

ASSEMBLY THIRD READING
AB 977 (Rodriguez)
As Amended January 10, 2024
Majority vote

SUMMARY

Makes an assault or a battery committed against a physician, nurse, or other healthcare worker of a hospital engaged in providing services within the emergency department punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding \$2,000, or by both that fine and imprisonment.

Major Provisions

- 1) Makes an assault or battery committed against a physician, nurse, or other healthcare worker of a hospital engaged in providing services within the emergency department, when the person committing the offense knows or reasonably should know that the victim a physician, nurse, or other healthcare worker of a hospital engaged in providing services within the emergency department, punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding \$2,000, or by both.
- 2) Redefines "nurse" for purposes of these offenses, as specified, and expands the definition to include a nurse of a hospital engaged in providing services within the emergency department.
- 3) Defines "healthcare worker" as a person who in the course and scope of employment performs duties directly associated with the care and treatment rendered by the hospital's emergency department or the department's security.
- 4) Redefines "emergency medical technician" as specified.
- 5) Allows a health facility, as specified, to post a notice in a conspicuous place in the emergency department stating substantially the following:

"WE WILL NOT TOLERATE any form of threatening or aggressive behavior toward our staff. Assaults and batteries against our staff are crimes and may result in a criminal conviction. All staff have the right to carry out their work without fearing for their safety."

COMMENTS

Veto by Former Governor Brown: AB 172 (Rodriguez), of the 2015-2016 Legislative Session, was identical to this bill. It was vetoed by former Governor Brown. The veto message said:

"This bill would increase from six months to one year in county jail the maximum punishment for assault or battery of a healthcare worker inside an emergency department.

"Emergency rooms are overcrowded and often chaotic. I have great respect for the work done by emergency room staff and I recognize the daunting challenges they face every day. 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.

"We need to find more creative ways to protect the safety of these critical workers. This bill isn't the answer."

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. One-third of emergency nurses have considered leaving due to WPV, and 85% of emergency physicians believe WPV in the ED has increased over the past five years. Two-thirds of emergency physicians have reportedly been assaulted, and one-third of those assaults have led to an injury. The COVID-19 pandemic only worsened this trend and further strained desperately needed healthcare staff.

"There is no reason why penalties for assaulting or committing battery against an emergency healthcare worker inside an emergency department should be weaker than those working outside an emergency department. AB 977 will provide parity on crimes in and out of an ED while also sending a message to ED staff that their work is valued and their safety is our priority. This bill will also authorize EDs to post a message that assault and battery against healthcare staff is a crime—sending a message to patients that workplace violence (WPV) is unacceptable."

Arguments in Support

According to the *California Hospitals Association*, "Health care workers in hospitals across California are increasingly subject to violent threats and attacks. The federal Bureau of Labor Statistics reports that health care workers are five times more likely to experience workplace violence than employees in other sectors. In fact, a 2021 study found that 44% of nurses reported being subject to physical violence, while 68% reported verbal abuse — troubling numbers that were exacerbated by the COVID-19 pandemic. A 2022 study of one hospital emergency department supported these findings, demonstrating that incidences of workplace violence increased during the pandemic and were directly associated with the COVID-19 case rate.

"California's health care workers must be better protected while they care for others and save lives. For these reasons, the California Hospital Association, on behalf of more than 400 hospitals and health systems, supports Assembly Bill 977, which would extend the penalties for violence committed against first responders to include all health care workers who provide services within emergency departments.

"Under current law, violence against health care workers inside an emergency department is penalized differently depending on the category of health care worker and the location of the attack. AB 977 is an important step toward providing health care workers with the same protections whether they are inside a hospital emergency department or elsewhere. It would ensure that those committing assault and battery against any hospital employee in an emergency department are subject to the same penalties they would be if the crime occurred anywhere else.

"Hospital health care workers perform their duties in a high-risk environment, as many patients and visitors experience high stress when suffering an emergency medical condition that can at times lead to aggressive behavior....

"Hospitals are doing their part to protect their employees — the most critical component of our health care delivery system — but California's penal code has fallen behind. AB 977 will deliver important safeguards for all workers in hospital emergency departments to better protect them from violence.

"Additionally, this penalty extension should apply to workers throughout the entire hospital building — health care workers in emergency departments are not the only ones experiencing increased rates of violence. Health care workers should be protected from violence regardless of where they work in a hospital."

Arguments in Opposition

According to the *California Public Defenders Association*, "CPDA recognizes the problem of violence and the specific challenges it poses to healthcare facilities and healthcare workers. CPDA opposes this bill because it increases the pool of potential victims, the locations of the prohibited conduct, and the potential punishment for offenses that are largely committed by individuals in crisis.

"The World Health Organization and countless other organizations have recognized that almost all violence in hospitals occurs between staff and patients or their families. Patients are often combative, either through intoxication, stress, or mental illness. Often the families are under a great deal of stress because of receiving bad news about their loved ones and reacting poorly to the news. This is not to say that such behavior should be excused, only that increased incarceration and fines for these individuals is not in the public interest, nor likely to be an effective deterrent to such behavior.

"AB 977 is unnecessary. Existing law covers the situations that the proposed law purports to address. While simple assault or battery is currently a misdemeanor, there is a broad spectrum of assaultive conduct that can be, and usually is, charged as felonies.

"Doctors, nurses, and other hospital health care workers have a right to do their jobs without being harmed. The current laws, and sentencing structure, accomplish that goal. Doctors, nurses, and other hospital health care workers have a right to do their jobs without being harmed. The current laws, and sentencing structure, accomplish that goal.

"CPDA members frequently work with individuals in need of medical assistance that are taken to healthcare facilities. Frequently these people are mentally ill, on drugs/medication, or the victims of violent assaults themselves. Often their distressed family members come to see or support them. If an assault or battery occurs, healthcare facilities usually have security and police close at hand to remove such individuals and safeguard healthcare workers. Punishing those either seeking medical assistance, or their loved ones, more harshly will not add to public safety or aid in the rendering of medical aid."

FISCAL COMMENTS

According to the Assembly Appropriations Committee, 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.

VOTES

ASM PUBLIC SAFETY: 8-0-0

YES: McCarty, Alanis, Zbur, Lackey, Stephanie Nguyen, Reyes, Gipson, Wilson

ASM APPROPRIATIONS: 15-0-1

YES: Holden, Sanchez, Arambula, Wood, Calderon, Connolly, Dixon, Mike Fong, Grayson, Haney, Hart, Lowenthal, Pellerin, Ta, Villapudua

ABS, ABST OR NV: Megan Dahle

UPDATED

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