

AMENDED IN ASSEMBLY AUGUST 21, 2006

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN ASSEMBLY JUNE 29, 2006

AMENDED IN ASSEMBLY JUNE 13, 2006

AMENDED IN SENATE MAY 1, 2006

AMENDED IN SENATE APRIL 6, 2006

AMENDED IN SENATE MARCH 27, 2006

**SENATE BILL**

**No. 1301**

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**Introduced by Senator Alquist**

February 16, 2006

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An act to amend ~~Sections 1266 and~~ *Section* 1280.1 of, and to add Sections 1279.1, 1279.2, and 1279.3 to, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1301, as amended, Alquist. Health facilities: reporting and inspection requirements.

Existing law provides for the inspection, licensure, and regulation of health care facilities by the State Department of Health Services, including, among other facilities, general acute care hospitals, acute psychiatric hospitals, special hospitals, and long-term health care facilities, some of which are collectively referred to as nursing homes. Existing law requires that all licensed general acute care hospitals maintain a medical records system, as specified, that organizes all medical records for each patient under a unique identifier, and develop and implement policies and procedures to ensure that relevant portions

of patients' medical records can be made available within a reasonable period of time to respond to the request of a treating physician, other authorized medical professionals, authorized representatives of the department, or any other person authorized by law to make such a request, taking into consideration the physical location of the records and hours of operation of the facility where those records are located, as well as the interests of the patients.

Existing law establishes licensing and certification fees applicable to various clinics, health care providers, and health facilities, health care providers, and health facilities, for the 2006–07 fiscal year, and requires the department, commencing February 1, 2007, and every February 1 thereafter, to publish a list of estimated fees, based on specified calculations and cost estimates. Existing law also requires the department, by February 1 of each year, among other reports, to prepare and make available to interested persons a staffing and systems analysis to ensure efficient and effective utilization of fees collected, proper allocation of departmental resources to licensing and certification activities, survey schedules, complaint investigations, enforcement and appeal activities, data collection and dissemination, surveyor training, and policy development, including specified information.

This bill would require that information on the number and timeliness of adverse event investigations related to reports of ~~medical errors~~ *adverse events* also be included in that analysis.

This bill would require the department to take various actions related to the reporting to, and the investigation by, the department of any adverse event, as defined, that occurs at a general acute care hospital, acute psychiatric hospital, or special hospital. The bill would require a general acute care hospital, acute psychiatric hospital, or special hospital to report to the department any adverse event, as defined, within 5 days of its discovery, unless the adverse event is an ongoing urgent or emergent threat to the welfare, safety, or health of patients, personnel, or visitors, in which case the event shall be reported to the department within 24 hours of its discovery. The bill would authorize the department to assess specified civil penalties against a licensee for failure to report an adverse event as required by the bill.

This bill would require the department to conduct an onsite inspection or investigation within 48 hours or 2 business days of a complaint that indicates an ongoing threat of imminent danger of

death or serious bodily harm at a general acute care hospital, an acute psychiatric hospital, or a special hospital. The bill would require information about the reported adverse event and the outcome of investigations or inspections of substantiated adverse events reported conducted in accordance with these provisions to be posted on the department’s Internet Web site and available in written form, by January 1, ~~2009~~ 2015. *The bill would require the department to make this information readily accessible to consumers between January 1, 2009 and January 1, 2015. The bill would require the department to make related data available to entities deemed appropriate by the department, to be posted on the entities’ Internet Web sites.*

The bill would require the costs of administering and implementing certain of its provisions to be paid from funds derived from licensing fees paid by general acute care, acute psychiatric, and special hospitals.

*This bill would make its provisions operative on July 1, 2007.*

Violation of provisions relating to the operation of health facilities is a crime. Therefore, by imposing new and revised requirements on health facilities, 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 1266 of the Health and Safety Code is~~
- 2     ~~amended to read:~~
- 3     ~~1266. (a) Unless otherwise specified in statute, or unless~~
- 4     ~~funds are specifically appropriated from the General Fund in the~~
- 5     ~~annual Budget Act or other enacted legislation, the Licensing and~~
- 6     ~~Certification Division shall, no later than the beginning of the~~
- 7     ~~2009–10 fiscal year, be supported entirely by federal funds and~~
- 8     ~~special funds.~~

1 ~~(b) The Licensing and Certification Program fees for the~~  
 2 ~~2006-07 fiscal year shall be as follows:~~

