to commit any crime specified in paragraphs (1) to (23), inclusive. (*Id.*)

has applied its “ROCA” policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In December of 2015 the administration reported that as “of December 9, 2015, 112,510 inmates were housed in the State’s 34 adult institutions, which amounts to 136.0% of design bed capacity, and 5,264 inmates were housed in out-of-state facilities. The current population is 1,212 inmates below the final court-ordered population benchmark of 137.5% of design bed capacity, and has been under that benchmark since February 2015.” (Defendants’ December 2015 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).) One year ago, 115,826 inmates were housed in the State’s 34 adult institutions, which amounted to 140.0% of design bed capacity, and 8,864 inmates were housed in out-of-state facilities. (Defendants’ December 2014 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).)

While significant gains have been made in reducing the prison population, the state must stabilize these advances and demonstrate to the federal court that California has in place the “durable solution” to prison overcrowding “consistently demanded” by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants’ Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee’s consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Stated Need for This Bill

The author states:

Within current statute, there is a gap in the mandatory reporting law that impacts reporting of sexual assault by health care providers. The current statute only requires reporting of sexual assault if there is a wound or injury. There may not

be a wound or injury resulting from a sexual assault, and some offenses such as forced oral copulation would not cause a wound or injury. SB 1334 would clarify this statute by stating that the mandatory reporting law would be triggered if a health practitioner provides medical services to a victim who discloses that they are receiving treatment due to being a victim of assaultive or abusive conduct.

2. Author's Amendments

The author intends to amend the bill in Committee to delete the added reference to human trafficking in the definitions applicable to the section changed by the bill; its addition was not intended for this bill.

3. What This Bill Would Do

As explained by the author, this bill clarifies the mandatory reporting provisions in current law concerning injuries caused by certain assaultive or abusive conduct to include when a patient discloses he or she is seeking treatment due to being a victim of assaultive or abusive conduct. The bill does not expand the scope of the kind of injury that triggers a mandated report. As noted above, the current statute enumerates the specific criminal offenses constituting assault or abuse in this context, and as to be amended by the author in Committee, this bill will not change that scope.

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