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SB-989 Domestic violence: deaths. (2023-2024)

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Date Published: 09/30/2024 02:00 PM

Senate Bill No. 989

CHAPTER 654

An act to amend Section 129 of the Code of Civil Procedure, to amend Section 27491 of the Government Code, and to amend Section 13519 of, and to add Section 679.07 to, the Penal Code, relating to domestic violence.

[Approved by Governor September 27, 2024. Filed with Secretary of State September 27, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 989, Ashby. Domestic violence: deaths.

(1) Existing law generally prohibits a copy, reproduction, or facsimile of any kind of a photograph, negative, or print, including instant photographs and video recordings, of the body, or any portion of the body, of a deceased person, taken by or for the coroner at the scene of death or in the course of a postmortem examination or autopsy, from being made or disseminated. Existing law authorizes the use of a copy, reproduction, or facsimile described above in specified circumstances, including for use in a potential civil action if the coroner receives written authorization from a legal heir or representative of that person before the civil action is filed or while the action is pending. Existing law requires the identity of the legal heir to be verified by, including other things, a declaration under the penalty of perjury that the individual is a legal heir or representative of the deceased person.

This bill would additionally authorize a family member of the deceased, as defined, to provide the coroner with written authorization for use or potential use of a copy, reproduction, or facsimile described above in a civil action or proceeding that relates to the death of that person. The bill would also require the identity of the family member to be verified as described above. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program.

(2) Existing law requires the coroner to inquire into and determine the circumstances, manner, and cause of certain deaths, including all known or suspected homicides, suicides, or accidental poisonings.

This bill would specify the above-described suicides to include suicides where the deceased has a history of being victimized by domestic violence. The bill would authorize the coroner, if the circumstances surrounding a death known or suspected as due to suicide afford a reasonable basis to suspect that the death was caused by or related to the domestic violence of another, to conduct the inquiry in consultation with a board-certified forensic pathologist, as specified.

(3) Existing law requires a coroner to investigate deaths that occurred under specified conditions, including without medical attendance, to ascertain as many of the facts as possible. Existing law makes willful infliction of corporal injury resulting in a traumatic condition on specified persons, such as a spouse, former spouse, or someone with whom an individual has or had a dating relationship, among others, a crime and provides enhanced resources for the prosecution of those crimes.

This bill would require law enforcement officers, prior to making findings as to the manner and cause of death of a deceased individual with an identifiable history of being victimized by domestic violence and under specified conditions, to interview family members of the decedent, as specified. The bill would authorize a law enforcement officer to request a complete autopsy be

conducted in a case where they determined the decedent had an identifiable history of being victimized by domestic violence, as defined, and specified conditions are present, including that the decedent died prematurely. The bill would also require sworn law enforcement personnel investigating a case where the decedent had an identifiable history of being victimized by domestic violence be current on their training related to domestic violence incidents. By requiring specific investigatory steps be taken by law enforcement agencies, this bill would create a state-mandated local program.

(4) Existing law requires the Commission on Peace Officer Standards and Training (POST) to implement a course or courses of instruction and guidelines for law enforcement response to domestic violence. Existing law requires the course of basic training to include adequate instruction in specified procedures and techniques, including techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and that promote the safety of the victim. Existing law requires the guidelines for law enforcement response to incorporate those procedures and techniques.

This bill would require the guidelines for law enforcement under the above-described provisions to include specified indicators of domestic homicide in suspicious death cases and the identification and detection of staged crime scenes.

(5) The bill would make findings and declarations relating to these provisions.

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so 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. The Legislature finds and declares all of the following:

(a) Suspicious death cases, where there is a history of being victimized by domestic violence, are inadequately investigated at times, when a premature decision is made to determine the cause of death as suicide even before a comprehensive investigation has been completed by law enforcement professionals.

(b) Domestic violence-related homicides are highly susceptible to staging or alteration of the death scene before investigators can conduct a scene investigation, which hampers the responsibilities of the coroner or medical examiner and compromises the ability of investigators to evaluate death cases adequately.

(c) Research has identified 10 red flag markers in suspicious death cases, where there is a history of being victimized by domestic violence, that should be evaluated in any death investigation.

