

**ASSEMBLY BILL**

**No. 760**

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**Introduced by Assembly Member Nava**

February 18, 2005

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An act to amend Sections 851.5, 1170, 1170.3, and 1203.016 of, and to add Sections 833.2 and 13517.7 to, the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 760, as introduced, Nava. Criminal procedure.

Existing law generally prescribes the authority and obligations of law enforcement entities in regard to effecting an arrest.

This bill would state the intent of the Legislature to encourage law enforcement and county child welfare agencies to develop protocols in collaboration with local educational, judicial, correctional, and community-based organizations, when appropriate, regarding how to best cooperate in their response to the arrest of a caretaker parent in a home in which a minor child resides, to ensure the child's safety and well-being.

Existing law provides an arrested person with certain rights regarding the opportunity to make telephone calls incident to the person being booked or detained, as specified. The willful deprivation of these rights by a public officer or employee is a misdemeanor.

This bill would, in addition, provide that when, during booking, an arrested person is determined to be a custodial parent of a minor child or children, the person would be entitled to make 3 telephone calls at no expense, as specified, for the purpose of arranging for the care of the minor child or children.

By imposing additional duties on local government entities, this bill would impose a state-mandated local program. By expanding the

scope of an existing crime, this bill would impose a state-mandated local program.

Existing law generally regulates sentencing, including the consideration of mitigating factors and other criteria for purposes of sentencing.

This bill would include a defendant’s custodial responsibilities for minor children as an element for consideration for specified purposes related to sentencing.

Existing law establishes the Commission on Peace Officer Standards and Training and charges it with various duties in connection with training law enforcement personnel.

This bill would require the commission to establish guidelines and training for use by state and local law enforcement officers to address issues of child safety at the time of a caretaker parent’s or guardians arrest.

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. State-mandated local program: yes.

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

- 1 SECTION 1. Section 833.2 is added to the Penal Code, to
- 2 read:
- 3 833.2. It is the intent of the Legislature to encourage law
- 4 enforcement and county child welfare agencies to develop
- 5 protocols in collaboration with other local entities, which may
- 6 include local educational, judicial, correctional, and
- 7 community-based organizations, when appropriate, regarding
- 8 how to best cooperate in their response to the arrest of a caretaker
- 9 parent in a home in which a minor child resides, to ensure the
- 10 child’s safety and well-being.

1 SEC. 2. Section 851.5 of the Penal Code is amended to read:

2 851.5. (a) Immediately upon being booked, and, except  
3 where physically impossible, no later than three hours after  
4 arrest, an arrested person has the right to make at least three  
5 completed telephone calls, as described in subdivision (b).

6 The arrested person shall be entitled to make at least three ~~such~~  
7 calls at no expense if the calls are completed to telephone  
8 numbers within the local calling area.

9 (b) At any police facility or place where an arrestee is  
10 detained, a sign containing the following information in bold  
11 block type shall be posted in a conspicuous place:

12 That the arrestee has the right to free telephone calls within the  
13 local dialing area, or at his *or her* own expense if outside the  
14 local area, to three of the following:

15 (1) An attorney of his *or her* choice or, if he *or she* has no  
16 funds, the public defender or other attorney assigned by the court  
17 to assist indigents, whose telephone number shall be posted. This  
18 ~~phone~~ telephone call shall not be monitored, eavesdropped upon,  
19 or recorded.

20 (2) A bail bondsman.

21 (3) A relative or other person.

22 (c) *If, upon questioning during the booking process, the*  
23 *arrested person is identified as a custodial parent with*  
24 *responsibility for a minor child, the arrested person shall be*  
25 *entitled to make three additional calls at no expense if the calls*  
26 *are completed to telephone numbers within the local calling area*  
27 *to a relative or other person for the purpose of arranging for the*  
28 *care of the minor child or children in the parent's absence.*

29 (d) These telephone calls shall be given immediately upon  
30 request, or as soon as practicable.

31 ~~(d)~~

32 (e) This provision shall not abrogate a law enforcement  
33 officer's duty to advise a suspect of his *or her* right to counsel or  
34 of any other right.

35 ~~(e)~~

36 (f) Any public officer or employee who willfully deprives an  
37 arrested person of any right granted by this section is guilty of a  
38 misdemeanor.

