



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

SB-40 Domestic violence. (2017-2018)

SHARE THIS:  

Date Published: 09/28/2017 09:00 PM

Senate Bill No. 40

CHAPTER 331

An act to amend Sections 13701 and 13730 of the Penal Code, relating to domestic violence.

[Approved by Governor September 27, 2017. Filed with Secretary of State September 27, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 40, Roth. Domestic violence.

Existing law requires every law enforcement agency to develop, adopt, and implement written policies and standards for officers' responses to domestic violence calls. Existing law requires these policies to include specific standards for furnishing written notice to victims at the scene, including, among other things, information about the victim's rights.

This bill would additionally require that information to include a statement informing the victim that strangulation may cause internal injuries and encouraging the victim to seek medical attention.

Existing law requires each law enforcement agency to develop a system for recording all domestic violence-related calls for assistance, including whether weapons are involved, to compile the total number of domestic violence calls received and the numbers of those cases involving weapons, and to report that information annually to the Governor, the Legislature, and the public, as specified.

This bill would, in addition to the information about whether weapons are involved, require this information to include whether the incident involved strangulation or suffocation.

Existing law requires each law enforcement agency to develop an incident report form that includes a domestic violence identification code, and requires that incident report form to include specified information.

This bill would require that incident report form to additionally include whether there were indications that the incident involved strangulation or suffocation, as specified.

By imposing additional duties on local law enforcement agencies, this bill would create 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 the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 13701 of the Penal Code is amended to read:

13701. (a) Every law enforcement agency in this state shall develop, adopt, and implement written policies and standards for officers' responses to domestic violence calls by January 1, 1986. These policies shall reflect that domestic violence is alleged criminal conduct. Further, they shall reflect existing policy that a request for assistance in a situation involving domestic violence is the same as any other request for assistance where violence has occurred.

(b) The written policies shall encourage the arrest of domestic violence offenders if there is probable cause that an offense has been committed. These policies also shall require the arrest of an offender, absent exigent circumstances, if there is probable cause that a protective order issued under Chapter 4 (commencing with Section 2040) of Part 1 of Division 6, Division 10 (commencing with Section 6200), or Chapter 6 (commencing with Section 7700) of Part 3 of Division 12, of the Family Code, or Section 136.2 of this code, or by a court of any other state, a commonwealth, territory, or insular possession subject to the jurisdiction of the United States, a military tribunal, or a tribe has been violated. These policies shall discourage, when appropriate, but not prohibit, dual arrests. Peace officers shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person determined to be the most significant, rather than the first, aggressor. In identifying the dominant aggressor, an officer shall consider the intent of the law to protect victims of domestic violence from continuing abuse, the threats creating fear of physical injury, the history of domestic violence between the persons involved, and whether either person acted in self-defense. These arrest policies shall be developed, adopted, and implemented by July 1, 1996. Notwithstanding subdivision (d), law enforcement agencies shall develop these policies with the input of local domestic violence agencies.

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

- (1) Felony arrests.
- (2) Misdemeanor arrests.
- (3) Use of citizen arrests.
- (4) Verification and enforcement of temporary restraining orders when (A) the suspect is present and (B) the suspect has fled.
- (5) Verification and enforcement of stay-away orders.
- (6) Cite and release policies.
- (7) Emergency assistance to victims, such as medical care, transportation to a shelter, or a hospital for treatment when necessary, and police standbys for removing personal property and assistance in safe passage out of the victim's residence.
- (8) Assisting victims in pursuing criminal options, such as giving the victim the report number and directing the victim to the proper investigation unit.
- (9) Furnishing written notice to victims at the scene, including, but not limited to, all of the following information:
 - (A) A statement informing the victim that despite official restraint of the person alleged to have committed domestic violence, the restrained person may be released at any time.
 - (B) A statement that, "For further information about a shelter you may contact ____."
 - (C) A statement that, "For information about other services in the community, where available, you may contact ____."
 - (D) A statement that, "For information about the California Victims' Compensation Program, you may contact 1-800-777-9229."
 - (E) A statement informing the victim of domestic violence that he or she may ask the district attorney to file a criminal complaint.
 - (F) A statement informing the victim of the right to go to the superior court and file a petition requesting any of the following orders for relief:
 - (i) An order restraining the attacker from abusing the victim and other family members.
 - (ii) An order directing the attacker to leave the household.
 - (iii) An order preventing the attacker from entering the residence, school, business, or place of employment of the victim.

- (iv) An order awarding the victim or the other parent custody of or visitation with a minor child or children.
- (v) An order restraining the attacker from molesting or interfering with minor children in the custody of the victim.
- (vi) An order directing the party not granted custody to pay support of minor children, if that party has a legal obligation to do so.
- (vii) An order directing the defendant to make specified debit payments coming due while the order is in effect.
- (viii) An order directing that either or both parties participate in counseling.

(G) A statement informing the victim of the right to file a civil suit for losses suffered as a result of the abuse, including medical expenses, loss of earnings, and other expenses for injuries sustained and damage to property, and any other related expenses incurred by the victim or any agency that shelters the victim.

(H) In the case of an alleged violation of subdivision (e) of Section 243 or Section 261, 261.5, 262, 273.5, 286, 288a, or 289, a "Victims of Domestic Violence" card which shall include, but is not limited to, the following information:

- (i) The names and phone numbers of or local county hotlines for, or both the phone numbers of and local county hotlines for, local shelters for battered women and rape victim counseling centers within the county, including those centers specified in Section 13837, and their 24-hour counseling service telephone numbers.
- (ii) A simple statement on the proper procedures for a victim to follow after a sexual assault.
- (iii) A statement that sexual assault by a person who is known to the victim, including sexual assault by a person who is the spouse of the victim, is a crime.
- (iv) A statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime.
- (I) A statement informing the victim that strangulation may cause internal injuries and encouraging the victim to seek medical attention.

(10) Writing of reports.

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

SEC. 2. Section 13730 of the Penal Code is amended to read:

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

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

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

- (1) A notation of whether the officer or officers who responded to the domestic violence call observed any signs that the alleged abuser was under the influence of alcohol or a controlled substance.
- (2) A notation of whether the officer or officers who responded to the domestic violence call determined if any law enforcement agency had previously responded to a domestic violence call at the same address involving the same alleged abuser or victim.
- (3) A notation of whether the officer or officers who responded to the domestic violence call found it necessary, for the protection of the peace officer or other persons present, to inquire of the victim, the alleged abuser, or both, whether a firearm or other deadly weapon was present at the location, and, if there is an inquiry, whether that inquiry disclosed the presence of a

firearm or other deadly weapon. Any firearm or other deadly weapon discovered by an officer at the scene of a domestic violence incident shall be subject to confiscation pursuant to Division 4 (commencing with Section 18250) of Title 2 of Part 6.

(4) A notation of whether there were indications that the incident involved strangulation or suffocation. This includes whether any witness or victim reported any incident of strangulation or suffocation, whether any victim reported symptoms of strangulation or suffocation, or whether the officer observed any signs of strangulation or suffocation.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.