3 -

4

5	<del>Type of Facility</del>	<del>Fee</del>	<del></del>
6	General Acute Care Hospitals	\$ 134.10	per bed
7	Acute Psychiatric Hospitals	\$ 134.10	per bed
8	Special Hospitals	\$ 134.10	per bed
9	Chemical Dependency Recovery Hospitals	\$ 123.52	per bed
10	Skilled Nursing Facilities	\$ 202.96	per bed
11	Intermediate Care Facilities	\$ 202.96	per bed
12	<del>Intermediate Care Facilities - Developmentally</del>		
13	<del>Disabled</del>	\$ 592.29	per bed
14	<del>Intermediate Care Facilities - Developmentally</del>		
15	<del>Disabled - Habilitative</del>	\$1,000.00	per facility
16	<del>Intermediate Care Facilities - Developmentally</del>		
17	<del>Disabled - Nursing</del>	\$1,000.00	per facility
18	Home Health Agencies	\$2,700.00	per facility
19	Referral Agencies	\$5,537.71	per facility
20	Adult Day Health Centers	\$4,650.02	per facility
21	Congregate Living Health Facilities	\$ 202.96	per bed
22	Psychology Clinics	\$ 600.00	per facility
23	Primary Clinics - Community and Free	\$ 600.00	per facility
24	<del>Specialty Clinics - Rehab Clinics</del>		
25	<del>(For profit)</del>	\$2,974.43	per facility
26	<del>(Nonprofit)</del>	\$ 500.00	per facility
27	Specialty Clinics - Surgical and Chronic	\$1,500.00	per facility
28	Dialysis Clinics	\$1,500.00	per facility
29	Pediatric Day Health/Respite Care	\$ 142.43	per bed
30	Alternative Birthing Centers	\$2,437.86	per facility
31	Hospice	\$1,000.00	per facility
32	Correctional Treatment Centers	\$ 590.39	per bed

33

34 ~~(e) Commencing February 1, 2007, and every February 1~~  
 35 ~~thereafter, the department shall publish a list of estimated fees~~  
 36 ~~pursuant to this section. The calculation of estimated fees and the~~  
 37 ~~publication of the report and list of estimated fees shall not be~~  
 38 ~~subject to the rulemaking requirements of Chapter 3.5~~  
 39 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~  
 40 ~~2 of the Government Code.~~

1 ~~(d) By February 1 of each year, the department shall prepare~~  
2 ~~the following reports and shall make those reports, and the list of~~  
3 ~~estimated fees required to be published pursuant to subdivision~~  
4 ~~(e), available to the public by submitting them to the Legislature~~  
5 ~~and posting them on the department's Internet Web site:~~

6 ~~(1) The department shall prepare a report of all costs for~~  
7 ~~activities of the Licensing and Certification Program. As part of~~  
8 ~~this report, the department shall recommend Licensing and~~  
9 ~~Certification Program fees in accordance with the following:~~

10 ~~(A) Projected workload and costs shall be grouped for each fee~~  
11 ~~category.~~

12 ~~(B) Cost estimates, and the estimated fees, shall be based on~~  
13 ~~the appropriation amounts in the Governor's proposed budget for~~  
14 ~~the next fiscal year, with and without policy adjustments to the~~  
15 ~~fee methodology.~~

16 ~~(C) The allocation of program, operational, and administrative~~  
17 ~~overhead, and indirect costs to fee categories shall be based on~~  
18 ~~generally accepted cost allocation methods. Significant items of~~  
19 ~~costs shall be directly charged to fee categories if the expenses~~  
20 ~~can be reasonably identified to the fee category that caused them.~~  
21 ~~Indirect and overhead costs shall be allocated to all fee categories~~  
22 ~~using a generally accepted cost allocation method.~~

23 ~~(D) The amount of federal funds and General Fund moneys to~~  
24 ~~be received in the budget year shall be estimated and allocated to~~  
25 ~~each fee category based upon an appropriate metric.~~

26 ~~(E) The fee for each category will be determined by dividing~~  
27 ~~the aggregate state share of all costs for the Licensing and~~  
28 ~~Certification Program by the appropriate metric for the category~~  
29 ~~of licensure.~~