39 SEC. 3. Section 1170 of the Penal Code is amended to read:

1 1170. (a) (1) The Legislature finds and declares that the  
2 purpose of imprisonment for crime is punishment. This purpose  
3 is best served by terms proportionate to the seriousness of the  
4 offense with provision for uniformity in the sentences of  
5 offenders committing the same offense under similar  
6 circumstances. The Legislature further finds and declares that the  
7 elimination of disparity and the provision of uniformity of  
8 sentences can best be achieved by determinate sentences fixed by  
9 statute in proportion to the seriousness of the offense as  
10 determined by the Legislature to be imposed by the court with  
11 specified discretion.

12 (2) Notwithstanding paragraph (1), the Legislature further  
13 finds and declares that programs should be available for inmates  
14 including, but not limited to, educational programs, that are  
15 designed to prepare nonviolent felony offenders for successful  
16 reentry into the community. The Legislature encourages the  
17 development of policies and programs designed to educate and  
18 rehabilitate nonviolent felony offenders. In implementing this  
19 section, the Department of Corrections is encouraged to give  
20 priority enrollment in programs to promote successful return to  
21 the community to an inmate with a short remaining term of  
22 commitment and a release date that would allow him or her  
23 adequate time to complete the program *particularly those who*  
24 *are sole custodial parents of minor dependent children.*

25 (3) In any case in which the punishment prescribed by statute  
26 for a person convicted of a public offense is a term of  
27 imprisonment in the state prison of any specification of three  
28 time periods, the court shall sentence the defendant to one of the  
29 terms of imprisonment specified unless the convicted person is  
30 given any other disposition provided by law, including a fine,  
31 jail, probation, or the suspension of imposition or execution of  
32 sentence or is sentenced pursuant to subdivision (b) of Section  
33 1168 because he or she had committed his or her crime prior to  
34 July 1, 1977. In sentencing the convicted person, the court shall  
35 apply the sentencing rules of the Judicial Council. The court,  
36 unless it determines that there are circumstances in mitigation of  
37 the punishment prescribed, shall also impose any other term that  
38 it is required by law to impose as an additional term. Nothing in  
39 this article shall affect any provision of law that imposes the  
40 death penalty, that authorizes or restricts the granting of

1 probation or suspending the execution or imposition of sentence,  
2 or expressly provides for imprisonment in the state prison for  
3 life. In any case in which the amount of preimprisonment credit  
4 under Section 2900.5 or any other provision of law is equal to or  
5 exceeds any sentence imposed pursuant to this chapter, the entire  
6 sentence shall be deemed to have been served and the defendant  
7 shall not be actually delivered to the custody of the Director of  
8 Corrections. The court shall advise the defendant that he or she  
9 shall serve a period of parole and order the defendant to report to  
10 the parole office closest to the defendant's last legal residence,  
11 unless the in-custody credits equal the total sentence, including  
12 both confinement time and the period of parole. The sentence  
13 shall be deemed a separate prior prison term under Section 667.5,  
14 and a copy of the judgment and other necessary documentation  
15 shall be forwarded to the Director of Corrections.

16 (b) When a judgment of imprisonment is to be imposed and  
17 the statute specifies three possible terms, the court shall order  
18 imposition of the middle term, unless there are circumstances in  
19 aggravation or mitigation of the crime. At least four days prior to  
20 the time set for imposition of judgment, either party or the  
21 victim, or the family of the victim if the victim is deceased, may  
22 submit a statement in aggravation or mitigation to dispute facts in  
23 the record or the probation officer's report, or to present  
24 additional facts. In determining whether there are circumstances  
25 that justify imposition of the upper or lower term, the court may  
26 consider the record in the case, the probation officer's report,  
27 other reports including reports received pursuant to Section  
28 1203.03 and statements in aggravation or mitigation submitted by  
29 the prosecution, the defendant, or the victim, or the family of the  
30 victim if the victim is deceased, and any further evidence  
31 introduced at the sentencing hearing. The court shall set forth on  
32 the record the facts and reasons for imposing the upper or lower  
33 term. The court may not impose an upper term by using the fact  
34 of any enhancement upon which sentence is imposed under any  
35 provision of law. A term of imprisonment shall not be specified  
36 if imposition of sentence is suspended.

