

AMENDED IN SENATE JUNE 25, 2013

AMENDED IN SENATE JUNE 24, 2013

AMENDED IN SENATE JUNE 13, 2013

AMENDED IN SENATE JUNE 12, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 81**

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**Introduced by Committee on Budget (Blumenfield (Chair), Bloom, Bonilla, Campos, Chesbro, Daly, Dickinson, Gordon, Jones-Sawyer, Mitchell, Mullin, Muratsuchi, Nazarian, Skinner, Stone, and Ting)**

January 10, 2013

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An act to amend Sections 13701, 13710, and 13730 of the Penal Code, relating to domestic abuse, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 81, as amended, Committee on Budget. Public safety: domestic abuse.

Existing law, as amended by SB 71 of the ~~2012–13~~ 2013–14 Regular Session, authorizes every law enforcement agency in the state to develop, adopt, and implement written policies and standards for officers, responses to domestic violence calls, as specified. Existing law, as amended by SB 71 of the ~~2012–13~~ 2013–14 Regular Session, also authorizes law enforcement agencies to maintain a complete and systemic record of all protection orders with respect to domestic violence incidents and to develop a system for recording all domestic

violence-related calls for assistance, including whether weapons were involved.

This bill would provide that, if SB 71 of the ~~2012–13~~ 2013–14 Regular Session is enacted and becomes operative, these provisions are mandatory for law enforcement agencies. By expanding the duties of local law enforcement agencies, 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . 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 13701 of the Penal Code, as amended  
 2 by Section 47 of Senate Bill 71 of the ~~2012–13~~ 2013–14 Regular  
 3 Session, is amended to read:  
 4 13701. (a) Every law enforcement agency in this state shall  
 5 develop, adopt, and implement written policies and standards for  
 6 officers’ responses to domestic violence calls by January 1, 1986.  
 7 These policies shall reflect that domestic violence is alleged  
 8 criminal conduct. Further, they shall reflect existing policy that a  
 9 request for assistance in a situation involving domestic violence  
 10 is the same as any other request for assistance where violence has  
 11 occurred.  
 12 (b) The written policies shall encourage the arrest of domestic  
 13 violence offenders if there is probable cause that an offense has  
 14 been committed. These policies also shall require the arrest of an  
 15 offender, absent exigent circumstances, if there is probable cause  
 16 that a protective order issued under Chapter 4 (commencing with  
 17 Section 2040) of Part 1 of Division 6, Division 10 (commencing  
 18 with Section 6200), or Chapter 6 (commencing with Section 7700)  
 19 of Part 3 of Division 12, of the Family Code, or Section 136.2 of

1 this code, or by a court of any other state, a commonwealth,  
2 territory, or insular possession subject to the jurisdiction of the  
3 United States, a military tribunal, or a tribe has been violated.  
4 These policies shall discourage, when appropriate, but not prohibit,  
5 dual arrests. Peace officers shall make reasonable efforts to identify  
6 the dominant aggressor in any incident. The dominant aggressor  
7 is the person determined to be the most significant, rather than the  
8 first, aggressor. In identifying the dominant aggressor, an officer  
9 shall consider the intent of the law to protect victims of domestic  
10 violence from continuing abuse, the threats creating fear of physical  
11 injury, the history of domestic violence between the persons  
12 involved, and whether either person acted in self-defense. These  
13 arrest policies shall be developed, adopted, and implemented by  
14 July 1, 1996. Notwithstanding subdivision (d), law enforcement  
15 agencies shall develop these policies with the input of local  
16 domestic violence agencies.