(d) An independent right of family members of homicide victims has been created in federal law to obtain information, access victim services, and request an independent review of initial findings or the investigation of the death of their family member but the law applies only to those cases under federal jurisdiction. It is the intent of the Legislature to provide victim services and support to family members in suspicious death cases and support family members who seek a second opinion on the death of their loved one at no cost to any public agency whenever practicable.

SEC. 2. Section 129 of the Code of Civil Procedure is amended to read:

129. (a) Notwithstanding any other law, a copy, reproduction, or facsimile of any kind of a photograph, negative, or print, including instant photographs and video recordings, of the body, or any portion of the body, of a deceased person, taken by or for the coroner at the scene of death or in the course of a post mortem examination or autopsy, shall not be made or disseminated except as follows:

(1) For use in a criminal action or proceeding in this state that relates to the death of that person.

(2) As a court of this state permits, by order after good cause has been shown and after written notification of the request for the court order has been served, at least five days before the order is made, upon the district attorney of the county in which the post mortem examination or autopsy has been made or caused to be made.

(3) For use or potential use in a civil action or proceeding in this state that relates to the death of that person, if either of the following applies:

(A) The coroner receives written authorization from a legal heir, representative, or family member of that person. The written authorization may be provided before the action is filed or while the action is pending. To verify the identity of the legal heir, representative, or family member, all of the following shall be provided to the coroner:

- (i) A declaration under penalty of perjury that the individual is a legal heir, representative, or family member of the deceased person.
- (ii) A valid form of identification.
- (iii) A certified death certificate.

(B) A subpoena is issued by a party who is a legal heir or representative of the deceased person in a pending civil action.

(b) This section shall not apply to the making or dissemination of a copy, reproduction, or facsimile for use in the field of forensic pathology, in medical or scientific education or research, or by a coroner or any law enforcement agency in the United States for investigative purposes, including identification and identification confirmation.

(c) This section shall apply to a copy, reproduction, or facsimile, and to a photograph, negative, or print, regardless of when it was made.

(d) A coroner is not personally liable for monetary damages in a civil action for any act or omission in compliance with this section.

(e) For the purposes of this section, "family member" means a parent, sibling, or child of the deceased.

SEC. 3. Section 27491 of the Government Code is amended to read:

27491. (a) It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths; unattended deaths; deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (g) of Section 1746 of the Health and Safety Code in the 20 days before death; deaths known or suspected as due to homicide, suicide, including suicide where the deceased has a history of being victimized by domestic violence, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known or alleged rape; deaths in prison or while under sentence; deaths known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state hospitals serving the mentally disordered and operated by the State Department of State Hospitals; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Developmental Services; deaths under circumstances that afford a reasonable ground to suspect that the death was caused by the criminal act of another; and any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies.

(b) If the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of the report to the state agency responsible for the state hospital.

(c) The coroner shall have discretion to determine the extent of the inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death.

(d) For the purpose of inquiry, the coroner shall have the right to exhume the body of a deceased person when necessary to discharge the responsibilities set forth in this section.

(e) A funeral director, physician, or other person who has charge of a deceased person's body, when death occurred as a result of any of the causes or circumstances described in this section, shall immediately notify the coroner. A person who does not notify the coroner as required by this section is guilty of a misdemeanor.

(f) If the circumstances surrounding a death known or suspected as due to suicide afford a reasonable basis to suspect that the death was caused by or related to the domestic violence of another, the coroner may conduct the inquiry in consultation with a board-certified forensic pathologist certified by the American Board of Pathology.

SEC. 4. Section 679.07 is added to the Penal Code, to read:

679.07. (a) Prior to making any findings as to the manner and cause of death of a deceased individual with an identifiable history of being victimized by domestic violence, and in the presence of three or more factors listed in subdivision (b), law enforcement investigators shall interview family members, such as parents, siblings, or other close friends or relatives of the decedent with relevant information regarding that history of domestic violence.