30 ~~(2) (A) The department shall prepare a staffing and systems~~  
31 ~~analysis to ensure efficient and effective utilization of fees~~  
32 ~~collected, proper allocation of departmental resources to~~  
33 ~~licensing and certification activities, survey schedules, complaint~~  
34 ~~investigations, enforcement and appeal activities, data collection~~  
35 ~~and dissemination, surveyor training, and policy development.~~

36 ~~(B) The analysis under this paragraph shall be made available~~  
37 ~~to interested persons and shall include all of the following:~~

38 ~~(i) The number of surveyors and administrative support~~  
39 ~~personnel devoted to the licensing and certification of health care~~  
40 ~~facilities.~~

- 1     ~~(ii) The percentage of time devoted to licensing and~~  
2     ~~certification activities for the various types of health facilities.~~  
3     ~~(iii) The number of facilities receiving full surveys and the~~  
4     ~~frequency and number of followup visits.~~  
5     ~~(iv) The number and timeliness of complaint investigations.~~  
6     ~~(v) The number and timeliness of adverse event investigations~~  
7     ~~related to reports of medical errors.~~  
8     ~~(vi) Data on deficiencies and citations issued, and numbers of~~  
9     ~~citation review conferences and arbitration hearings.~~  
10    ~~(vii) Other applicable activities of the licensing and~~  
11    ~~certification division.~~  
12    ~~(e) (1) The department shall adjust the list of estimated fees~~  
13    ~~published pursuant to subdivision (c) if the annual Budget Act or~~  
14    ~~other enacted legislation includes an appropriation that differs~~  
15    ~~from those proposed in the Governor's proposed budget for that~~  
16    ~~fiscal year.~~  
17    ~~(2) The department shall publish a final fee list, with an~~  
18    ~~explanation of any adjustment, by the issuance of an all facilities~~  
19    ~~letter, by posting the list on the department's Internet Web site,~~  
20    ~~and by including the final fee list as part of the licensing~~  
21    ~~application package, within 14 days of the enactment of the~~  
22    ~~annual Budget Act. The adjustment of fees and the publication of~~  
23    ~~the final fee list shall not be subject to the rulemaking~~  
24    ~~requirements of Chapter 3.5 (commencing with Section 11340)~~  
25    ~~of Part 1 of Division 3 of Title 2 of the Government Code.~~  
26    ~~(f) (1) No fees shall be assessed or collected pursuant to this~~  
27    ~~section from any state department, authority, bureau,~~  
28    ~~commission, or officer, unless federal financial participation~~  
29    ~~would become available by doing so and an appropriation is~~  
30    ~~included in the annual Budget Act for that state department,~~  
31    ~~authority, bureau, commission, or officer for this purpose. No~~  
32    ~~fees shall be assessed or collected pursuant to this section from~~  
33    ~~any clinic that is certified only by the federal government and is~~  
34    ~~exempt from licensure under Section 1206, unless federal~~  
35    ~~financial participation would become available by doing so.~~  
36    ~~(2) For the 2006-07 state fiscal year, no fee shall be assessed~~  
37    ~~or collected pursuant to this section from any general acute care~~  
38    ~~hospital owned by a health care district with 100 beds or less.~~  
39    ~~(g) The Licensing and Certification Program may change~~  
40    ~~annual license expiration renewal dates to provide for~~

1 efficiencies in operational processes or to provide for sufficient  
2 cashflow to pay for expenditures. If an annual license expiration  
3 date is changed, the renewal fee shall be prorated accordingly.  
4 Facilities shall be provided with a 60-day notice of any change in  
5 their annual license renewal date.

6 ~~SEC. 2.~~

7 *SECTION 1.* Section 1279.1 is added to the Health and Safety  
8 Code, to read:

9 1279.1. (a) A health facility licensed pursuant to subdivision  
10 (a), (b), or (f) of Section 1250 shall report an adverse event to the  
11 department no later than five days after the adverse event has  
12 been detected, or, if that event is an ongoing urgent or emergent  
13 threat to the welfare, health, or safety of patients, personnel, or  
14 visitors, not later than 24 hours after the adverse event has been  
15 detected. Disclosure of individually identifiable patient  
16 information shall be consistent with applicable law.

17 (b) For purposes of this section, “adverse event” includes any  
18 of the following:

19 (1) Surgical events, including the following:

20 (A) Surgery performed on a wrong body part that is  
21 inconsistent with the documented informed consent for that  
22 patient. A reportable event under this subparagraph does not  
23 include a situation requiring prompt action that occurs in the  
24 course of surgery or a situation that is so urgent as to preclude  
25 obtaining informed consent.