37 (c) The court shall state the reasons for its sentence choice on  
38 the record at the time of sentencing. The court shall also inform  
39 the defendant that as part of the sentence after expiration of the

1 term he or she may be on parole for a period as provided in  
2 Section 3000.

3 (d) When a defendant subject to this section or subdivision (b)  
4 of Section 1168 has been sentenced to be imprisoned in the state  
5 prison and has been committed to the custody of the Director of  
6 Corrections, the court may, within 120 days of the date of  
7 commitment on its own motion, or at any time upon the  
8 recommendation of the Director of Corrections or the Board of  
9 Prison Terms, recall the sentence and commitment previously  
10 ordered and resentence the defendant in the same manner as if he  
11 or she had not previously been sentenced, provided the new  
12 sentence, if any, is no greater than the initial sentence. The  
13 resentence under this subdivision shall apply the sentencing rules  
14 of the Judicial Council so as to eliminate disparity of sentences  
15 and to promote uniformity of sentencing. Credit shall be given  
16 for time served.

17 (e) (1) Notwithstanding any other law and consistent with  
18 paragraph (1) of subdivision (a) of Section 1170, if the Director  
19 of Corrections or the Board of Prison Terms or both determine  
20 that a prisoner satisfies the criteria set forth in paragraph (2), the  
21 director or the board may recommend to the court that the  
22 prisoner's sentence be recalled.

23 (2) The court shall have the discretion to resentence or recall if  
24 the court finds both of the following:

25 (A) The prisoner is terminally ill with an incurable condition  
26 caused by an illness or disease that would produce death within  
27 six months, as determined by a physician employed by the  
28 department.

29 (B) The conditions under which the prisoner would be  
30 released or receive treatment do not pose a threat to public safety.

31 The Board of Prison Terms shall make findings pursuant to this  
32 subdivision before making a recommendation for resentence or  
33 recall to the court. This subdivision does not apply to a prisoner  
34 sentenced to death or a term of life without the possibility of  
35 parole.

36 (3) Within 10 days of receipt of a positive recommendation by  
37 the director or the board, the court shall hold a hearing to  
38 consider whether the prisoner's sentence should be recalled.

39 (4) The prisoner or his or her family member or designee may  
40 request consideration for recall and resentencing by contacting

1 the chief medical officer at the prison or the Director of  
2 Corrections. Upon receipt of the request, if the director  
3 determines that the prisoner satisfies the criteria set forth in  
4 paragraph (2), the director or board may recommend to the court  
5 that the prisoner's sentence be recalled. The director shall submit  
6 a recommendation for release within 30 days in the case of  
7 inmates sentenced to determinate terms and, in the case of  
8 inmates sentenced to indeterminate terms, the director may make  
9 a recommendation to the Board of Prison Terms with respect to  
10 the inmates who have applied under this section. The board shall  
11 consider this information and make an independent judgment  
12 pursuant to paragraph (2) and make findings related thereto  
13 before rejecting the request or making a recommendation to the  
14 court. This action shall be taken at the next lawfully noticed  
15 board meeting.

16 (5) Any recommendation for recall submitted to the court by  
17 the Director of Corrections or the Board of Prison Terms shall  
18 include one or more medical evaluations, a postrelease plan, and  
19 findings pursuant to paragraph (2).

20 (6) If possible, the matter shall be heard before the same judge  
21 of the court who sentenced the prisoner.

22 (f) Any sentence imposed under this article shall be subject to  
23 the provisions of Sections 3000 and 3057 and any other  
24 applicable provisions of law.

25 (g) A sentence to state prison for a determinate term for which  
26 only one term is specified, is a sentence to state prison under this  
27 section.

28 SEC. 4. Section 1170.3 of the Penal Code is amended to read:  
29 1170.3. The Judicial Council shall seek to promote uniformity  
30 in sentencing under Section 1170, by:

31 (a) The adoption of rules providing criteria for the  
32 consideration of the trial judge at the time of sentencing  
33 regarding the court's decision to:

- 34 (1) Grant or deny probation.  
35 (2) Impose the lower or upper prison term.  
36 (3) Impose concurrent or consecutive sentences.  
37 (4) Determine whether or not to impose an enhancement  
38 where that determination is permitted by law.