(b) Law enforcement investigators may request a complete autopsy, pursuant to Section 27521 of the Government Code, in a case where they have determined there is an identifiable history of being victimized by domestic violence and any of the following conditions are present:

- (1) The decedent died prematurely or in an untimely manner.
- (2) The scene of the death gives the appearance of death due to suicide or accident.
- (3) One partner wanted to end the relationship.
- (4) There is a history of being victimized by domestic violence that includes coercive control.
- (5) The decedent is found dead in a home or place of residence.
- (6) The decedent is found by a current or previous partner.
- (7) There is a history of being victimized by domestic violence that includes strangulation or suffocation.
- (8) The current or previous partner of the decedent, or child of the decedent or the decedent's current or previous partner, is the last to see the decedent alive.
- (9) The partner had control of the scene before law enforcement arrived.
- (10) The body of the decedent has been moved or the scene or other evidence is altered in some way.

(c) Sworn law enforcement personnel investigating a death where it has been determined that the decedent has an identifiable history of being victimized by domestic violence shall be current in their training related to domestic violence incidents, including training required pursuant to Section 13519.

(d) During the pendency of the investigation and any review, family members shall have access to all victim services and support provided under this title.

(e) In the event that a local law enforcement agency makes a finding that the death is not a homicide and closes the case, family members or their legal counsel shall have the right to request any and all records of the investigation currently available under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(f) This section does not require local law enforcement agencies to compromise an existing or open investigation and does not preempt the discretion provided to local law enforcement agencies in the investigation of death cases. This section does not impose any additional liability on a local law enforcement agency for its investigation of existing cases or its investigative conclusions in those cases.

(g) For the purposes of this section, the following definitions shall apply:

- (1) "Domestic violence" has the same meaning as used in Section 6211 of the Family Code.
- (2) "Identifiable history of being victimized by domestic violence" means demonstrable past incidents of being victimized by domestic violence that may be verified by prior police reports, written or photographic documentation, restraining order declarations, eyewitness statements, or other evidence that corroborates a history of such incidents.
- (3) "Partner" means a spouse, former spouse, cohabitant, former cohabitant, fiancé, someone with whom the decedent had a dating relationship or engagement for marriage, or the parent of the decedent's child.

SEC. 5. Section 13519 of the Penal Code is amended to read:

13519. (a) The commission shall implement by January 1, 1986, a course or courses of instruction for the training of law enforcement officers in California in the handling of domestic violence complaints and also shall develop guidelines for law enforcement response to domestic violence. The course or courses of instruction and the guidelines shall include a brief current and historical context on communities of color impacted by incarceration and violence, enforcement of criminal laws in domestic violence situations, availability of civil remedies and community resources, and protection of the victim. If appropriate, the training presenters shall include domestic violence experts, who may include victims of domestic violence and people who have committed domestic violence and have been or are in the process of being rehabilitated, with expertise in the delivery of direct

services to victims and people who have committed domestic violence, including, but not limited to, utilizing the staff of domestic violence shelter-based programs in the presentation of training.

(b) As used in this section, "law enforcement officer" means any officer or employee of a local police department or sheriff's office, a peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2, a peace officer of the University of California Police Department, as defined in subdivision (b) of Section 830.2, a peace officer of the California State University Police Departments, as defined in subdivision (c) of Section 830.2, a peace officer, as defined in subdivision (d) of Section 830.31, or a peace officer as defined in subdivisions (a) and (b) of Section 830.32.

(c) The course of basic training for law enforcement officers shall include adequate instruction in the procedures and techniques described below:

(1) The provisions set forth in Title 5 (commencing with Section 13700) relating to response, enforcement of court orders, and data collection.

(2) The legal duties imposed on peace officers to make arrests and offer protection and assistance including guidelines for making felony and misdemeanor arrests.

(3) Techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and that promote the safety of the victim. These techniques shall include, but are not limited to, the following:

(A) Methods for ensuring victim interviews occur in a venue separate from the alleged perpetrator and with appropriate sound barriers to prevent the conversation from being overheard.

(B) Questions for the victim, including, but not limited to, the following:

(i) Whether the victim would like a followup visit to provide needed support or resources.

(ii) Information on obtaining a gun violence restraining order and a protective order described in Section 6218 of the Family Code.

(C) A verbal review of the resources available for victims outlined on the written notice provided pursuant to paragraph (9) of subdivision (c) of Section 13701.

(4) The nature and extent of domestic violence.

(5) The signs of domestic violence.