26 (B) Surgery performed on the wrong patient.

27 (C) The wrong surgical procedure performed on a patient,  
28 which is a surgical procedure performed on a patient that is  
29 inconsistent with the documented informed consent for that  
30 patient. A reportable event under this subparagraph does not  
31 include a situation requiring prompt action that occurs in the  
32 course of surgery, or a situation that is so urgent as to preclude  
33 the obtaining of informed consent.

34 (D) Retention of a foreign object in a patient after surgery or  
35 other procedure, excluding objects intentionally implanted as part  
36 of a planned intervention and objects present prior to surgery that  
37 are intentionally retained.

38 (E) Death during or up to 24 hours after induction of  
39 anesthesia after surgery of a normal, healthy patient who has no  
40 organic, physiologic, biochemical, or psychiatric disturbance and

1 for whom the pathologic processes for which the operation is to  
2 be performed are localized and do not entail a systemic  
3 disturbance.

4 (2) Product or device events, including the following:

5 (A) Patient death or serious disability associated with the use  
6 of a contaminated drug, device, or biologic provided by the  
7 health facility when the contamination is the result of generally  
8 detectable contaminants in the drug, device, or biologic,  
9 regardless of the source of the contamination or the product.

10 (B) Patient death or serious disability associated with the use  
11 or function of a device in patient care in which the device is used  
12 or functions other than as intended. For purposes of this  
13 subparagraph, “device” includes, but is not limited to, a catheter,  
14 drain, or other specialized tube, infusion pump, or ventilator.

15 (C) Patient death or serious disability associated with  
16 intravascular air embolism that occurs while being cared for in a  
17 facility, excluding deaths associated with neurosurgical  
18 procedures known to present a high risk of intravascular air  
19 embolism.

20 (3) Patient protection events, including the following:

21 (A) An infant discharged to the wrong person.

22 (B) Patient death or serious disability associated with patient  
23 disappearance for more than four hours, excluding events  
24 involving adults who have competency or decisionmaking  
25 capacity.

26 (C) A patient suicide or attempted suicide resulting in serious  
27 disability while being cared for in a health facility due to patient  
28 actions after admission to the health facility, excluding deaths  
29 resulting from self-inflicted injuries that were the reason for  
30 admission to the health facility.

31 (4) Care management events, including the following:

32 (A) A patient death or serious disability associated with a  
33 medication error, including, but not limited to, an error involving  
34 the wrong drug, the wrong dose, the wrong patient, the wrong  
35 time, the wrong rate, the wrong preparation, or the wrong route  
36 of administration, excluding reasonable differences in clinical  
37 judgment on drug selection and dose.

38 (B) A patient death or serious disability associated with a  
39 hemolytic reaction due to the administration of  
40 ABO-incompatible blood or blood products.

1 (C) Maternal death or serious disability associated with labor  
2 or delivery in a low-risk pregnancy while being cared for in a  
3 facility, including events that occur within 42 days postdelivery  
4 and excluding deaths from pulmonary or amniotic fluid  
5 embolism, acute fatty liver of pregnancy, or cardiomyopathy.

6 (D) Patient death or serious disability directly related to  
7 hypoglycemia, the onset of which occurs while the patient is  
8 being cared for in a health facility.

9 (E) Death or serious disability, including kernicterus,  
10 associated with failure to identify and treat hyperbilirubinemia in  
11 neonates during the first 28 days of life. For purposes of this  
12 subparagraph, “hyperbilirubinemia” means bilirubin levels  
13 greater than 30 milligrams per deciliter.

14 (F) A Stage 3 or 4 ulcer, acquired after admission to a health  
15 facility, excluding progression from Stage 2 to Stage 3 if Stage 2  
16 was recognized upon admission.

17 (G) A patient death or serious disability due to spinal  
18 manipulative therapy performed at the health facility.

19 (5) Environmental events, including the following:

20 (A) A patient death or serious disability associated with an  
21 electric shock while being cared for in a health facility, excluding  
22 events involving planned treatments, such as electric  
23 countershock.

24 (B) Any incident in which a line designated for oxygen or  
25 other gas to be delivered to a patient contains the wrong gas or is  
26 contaminated by a toxic substance.

27 (C) A patient death or serious disability associated with a burn  
28 incurred from any source while being cared for in a health  
29 facility.

