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SB-459 Crimes: rape: great bodily injury. (2019-2020)

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Senate Bill No. 459

CHAPTER 646

An act to amend Section 12022.8 of the Penal Code, relating to crimes.

[Approved by Governor October 08, 2019. Filed with Secretary of State October 08, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 459, Galgiani. Crimes: rape: great bodily injury.

Existing law generally imposes an additional and consecutive term of 3 years imprisonment in the state prison on a person who personally inflicts great bodily injury on a person in the commission of a felony. Existing law imposes a 5-year enhancement on the sentence of a person who inflicts great bodily injury during the commission of a rape if the act was committed by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another, or if the act was accomplished against the victim's will by threatening to retaliate in the future against the victim or another person. The 5-year enhancement also applies if the victim was not the perpetrator's spouse and was prevented from resisting by any intoxicating or anesthetic substance, or a controlled substance.

This bill would make the 5-year sentence enhancement for the infliction of great bodily injury applicable to rape committed against a victim who is the perpetrator's spouse who was prevented from resisting by any intoxicating or anesthetic substance, or a controlled substance. By increasing the punishment for crimes, 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 no reimbursement is required by this act for a specified reason.

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

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

SECTION 1. Section 12022.8 of the Penal Code is amended to read:

12022.8. Any person who inflicts great bodily injury, as defined in Section 12022.7, on any victim in a violation of Section 220 involving a specified sexual offense, or a violation or attempted violation of paragraph (2), (3), or (6) of subdivision (a) of Section 261, paragraph (1), (2), or (4) of subdivision (a) of Section 262, Section 264.1, subdivision (b) of Section 288, subdivision (a) of Section 289, or sodomy or oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person as provided in Section 286 or 287, or former Section 288a, shall receive a five-year enhancement for each violation in addition to the sentence provided for the felony conviction.

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