(6) Criminal conduct that may be related to domestic violence, including, but not limited to, any of the following:

(A) Coercion, as described in paragraph (1) of subdivision (h) of Section 236.1, for purposes of committing or impeding the investigation or prosecution of domestic violence.

(B) False imprisonment, as defined in Section 236.

(C) Extortion, as defined in Section 518, and the use of fear, as described in Section 519.

(D) Identity theft, as defined in Section 530.5, impersonation through an internet website or by other electronic means, as defined in Section 528.5, false personation, as defined in Section 530, receiving money or property as a result of false personation, and mail theft.

(E) Stalking, as defined in Section 646.9, including by telephone or electronic communication.

(F) Nonconsensual pornography, as described in paragraph (4) of subdivision (j) of Section 647.

(7) The assessment of lethality or signs of lethal violence in domestic violence situations.

(8) The legal rights of, and remedies available to, victims of domestic violence.

(9) The use of an arrest by a private person in a domestic violence situation.

(10) Documentation, report writing, and evidence collection.

(11) Domestic violence diversion.

(12) Tenancy issues and domestic violence.

(13) The impact on children of law enforcement intervention in domestic violence.

(14) The services and facilities available to victims and batterers.

(15) The use and applications of this code in domestic violence situations.

(16) Verification and enforcement of temporary restraining orders when (A) the suspect is present and (B) the suspect has fled.

(17) Verification and enforcement of stay-away orders.

(18) Cite and release policies.

(19) Emergency assistance to victims and how to assist victims in pursuing criminal justice options.

(d) The guidelines developed by the commission shall also incorporate the factors described in subdivision (c), and the following procedures and techniques:

(1) Identification and detection of staged crime scenes.

(2) Working with a multidisciplinary team in the handling of domestic violence cases.

(3) Indicators of domestic homicide in suspicious death cases, including all of the following:

(A) The decedent died prematurely or in an untimely manner.

(B) The scene of the death gives the appearance of death due to suicide or accident.

(C) One partner wanted to end the relationship.

(D) There is a history of being victimized by domestic violence that includes coercive control.

(E) The decedent is found dead in a home or place of residence.

(F) The decedent is found by a current or previous partner.

(G) There is a history of being victimized by domestic violence that includes strangulation or suffocation.

(H) The current or previous partner of the decedent, or child of the decedent or the decedent's current or previous partner, is the last to see the decedent alive.

(I) The partner had control of the scene before law enforcement arrived.

(J) The body of the decedent has been moved or the scene or other evidence is altered in some way.

(e) Local law enforcement agencies are encouraged to include, as a part of their advanced officer training program, periodic updates and training on domestic violence. The commission shall assist where possible.

(f) (1) The course of instruction, the learning and performance objectives, the standards for the training, and the guidelines shall be developed by the commission in consultation with appropriate groups and individuals having an interest and expertise in the field of domestic violence. The groups and individuals shall include, but shall not be limited to, the following: one representative each from the California Peace Officers' Association, the Peace Officers Research Association of California, the State Bar of California, the California Women Lawyers, and the Commission on the Status of Women and Girls; two representatives from the commission; two representatives from the California Partnership to End Domestic Violence; two peace officers, recommended by the commission, who are experienced in the provision of domestic violence training; two domestic violence experts, recommended by the California Partnership to End Domestic Violence, who are experienced in the provision of direct services to victims of domestic violence; and at least one representative of service providers serving the lesbian, gay, bisexual, and transgender community in connection with domestic violence. At least one of the persons selected shall be a former victim of domestic violence; one representative of an organization working to advance criminal justice reform; and one representative of an organization working to advance racial justice.

(2) The commission, in consultation with these groups and individuals, shall review existing training programs to determine in what ways domestic violence training might be included as a part of ongoing programs.

(g) Each law enforcement officer below the rank of supervisor who is assigned to patrol duties and would normally respond to domestic violence calls or incidents of domestic violence shall complete, every two years, an updated course of instruction on domestic violence that is developed according to the standards and guidelines developed pursuant to subdivisions (a) and (d). The instruction required pursuant to this subdivision shall be funded from existing resources available for the training required pursuant to this section. It is the intent of the Legislature not to increase the annual training costs of local government entities.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, 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.

However, if the Commission on State Mandates determines that this act contains other 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.