17 (c) These existing local policies and those developed shall be  
18 in writing and shall be available to the public upon request and  
19 shall include specific standards for the following:

- 20 (1) Felony arrests.
- 21 (2) Misdemeanor arrests.
- 22 (3) Use of citizen arrests.
- 23 (4) Verification and enforcement of temporary restraining orders  
24 when (A) the suspect is present and (B) the suspect has fled.
- 25 (5) Verification and enforcement of stay-away orders.
- 26 (6) Cite and release policies.
- 27 (7) Emergency assistance to victims, such as medical care,  
28 transportation to a shelter, or a hospital for treatment when  
29 necessary, and police standbys for removing personal property  
30 and assistance in safe passage out of the victim's residence.
- 31 (8) Assisting victims in pursuing criminal options, such as giving  
32 the victim the report number and directing the victim to the proper  
33 investigation unit.
- 34 (9) Furnishing written notice to victims at the scene, including,  
35 but not limited to, all of the following information:
  - 36 (A) A statement informing the victim that despite official  
37 restraint of the person alleged to have committed domestic  
38 violence, the restrained person may be released at any time.
  - 39 (B) A statement that, "For further information about a shelter  
40 you may contact \_\_\_\_."

- 1 (C) A statement that, “For information about other services in  
2 the community, where available, you may contact \_\_\_\_.”
- 3 (D) A statement that, “For information about the California  
4 victims’ compensation program, you may contact 1-800-777-9229.”
- 5 (E) A statement informing the victim of domestic violence that  
6 he or she may ask the district attorney to file a criminal complaint.
- 7 (F) A statement informing the victim of the right to go to the  
8 superior court and file a petition requesting any of the following  
9 orders for relief:
- 10 (i) An order restraining the attacker from abusing the victim  
11 and other family members.
- 12 (ii) An order directing the attacker to leave the household.
- 13 (iii) An order preventing the attacker from entering the  
14 residence, school, business, or place of employment of the victim.
- 15 (iv) An order awarding the victim or the other parent custody  
16 of or visitation with a minor child or children.
- 17 (v) An order restraining the attacker from molesting or  
18 interfering with minor children in the custody of the victim.
- 19 (vi) An order directing the party not granted custody to pay  
20 support of minor children, if that party has a legal obligation to do  
21 so.
- 22 (vii) An order directing the defendant to make specified debit  
23 payments coming due while the order is in effect.
- 24 (viii) An order directing that either or both parties participate  
25 in counseling.
- 26 (G) A statement informing the victim of the right to file a civil  
27 suit for losses suffered as a result of the abuse, including medical  
28 expenses, loss of earnings, and other expenses for injuries sustained  
29 and damage to property, and any other related expenses incurred  
30 by the victim or any agency that shelters the victim.
- 31 (H) In the case of an alleged violation of subdivision (e) of  
32 Section 243 or Section 261, 261.5, 262, 273.5, 286, 288a, or 289,  
33 a “Victims of Domestic Violence” card which shall include, but  
34 is not limited to, the following information:
- 35 (i) The names and phone numbers of or local county hotlines  
36 for, or both the phone numbers of and local county hotlines for,  
37 local shelters for battered women and rape victim counseling  
38 centers within the county, including those centers specified in  
39 Section 13837, and their 24-hour counseling service telephone  
40 numbers.

1 (ii) A simple statement on the proper procedures for a victim  
2 to follow after a sexual assault.

3 (iii) A statement that sexual assault by a person who is known  
4 to the victim, including sexual assault by a person who is the  
5 spouse of the victim, is a crime.

6 (iv) A statement that domestic violence or assault by a person  
7 who is known to the victim, including domestic violence or assault  
8 by a person who is the spouse of the victim, is a crime.

9 (10) Writing of reports.

10 (d) In the development of these policies and standards, each  
11 local department is encouraged to consult with domestic violence  
12 experts, such as the staff of the local shelter for battered women  
13 and their children. Departments may utilize the response guidelines  
14 developed by the commission in developing local policies.

15 SEC. 2. Section 13710 of the Penal Code, as amended by  
16 Section 48 of Senate Bill 71 of the ~~2012-13~~ 2013-14 Regular  
17 Session, is amended to read:

18 13710. (a) (1) Law enforcement agencies shall maintain a  
19 complete and systematic record of all protection orders with respect  
20 to domestic violence incidents, including orders which have not  
21 yet been served, issued pursuant to Section 136.2, restraining  
22 orders, and proofs of service in effect. This shall be used to inform  
23 law enforcement officers responding to domestic violence calls of  
24 the existence, terms, and effective dates of protection orders in  
25 effect.

