

Date of Hearing: January 18, 2024

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Chris Holden, Chair
AB 977 (Rodriguez) – As Amended January 10, 2024

Policy Committee: Public Safety Vote: 8 - 0

Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY:

This bill increases the criminal penalty for assault and battery committed against a health care worker engaged in providing services within a hospital emergency department, making these offenses punishable by imprisonment in a county jail for up to one year, a fine up to \$2,000, or both.

FISCAL EFFECT:

Potentially significant, non-reimbursable costs to counties due to increased incarceration, resulting in cost pressure on the General Fund. This bill increases to one year the maximum jail term for a person convicted of assault or battery on a specified health care worker in an emergency department. The average annual cost to incarcerate a person in county jail is approximately \$29,000. To the extent this bill results in longer jail terms, it will increase county jail populations and related incarceration costs. Although new crimes are not considered reimbursable state mandates pursuant to Proposition 30 (2012), overcrowding in county jails creates cost pressure on the General Fund because the state has historically granted new funding to counties to offset overcrowding resulting from the 2011 Realignment Act.

COMMENTS:

1) **Purpose.** According to the author:

As a career first responder, I experienced firsthand how the constant threat of workplace violence (WPV) creates a dangerous and volatile environment in the emergency department (ED). Healthcare workers in this field experience burnout, stress, and trauma, which affects their ability to treat patients. Studies have shown that experiencing workplace violence inside the emergency department can cause PTSD, depression, and a lower quality of professional life. Workplace violence lowers patient-physician trust and drives poor health outcomes. Unfortunately, many think workplace violence is a part of the job, and many healthcare workers may not even report WPV. However, there should be zero tolerance for verbal or physical abuse to those dedicated to improving patients' lives.

2) **Background.** Under the California Penal Code, an assault is an attempt to commit a violent injury on a person, and a battery is use of force or violence upon another person. For

example, if one person swings their fist at another person, that is an assault; if the person swinging actually hits the other person, that is a battery. Simple assault and battery are punishable by up to six months in county jail, or a fine, or both. Assault and battery committed against a peace officer, firefighter, emergency medical technician, lifeguard, or animal control officer, among others, may be punished by up to one year in jail and a \$2,000 fine. Additionally, existing law provides even greater penalties for instances of assault and battery that involve serious injury or violence. Battery resulting in serious bodily injury is an alternative felony-misdemeanor punishable by one to four years in county jail. Assault by force likely to produce serious bodily injury is punishable by one year in county jail or two to four years in state prison.

This bill increases the maximum penalties for assault and battery committed against a health care worker providing services within a hospital emergency department, from six months in jail under existing law to one year in jail. The bill also increases the maximum fine for these offenses and allows a health facility to post a notice in its facility stating that criminal penalties may result from assault and battery on hospital staff.

Although violence inflicted on hospital workers is a serious issue, it is unclear whether increasing the current penalty for assault and battery on emergency department workers would reduce instances of violence. Research shows that lengthy criminal sentences, which are costly to state and local governments, do not effectively deter crime. In general, the certainty that someone will be punished for an offense plays a larger role in deterring their criminal activity, rather than the length of their potential punishment. The population of offenders likely to receive longer sentences under this bill – people who lash out against health care providers in hospital emergency departments – are often experiencing acute medical issues or emotional distress, so it seems especially unlikely that the future prospect of a harsher criminal penalty would deter their conduct in the moment. Finally, public testimony on this bill and information provided to the committee by the author's office indicate insufficient enforcement of existing laws that punish assault and battery committed against emergency department employees, both by law enforcement agencies and district attorney offices. Addressing these insufficiencies may be a more effective avenue for reducing violence against health care workers than increasing criminal penalties.

- 3) **Prior Legislation.** AB 172 (Rodriguez), of the 2015-16 Legislative Session, was substantially similar to this bill. AB 172 was vetoed by Governor Brown, who wrote:

If there were evidence that an additional six months in county jail (three months, once good-time credits are applied) would enhance the safety of these workers or serve as a deterrent, I would sign this bill. I doubt that it would do either.

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