39 (b) The adoption of rules standardizing the minimum content  
40 and the sequential presentation of material in probation officer

1 reports submitted to the court, *including a defendant's custodial*  
2 *responsibilities for minor children.*

3 SEC. 5. Section 1203.016 of the Penal Code is amended to  
4 read:

5 1203.016. (a) Notwithstanding any other provision of law,  
6 the board of supervisors of any county may authorize the  
7 correctional administrator, as defined in subdivision (h), to offer  
8 a program under which minimum security inmates and low-risk  
9 offenders committed to a county jail or other county correctional  
10 facility or granted probation, or inmates participating in a work  
11 furlough program, may voluntarily participate in a home  
12 detention program during their sentence in lieu of confinement in  
13 the county jail or other county correctional facility or program  
14 under the auspices of the probation officer. *Low-risk offenders*  
15 *who are the sole custodial parents of minor children should*  
16 *especially be considered for the program, if otherwise eligible.*

17 (b) The board of supervisors may prescribe reasonable rules  
18 and regulations under which a home detention program may  
19 operate. As a condition of participation in the home detention  
20 program, the inmate shall give his or her consent in writing to  
21 participate in the home detention program and shall in writing  
22 agree to comply with the rules and regulations of the program,  
23 including, but not limited to, the following rules:

24 (1) The participant shall remain within the interior premises of  
25 his or her residence during the hours designated by the  
26 correctional administrator.

27 (2) The participant shall admit any person or agent designated  
28 by the correctional administrator into his or her residence at any  
29 time for purposes of verifying the participant's compliance with  
30 the conditions of his or her detention.

31 (3) The participant shall agree to the use of electronic  
32 monitoring or supervising devices for the purpose of helping to  
33 verify his or her compliance with the rules and regulations of the  
34 home detention program. The devices shall not be used to  
35 eavesdrop or record any conversation, except a conversation  
36 between the participant and the person supervising the participant  
37 which is to be used solely for the purposes of voice  
38 identification.

39 (4) The participant shall agree that the correctional  
40 administrator in charge of the county correctional facility from

1 which the participant was released may, without further order of  
2 the court, immediately retake the person into custody to serve the  
3 balance of his or her sentence if the electronic monitoring or  
4 supervising devices are unable for any reason to properly  
5 perform their function at the designated place of home detention,  
6 if the person fails to remain within the place of home detention as  
7 stipulated in the agreement, if the person willfully fails to pay  
8 fees to the provider of electronic home detention services, as  
9 stipulated in the agreement, subsequent to the written notification  
10 of the participant that the payment has not been received and that  
11 return to custody may result, or if the person for any other reason  
12 no longer meets the established criteria under this section. A  
13 copy of the agreement shall be delivered to the participant and a  
14 copy retained by the correctional administrator.

15 (c) Whenever the peace officer supervising a participant has  
16 reasonable cause to believe that the participant is not complying  
17 with the rules or conditions of the program, or that the electronic  
18 monitoring devices are unable to function properly in the  
19 designated place of confinement, the peace officer may, under  
20 general or specific authorization of the correctional  
21 administrator, and without a warrant of arrest, retake the person  
22 into custody to complete the remainder of the original sentence.

23 (d) Nothing in this section shall be construed to require the  
24 correctional administrator to allow a person to participate in this  
25 program if it appears from the record that the person has not  
26 satisfactorily complied with reasonable rules and regulations  
27 while in custody. A person shall be eligible for participation in a  
28 home detention program only if the correctional administrator  
29 concludes that the person meets the criteria for release  
30 established under this section and that the person's participation  
31 is consistent with any reasonable rules and regulations prescribed  
32 by the board of supervisors or the administrative policy of the  
33 correctional administrator.

34 (1) The rules and regulations and administrative policy of the  
35 program shall be written and reviewed on an annual basis by the  
36 county board of supervisors and the correctional administrator.  
37 The rules and regulations shall be given to or made available to  
38 any participant upon request.

39 (2) The correctional administrator, or his or her designee, shall  
40 have the sole discretionary authority to permit program

1 participation as an alternative to physical custody. All persons  
2 referred or recommended by the court to participate in the home  
3 detention program pursuant to subdivision (e) who are denied  
4 participation or all persons removed from program participation  
5 shall be notified in writing of the specific reasons for the denial  
6 or removal. The notice of denial or removal shall include the  
7 participant's appeal rights, as established by program  
8 administrative policy.