26 (2) The police department of a community college or school  
27 district described in subdivision (a) or (b) of Section 830.32 shall  
28 notify the sheriff or police chief of the city in whose jurisdiction  
29 the department is located of any protection order served by the  
30 department pursuant to this section.

31 (b) The terms and conditions of the protection order remain  
32 enforceable, notwithstanding the acts of the parties, and may be  
33 changed only by order of the court.

34 (c) Upon request, law enforcement agencies shall serve the party  
35 to be restrained at the scene of a domestic violence incident or at  
36 any time the party is in custody.

37 SEC. 3. Section 13730 of the Penal Code, as amended by  
38 Section 49 of Senate Bill 71 of the ~~2012-13~~ 2013-14 Regular  
39 Session, is amended to read:

1 13730. (a) Each law enforcement agency shall develop a  
2 system, by January 1, 1986, for recording all domestic  
3 violence-related calls for assistance made to the department  
4 including whether weapons are involved. All domestic  
5 violence-related calls for assistance shall be supported with a  
6 written incident report, as described in subdivision (c), identifying  
7 the domestic violence incident. Monthly, the total number of  
8 domestic violence calls received and the numbers of those cases  
9 involving weapons shall be compiled by each law enforcement  
10 agency and submitted to the Attorney General.

11 (b) The Attorney General shall report annually to the Governor,  
12 the Legislature, and the public the total number of domestic  
13 violence-related calls received by California law enforcement  
14 agencies, the number of cases involving weapons, and a breakdown  
15 of calls received by agency, city, and county.

16 (c) Each law enforcement agency shall develop an incident  
17 report form that includes a domestic violence identification code  
18 by January 1, 1986. In all incidents of domestic violence, a report  
19 shall be written and shall be identified on the face of the report as  
20 a domestic violence incident. The report shall include at least all  
21 of the following:

22 (1) A notation of whether the officer or officers who responded  
23 to the domestic violence call observed any signs that the alleged  
24 abuser was under the influence of alcohol or a controlled substance.

25 (2) A notation of whether the officer or officers who responded  
26 to the domestic violence call determined if any law enforcement  
27 agency had previously responded to a domestic violence call at  
28 the same address involving the same alleged abuser or victim.

29 (3) A notation of whether the officer or officers who responded  
30 to the domestic violence call found it necessary, for the protection  
31 of the peace officer or other persons present, to inquire of the  
32 victim, the alleged abuser, or both, whether a firearm or other  
33 deadly weapon was present at the location, and, if there is an  
34 inquiry, whether that inquiry disclosed the presence of a firearm  
35 or other deadly weapon. Any firearm or other deadly weapon  
36 discovered by an officer at the scene of a domestic violence  
37 incident shall be subject to confiscation pursuant to Division 4  
38 (commencing with Section 18250) of Title 2 of Part 6.

39 SEC. 4. If the Commission on State Mandates determines that  
40 this act contains costs mandated by the state, reimbursement to

1 local agencies and school districts for those costs shall be made  
2 pursuant to Part 7 (commencing with Section 17500) of Division  
3 4 of Title 2 of the Government Code.

4 SEC. 5. This act shall only become operative if Senate Bill 71  
5 of the ~~2012–13~~ 2013–14 Regular Session becomes operative.

6 SEC. 6. This act is an urgency statute necessary for the  
7 immediate preservation of the public peace, health, or safety within  
8 the meaning of Article IV of the Constitution and shall go into  
9 immediate effect. The facts constituting the necessity are:

10 In order to protect the health and safety of victims of domestic  
11 violence at the earliest possible time, it is necessary that this act  
12 take effect immediately.