

AMENDED IN ASSEMBLY APRIL 28, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 1087

Introduced by Assembly Member Patterson

February 20, 2025

An act to amend Section 191.5 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1087, as amended, Patterson. Crimes: vehicular manslaughter while intoxicated.

Existing law prohibits operating a vehicle while under the influence of alcohol or drugs, as specified. Under existing law, if a person is convicted of driving under the influence and is granted probation, the period of probation shall be for not less than 3 years and not more than 5 years, unless the maximum prison sentence for the offense is greater than 5 years, in which case the period of probation may be longer.

Existing law prohibits the unlawful killing of a human being, without malice aforethought, while driving under the influence. A violation of this prohibition is punishable either as a misdemeanor or as a felony. Under existing law, if a person is convicted of the unlawful killing of a human being, without malice aforethought, while driving under the influence, and is granted probation, the period of probation shall be not more than one year if the person is convicted of a misdemeanor and 2 years if the person is convicted of a felony.

This bill would increase the period of probation for a person who is convicted of the unlawful killing of a human being, without malice aforethought, while driving under the influence to be the same as the period of probation for a person who is convicted of driving under the influence: *not less than 3 years and not more than 5 years.*

By increasing the period of probation, 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.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 191.5 of the Penal Code is amended to
2 read:

3 191.5. (a) Gross vehicular manslaughter while intoxicated is
4 the unlawful killing of a human being without malice aforethought,
5 in the driving of a vehicle, where the driving was in violation of
6 Section 23140, 23152, or 23153 of the Vehicle Code, and the
7 killing was either the proximate result of the commission of an
8 unlawful act, not amounting to a felony, and with gross negligence,
9 or the proximate result of the commission of a lawful act that might
10 produce death, in an unlawful manner, and with gross negligence.

11 (b) Vehicular manslaughter while intoxicated is the unlawful
12 killing of a human being without malice aforethought, in the
13 driving of a vehicle, where the driving was in violation of Section
14 23140, 23152, or 23153 of the Vehicle Code, and the killing was
15 either the proximate result of the commission of an unlawful act,
16 not amounting to a felony, but without gross negligence, or the
17 proximate result of the commission of a lawful act that might
18 produce death, in an unlawful manner, but without gross
19 negligence.

20 (c) (1) Except as provided in subdivision (d), gross vehicular
21 manslaughter while intoxicated in violation of subdivision (a) is
22 punishable by imprisonment in the state prison for 4, 6, or 10 years.

23 (2) Vehicular manslaughter while intoxicated in violation of
24 subdivision (b) is punishable by imprisonment in a county jail for
25 not more than one year or by imprisonment pursuant to subdivision
26 (h) of Section 1170 for 16 months or two or four years.

27 (d) A person convicted of violating subdivision (a) who has one
28 or more prior convictions of this section or of paragraph (1) of

subdivision (c) of Section 192, subdivision (a) or (b) of Section 192.5 of this code, or of violating Section 23152 punishable under Sections 23540, 23542, 23546, 23548, 23550, or 23552 of, or convicted of Section 23153 of, the Vehicle Code, shall be punished by imprisonment in the state prison for a term of 15 years to life. Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce the term imposed pursuant to this subdivision.

(e) Notwithstanding Section 1203.1 or 1203a, if a person is convicted of a violation of this section and is granted probation, the period of probation shall be not less than three nor more than five years, ~~provided, however, that if the maximum sentence provided for the offense may exceed five years in the state prison, the period during which the sentence may be suspended and terms of probation enforced may be for a longer period than three years but may not exceed the maximum time for which the sentence of imprisonment may be pronounced.~~ years.

(f) This section shall not be construed as prohibiting or precluding a charge of murder under Section 188 upon facts exhibiting wantonness and a conscious disregard for life to support a finding of implied malice, or upon facts showing malice consistent with the holding of the California Supreme Court in *People v. Watson*, 30 Cal.3d 290.

(g) This section shall not be construed as making any homicide in the driving of a vehicle or the operation of a vessel punishable which is not a proximate result of the commission of an unlawful act, not amounting to felony, or of the commission of a lawful act which might produce death, in an unlawful manner.

(h) For the penalties in subdivision (d) to apply, the existence of any fact required under subdivision (d) shall be alleged in the information or indictment and either admitted by the defendant in open court or found to be true by the trier of fact.

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

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

O