9 (e) The court may recommend or refer a person to the  
10 correctional administrator for consideration for placement in the  
11 home detention program. The recommendation or referral of the  
12 court shall be given great weight in the determination of  
13 acceptance or denial. At the time of sentencing or at any time that  
14 the court deems it necessary, the court may restrict or deny the  
15 defendant's participation in a home detention program.

16 (f) The correctional administrator may permit home detention  
17 program participants to seek and retain employment in the  
18 community, attend psychological counseling sessions or  
19 educational or vocational training classes, or seek medical and  
20 dental assistance. Willful failure of the program participant to  
21 return to the place of home detention not later than the expiration  
22 of any period of time during which he or she is authorized to be  
23 away from the place of home detention pursuant to this section  
24 and unauthorized departures from the place of home detention  
25 are punishable as provided in Section 4532.

26 (g) The board of supervisors may prescribe a program  
27 administrative fee to be paid by each home detention participant  
28 that shall be determined according to his or her ability to pay.  
29 Inability to pay all or a portion of the program fees shall not  
30 preclude participation in the program, and eligibility shall not be  
31 enhanced by reason of ability to pay. All program administration  
32 and supervision fees shall be administered in compliance with  
33 Section 1208.2.

34 (h) As used in this section, the following words have the  
35 following meanings:

36 (1) "Correctional administrator" means the sheriff, probation  
37 officer, or director of the county department of corrections.

38 (2) "Minimum security inmate" means an inmate who, by  
39 established local classification criteria, would be eligible for  
40 placement in a Type IV local detention facility, as described in

1 Title 15 of the California Code of Regulations, or for placement  
2 into the community for work or school activities, or who is  
3 determined to be a minimum security risk under a classification  
4 plan developed pursuant to Section 1050 of Title 15 of the  
5 California Code of Regulations.

6 (3) “Low-risk offender” means a probationer, as defined by  
7 the National Institute of Corrections model probation system.

8 (i) Notwithstanding any other law, the police department of a  
9 city where an office is located to which persons on an electronic  
10 monitoring program report may require the county correctional  
11 administrator to provide information concerning those persons.  
12 This information shall be limited to the name, address, date of  
13 birth, and offense committed by the home detainee. Any  
14 information received by a police department pursuant to this  
15 paragraph shall be used only for the purpose of monitoring the  
16 impact of home detention programs on the community.

17 (j) It is the intent of the Legislature that home detention  
18 programs established under this section maintain the highest  
19 public confidence, credibility, and public safety. In the  
20 furtherance of these standards, the following shall apply:

21 (1) The correctional administrator, with the approval of the  
22 board of supervisors, may administer a home detention program  
23 pursuant to written contracts with appropriate public or private  
24 agencies or entities to provide specified program services. No  
25 public or private agency or entity may operate a home detention  
26 program in any county without a written contract with that  
27 county’s correctional administrator. However, this does not apply  
28 to the use of electronic monitoring by the California Department  
29 of Corrections or the Department of the Youth Authority as  
30 established in Section 3004. No public or private agency or entity  
31 entering into a contract may itself employ any person who is in  
32 the home detention program.

33 (2) Program acceptance shall not circumvent the normal  
34 booking process for sentenced offenders. All home detention  
35 program participants shall be supervised.

36 (3) (A) All privately operated home detention programs shall  
37 be under the jurisdiction of, and subject to the terms and  
38 conditions of the contract entered into with, the correctional  
39 administrator.

1 (B) Each contract shall include, but not be limited to, all of the  
2 following:

3 (i) A provision whereby the private agency or entity agrees to  
4 operate in compliance with any available standards promulgated  
5 by state correctional agencies and bodies, including the Board of  
6 Corrections, and all statutory provisions and mandates, state and  
7 county, as appropriate and applicable to the operation of home  
8 detention programs and the supervision of sentenced offenders in  
9 a home detention program.

10 (ii) A provision that clearly defines areas of respective  
11 responsibility and liability of the county and the private agency  
12 or entity.

