

AMENDED IN SENATE APRIL 4, 2013

SENATE BILL

No. 718

Introduced by Senator Yee

February 22, 2013

An act to add Section 6401.8 to the Labor Code, relating to employment safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 718, as amended, Yee. Hospitals: workplace violence prevention plan.

Existing law regulates the operation of health facilities, including hospitals.

Existing law, the California Occupational Safety and Health Act of 1973, imposes safety responsibilities on employers and employees, including the requirement that an employer establish, implement, and maintain an effective injury prevention program, and makes specified violation of these provisions a crime.

This bill would require a hospital, as specified, as a part of its injury prevention program and in conjunction with affected employees, to adopt a workplace violence prevention plan designed to protect health care workers, other facility personnel, patients, and visitors from aggressive or violent behavior. As part of that plan, the bill would require a hospital to adopt safety and security policies, including, among others, a system for the reporting to the Division of Occupational Safety and Health of any *violent* incident ~~of assault, as defined, or battery, as defined,~~ against a hospital employee ~~or patient,~~ as specified. The bill would further require all medical staff and health care workers who provide direct care to patients to receive, at least annually, workplace violence prevention education and training, as specified. The bill would

prohibit a hospital from preventing an employee from, or taking punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement for a violent incident. The bill would also require a hospital to provide evaluation and treatment, as specified, for an employee who is injured or is otherwise a victim of a violent incident.

The bill would require a hospital to *document and keep for 5 years a written record of all violent incidents against a hospital employee, as defined, and to report to the division any violent incident of assault, as defined, or battery, as defined, against a hospital employee or patient, as specified, and*. *The bill would also authorize the division to assess a civil penalty against a hospital for failure to report an a violent incident, as specified. The bill would further require the division to report to the relevant fiscal and policy committees of the Legislature information regarding violent incidents of violence at hospitals, as specified, and to develop regulations implementing these provisions by January 1, 2015.*

Because this bill would expand the scope of a crime, the 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 6401.8 is added to the Labor Code, to
- 2 read:
- 3 6401.8. (a) As a part of its injury prevention program required
- 4 pursuant to Section 6401.7, a hospital licensed pursuant to
- 5 subdivisions (a), (b), or (f) of Section 1250 of the Health and Safety
- 6 Code shall adopt a workplace violence prevention plan designed
- 7 to protect health care workers, other facility personnel, patients,
- 8 and visitors from aggressive or violent behavior. The plan shall
- 9 include, but not be limited to, security considerations relating to
- 10 all of the following:
- 11 (1) Physical layout.

- 1 (2) Staffing, including staffing patterns and patient classification
2 systems that contribute to the risk of violence or are insufficient
3 to address the risk of violence.
- 4 (3) The adequacy of facility security systems, protocols, and
5 policies, including, but not limited to, security personnel
6 availability *and employee alarm systems*.
- 7 (4) Potential security risks associated with specific units or areas
8 within the facility where there is a greater likelihood that a patient
9 or other person may exhibit violent behavior.
- 10 (5) Uncontrolled public access to any part of the facility.
- 11 (6) Potential security risks related to working late night or early
12 morning hours.
- 13 (7) Employee security in areas surrounding the facility,
14 including, but not limited to, employee parking areas.
- 15 (8) The use of a trained response team that can assist employees
16 in violent situations.
- 17 (9) Policy and training related to appropriate responses to violent
18 acts.
- 19 (10) Efforts to cooperate with local law enforcement regarding
20 violent acts in the facility.
- 21 (b) As part of its workplace violence prevention plan, a hospital
22 shall adopt safety and security policies, including, but not limited
23 to, all of the following:
- 24 (1) Personnel training policies designed to protect personnel,
25 patients, and visitors from aggressive or violent behavior, including
26 education on how to recognize the potential for violence, how and
27 when to seek assistance to prevent or respond to violence, and how
28 to report *violent* incidents ~~of violence~~ to the appropriate law
29 enforcement officials.
- 30 (2) A system for responding to *violent* incidents and situations
31 involving violence or the risk of violence, including, but not limited
32 to, procedures for rapid response by which an employee is provided
33 with immediate assistance if the threat of violence against that
34 employee appears to be imminent, or if a violent act has occurred
35 or is occurring.
- 36 (3) A system for investigating violent incidents and situations
37 involving violence or the risk of violence. When investigating
38 these incidents, the hospital shall interview any employee involved
39 in the incident or situation.

1 (4) A system for reporting, monitoring, and recordkeeping of
2 violent incidents and situations involving the risk of violence.

3 (5) A system for reporting *violent* incidents ~~of violence~~ to the
4 division pursuant to subdivision (h).

5 (6) Modifications to job design, staffing, security, equipment,
6 or facilities as determined necessary to prevent or address violence
7 against hospital employees.

8 (c) The plan shall be developed in conjunction with affected
9 employees, including their recognized collective bargaining agents,
10 if any. Individuals or members of a hospital committee responsible
11 for developing the security plan shall be familiar with hospital
12 safety and security issues, as well as the identification of aggressive
13 and violent predicting factors. In developing the workplace
14 violence prevention plan, the hospital shall consider guidelines or
15 standards on violence in health care facilities issued by the division,
16 the federal Occupational Safety and Health Administration, and,
17 if available, the State Department of Public Health.

