

Introduced by Senator YeeFebruary 22, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

SB 718, as introduced, 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 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 report to the division any incident of assault, as defined, or battery, as defined, against a hospital employee or patient, as specified, and would authorize the division to assess a civil penalty against a hospital for failure to report an incident, as specified. The bill would further require the division to report to the relevant fiscal and policy committees of the Legislature information regarding incidents of violence at hospitals, as specified.

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.
- 12 (2) Staffing, including staffing patterns and patient classification
- 13 systems that contribute to the risk of violence or are insufficient
- 14 to address the risk of violence.
- 15 (3) The adequacy of facility security systems, protocols, and
- 16 policies, including, but not limited to, security personnel
- 17 availability.

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

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

11 (d) All medical staff and health care workers who provide direct
12 care to patients shall, at least annually, receive workplace violence
13 prevention education and training that is designed in such a way
14 as to provide an opportunity for interactive questions and answers
15 with a person knowledgeable about the workplace violence
16 prevention plan, and that includes, but is not limited to, the
17 following topics:

- 18 (1) General safety measures.
- 19 (2) Personal safety measures.
- 20 (3) The assault cycle.
- 21 (4) Aggression and violence predicting factors.
- 22 (5) Obtaining patient history from a patient with violent
23 behavior.
- 24 (6) Characteristics of aggressive and violent patients and victims.
- 25 (7) Verbal and physical maneuvers to diffuse and avoid violent
26 behavior.
- 27 (8) Strategies to avoid physical harm.
- 28 (9) Restraining techniques.
- 29 (10) Appropriate use of medications as chemical restraints.
- 30 (11) Any resources available to employees for coping with
31 incidents of violence, including, by way of example, critical
32 incident stress debriefing or employee assistance programs.

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

35 (f) A hospital shall provide evaluation and treatment for an
36 employee who is injured or is otherwise a victim of a violent
37 incident and shall, upon the request of the employee, provide access
38 to followup counseling to address trauma or distress experienced
39 by the employee, including, but not limited to, individual crisis

1 counseling, support group counseling, peer assistance, and
2 professional referrals.

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

7 (h) (1) A hospital shall report to the division any incident of
8 assault, as defined in Section 240 of the Penal Code, or battery, as
9 defined in Section 242 of the Penal Code, against a hospital
10 employee or patient that is committed by a patient or a person
11 accompanying a patient. This report shall include, but not be
12 limited to, the date and time of the incident, whether the victim
13 was a hospital employee or a patient, the unit in which the incident
14 occurred, a description of the circumstances surrounding the
15 incident, and the hospital's response to the incident.

16 (2) A hospital shall report an incident to which paragraph (1)
17 applies to the division within 72 hours. If the incident results in
18 injury, involves the use of a firearm or other dangerous weapon,
19 or presents an urgent or emergent threat to the welfare, health, or
20 safety of hospital personnel, the hospital shall report the incident
21 to the division within 24 hours.

22 (3) If a hospital fails to report an incident of assault or battery
23 pursuant to subdivision (f), the division may assess a civil penalty
24 against the hospital in an amount not to exceed one hundred dollars
25 (\$100) per day for each day that the incident is not reported
26 following the initial 72-hour or 24-hour period, as applicable
27 pursuant to paragraph (2).

28 (i) (1) By January 1, 2015, and annually thereafter, the division
29 shall report to the relevant fiscal and policy committees of the
30 Legislature, in a manner that protects patient and employee
31 confidentiality, information regarding incidents of violence at
32 hospitals, that includes, but is not limited to, the total number of
33 reports and which specific hospitals filed reports pursuant to
34 subdivision (h), the outcome of any related inspection or
35 investigation, citations levied against a hospital based on an
36 incident of workplace violence, and recommendations on how to
37 prevent incidents of workplace violence at hospitals.

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

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

4 SEC. 2. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.