13 (iii) A provision that requires the private agency or entity to  
14 demonstrate evidence of financial responsibility, submitted and  
15 approved by the board of supervisors, in amounts and under  
16 conditions sufficient to fully indemnify the county for reasonably  
17 foreseeable public liability, including legal defense costs, that  
18 may arise from, or be proximately caused by, acts or omissions  
19 of the contractor. The contract shall provide for annual review by  
20 the correctional administrator to ensure compliance with  
21 requirements set by the board of supervisors and for adjustment  
22 of the financial responsibility requirements if warranted by  
23 caseload changes or other factors.

24 (iv) A provision that requires the private agency or entity to  
25 provide evidence of financial responsibility, such as certificates  
26 of insurance or copies of insurance policies, prior to commencing  
27 any operations pursuant to the contract or at any time requested  
28 by the board of supervisors or correctional administrator.

29 (v) A provision that permits the correctional administrator to  
30 immediately terminate the contract with a private agency or  
31 entity at any time that the contractor fails to demonstrate  
32 evidence of financial responsibility.

33 (C) All privately operated home detention programs shall  
34 comply with all appropriate, applicable ordinances and  
35 regulations specified in subdivision (a) of Section 1208.

36 (D) The board of supervisors, the correctional administrator,  
37 and the designee of the correctional administrator shall comply  
38 with Section 1090 of the Government Code in the consideration,  
39 making, and execution of contracts pursuant to this section.

1 (E) The failure of the private agency or entity to comply with  
2 statutory provisions and requirements or with the standards  
3 established by the contract and with the correctional  
4 administrator may be sufficient cause to terminate the contract.

5 (F) Upon the discovery that a private agency or entity with  
6 whom there is a contract is not in compliance pursuant to this  
7 paragraph, the correctional administrator shall give 60 days'  
8 notice to the director of the private agency or entity that the  
9 contract may be canceled if the specified deficiencies are not  
10 corrected.

11 (G) Shorter notice may be given or the contract may be  
12 canceled without notice whenever a serious threat to public  
13 safety is present because the private agency or entity has failed to  
14 comply with this section.

15 (k) For purposes of this section, "evidence of financial  
16 responsibility" may include, but is not limited to, certified copies  
17 of any of the following:

- 18 (1) A current liability insurance policy.
- 19 (2) A current errors and omissions insurance policy.
- 20 (3) A surety bond.

21 SEC. 6. Section 13517.7 is added to the Penal Code, to read:

22 13517.7. (a) The commission shall develop guidelines and  
23 training for use by state and local law enforcement officers to  
24 address issues related to child safety when a caretaker parent or  
25 guardian is arrested.

26 (b) The guidelines and training shall, at a minimum, address  
27 the following subjects:

28 (1) Procedures to ensure that officers and custodial employees  
29 inquire whether an arrestee has minor dependent children without  
30 appropriate supervision.

31 (2) Authorizing additional telephone calls by arrestees so that  
32 they may arrange for the care of minor dependent children.

33 (3) Use of county child welfare services, as appropriate, and  
34 other similar service providers to assist in the placement of  
35 dependent children when the parent or guardian is unable or  
36 unwilling to arrange suitable care for the child or children.

37 (4) Identification of local governmental or nongovernmental  
38 agencies able to provide appropriate custodial services.

39 (5) Temporary supervision of minor children to ensure their  
40 safety and well-being.

1 (6) Sample procedures to assist state and local law enforcement  
2 agencies to develop ways to ensure the safety and well-being of  
3 children when the parent or guardian has been arrested.

4 (c) The commission shall use appropriate subject matter  
5 experts, including representatives of law enforcement and county  
6 child welfare agencies, in developing the guidelines and training  
7 required by this section.

8 SEC. 7. No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution for  
10 certain costs that may be incurred by a local agency or school  
11 district because, in that regard, this act creates a new crime or  
12 infraction, eliminates a crime or infraction, or changes the  
13 penalty for a crime or infraction, within the meaning of Section  
14 17556 of the Government Code, or changes the definition of a  
15 crime within the meaning of Section 6 of Article XIII B of the  
16 California Constitution.

17 However, if the Commission on State Mandates determines  
18 that this act contains other costs mandated by the state,  
19 reimbursement to local agencies and school districts for those  
20 costs shall be made pursuant to Part 7 (commencing with Section  
21 17500) of Division 4 of Title 2 of the Government Code.