18 (d) All medical staff and health care workers who provide direct
19 care to patients shall, at least annually, receive workplace violence
20 prevention education and training that is designed in such a way
21 as to provide an opportunity for interactive questions and answers
22 with a person knowledgeable about the workplace violence
23 prevention plan, and that includes, but is not limited to, the
24 following topics:

25 (1) General safety measures.

26 (2) Personal safety measures.

27 (3) The assault cycle.

28 (4) Aggression and violence predicting factors.

29 (5) Obtaining patient history from a patient with violent
30 behavior.

31 (6) Characteristics of aggressive and violent patients and victims.

32 (7) Verbal and physical maneuvers to diffuse and avoid violent
33 behavior.

34 (8) Strategies to avoid physical harm.

35 (9) Restraining techniques.

36 (10) Appropriate use of medications as chemical restraints.

37 (11) Any resources available to employees for coping with
38 *violent* incidents ~~of violence~~, including, by way of example, critical
39 incident stress debriefing or employee assistance programs.

1 (e) All temporary personnel shall be oriented to the workplace
2 violence prevention plan.

3 (f) A hospital shall provide evaluation and treatment for an
4 employee who is injured or is otherwise a victim of a violent
5 incident and shall, upon the request of the employee, provide access
6 to followup counseling to address trauma or distress experienced
7 by the employee, including, but not limited to, individual crisis
8 counseling, support group counseling, peer assistance, and
9 professional referrals.

10 (g) A hospital shall not prohibit an employee from, or take
11 punitive or retaliatory action against an employee for, seeking
12 assistance and intervention from local emergency services or law
13 enforcement when a violent incident occurs.

14 (h) (1) ~~A~~*In addition to the reports required by Section 6409.1,*
15 ~~a hospital shall report to the division any incident of assault, as~~
16 ~~defined in Section 240 of the Penal Code, or battery, as defined in~~
17 ~~Section 242 of the Penal Code, document and keep for a period~~
18 ~~of five years a written record of any violent incident against a~~
19 ~~hospital employee or patient that is committed by a patient or a~~
20 ~~person accompanying a patient immediately after the incident is~~
21 ~~reported by that employee or any other employee to a manager,~~
22 ~~supervisor, or other hospital administrator. The hospital shall~~
23 ~~document and keep a written record of all violent incidents,~~
24 ~~regardless of whether the employee sustains an injury. This report~~
25 ~~record shall include, but not be limited to, the date and time of the~~
26 ~~incident, whether the victim was a hospital employee or a patient,~~
27 ~~the unit in which the incident occurred, a description of the~~
28 ~~circumstances surrounding the incident, and the hospital's response~~
29 ~~to the incident.~~

30 (2) A hospital shall report ~~an incident to which paragraph (1)~~
31 ~~applies to the division within 72 hours~~ *the information recorded*
32 *pursuant to paragraph (1) regarding a violent incident.* If the
33 incident results in *physical injury, involves the use of a firearm or*
34 *other dangerous weapon, or presents an urgent or emergent threat*
35 *to the welfare, health, or safety of hospital personnel, the hospital*
36 *shall report the incident to the division within 24 hours.*

37 (3) If a hospital fails to report ~~an a violent incident of assault~~
38 ~~or battery pursuant to subdivision (f) paragraph (2),~~ the division
39 may assess a civil penalty against the hospital in an amount not to
40 exceed one hundred dollars (\$100) per day for each day that the

1 incident is not reported following the initial 72-hour or 24-hour
2 period, as applicable pursuant to paragraph (2).

3 (i) *The division may, at its discretion, conduct an inspection for*
4 *any violent incident reported pursuant to subdivision (h).*

5 (j) *Nothing in this section requiring recordkeeping and reporting*
6 *by an employer relieves the employer of the requirements of Section*
7 *6410.*

8 (i)

9 (k) (1) By January 1, 2015, and annually thereafter, the division
10 shall report to the relevant fiscal and policy committees of the
11 Legislature, in a manner that protects patient and employee
12 confidentiality, information regarding *violent incidents of violence*
13 at hospitals, that includes, but is not limited to, the total number
14 of reports and which specific hospitals filed reports pursuant to
15 subdivision (h), the outcome of any related inspection or
16 investigation, citations levied against a hospital based on ~~an a~~
17 ~~violent incident of workplace violence~~, and recommendations on
18 how to prevent *violent incidents of workplace violence* at hospitals.

19 (2) The requirement for submitting a report imposed pursuant
20 to this subdivision is inoperative on January 1, 2019, pursuant to
21 Section 10231.5 of the Government Code.

22 (3) A report to be submitted pursuant to this subdivision shall
23 be submitted in compliance with Section 9795 of the Government
24 Code.

25 (l) *By January 1, 2015, the division shall adopt regulations to*
26 *implement the provisions of this section.*

27 (m) *For purposes of this section, “violent incident” shall*
28 *include, but not be limited to, the following:*

29 (1) *The use of physical force against a hospital employee by a*
30 *patient or a person accompanying a patient that results in or has*
31 *a high likelihood of resulting in injury, psychological trauma, or*
32 *stress, regardless of whether the employee sustains an injury.*

33 (2) *An incident involving the use of a firearm or other dangerous*
34 *weapon, regardless of whether the employee sustains an injury.*

35 SEC. 2. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

1 the Government Code, or changes the definition of a crime within
2 the meaning of Section 6 of Article XIII B of the California
3 Constitution.

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