30 (D) A patient death associated with a fall while being cared for  
31 in a health facility.

32 (E) A patient death or serious disability associated with the use  
33 of restraints or bedrails while being cared for in a health facility.

34 (6) Criminal events, including the following:

35 (A) Any instance of care ordered by or provided by someone  
36 impersonating a physician, nurse, pharmacist, or other licensed  
37 health care provider.

38 (B) The abduction of a patient of any age.

39 (C) The sexual assault on a patient within or on the grounds of  
40 a health facility.

1 (D) The death or significant injury of a patient or staff member  
2 resulting from a physical assault that occurs within or on the  
3 grounds of a facility.

4 (7) An adverse event or series of adverse events that cause the  
5 death or serious disability of a patient, personnel, or visitor.

6 (c) The facility shall inform the patient or the party responsible  
7 for the patient of the adverse event by the time the report is  
8 made.

9 (d) “Serious disability” means a physical or mental  
10 impairment that substantially limits one or more of the major life  
11 activities of an individual, or the loss of bodily function, if the  
12 impairment or loss lasts more than 7 days or is still present at the  
13 time of discharge from an inpatient health care facility, or the  
14 loss of a body part.

15 (e) Nothing in this section shall be interpreted to change or  
16 otherwise affect hospital reporting requirements regarding  
17 reportable diseases or unusual occurrences, as provided in  
18 Section 70737 of Title 22 of the California Code of Regulations.  
19 The department shall review Section 70737 of Title 22 of the  
20 California Code of Regulations requiring hospitals to report  
21 “unusual circumstances” and consider amending the section to  
22 enhance the clarity and specificity of this hospital reporting  
23 requirement.

24 ~~SEC. 3.~~

25 *SEC. 2.* Section 1279.2 is added to the Health and Safety  
26 Code, to read:

27 1279.2. (a) (1) In any case in which the department receives  
28 a report from a facility pursuant to Section 1279.1, or a written or  
29 oral complaint involving a health facility licensed pursuant to  
30 subdivision (a), (b), or (f) of Section 1250, that indicates an  
31 ongoing threat of imminent danger of death or serious bodily  
32 harm, the department shall make an onsite inspection or  
33 investigation within 48 hours or two business days, whichever is  
34 greater, of the receipt of the report or complaint and shall  
35 complete that investigation within 45 days.

36 (2) Until the ~~facility has demonstrated~~ *department has*  
37 *determined by onsite inspection* that the adverse event has been  
38 resolved, the department shall, not less than once a year, conduct  
39 an unannounced inspection of any health facility that has  
40 reported an adverse event pursuant to Section 1279.1.

1 (b) In any case in which the department is able to determine  
2 from the information available to it that there is no threat of  
3 imminent danger of death or serious bodily harm to that patient  
4 or other patients, the department shall complete an investigation  
5 of the report within 45 days.

6 (c) The department shall notify the complainant and licensee  
7 in writing of the department’s determination as a result of an  
8 inspection or report.

9 (d) For purposes of this section, “complaint” means any oral  
10 or written notice to the department, other than a report from the  
11 health facility, of an alleged violation of applicable requirements  
12 of state or federal law or an allegation of facts that might  
13 constitute a violation of applicable requirements of state or  
14 federal law.

15 (e) The costs of administering and implementing this section  
16 shall be paid from funds derived from existing licensing fees paid  
17 by general acute care hospitals, acute psychiatric hospitals, and  
18 special hospitals.

19 (f) In enforcing this section and Sections 1279 and 1279.1, the  
20 department shall take into account the special circumstances of  
21 small and rural hospitals, as defined in Section 124840, in order  
22 to protect the quality of patient care in those hospitals.

23 (g) *In preparing the staffing and systems analysis required*  
24 *pursuant to Section 1266, the department shall also report*  
25 *regarding the number and timeliness of investigations of adverse*  
26 *events initiated in response to reports of adverse events.*

27 ~~SEC. 4.~~

28 *SEC. 3.* Section 1279.3 is added to the Health and Safety  
29 Code, to read:

30 1279.3. (a) By January 1, ~~2009~~ 2015, the department shall  
31 provide information regarding reports of substantiated adverse  
32 events pursuant to Section 1279.1 and the outcomes of  
33 inspections and investigations conducted pursuant to Section  
34 1279.1, on the department’s Internet Web site and in written  
35 form in a manner that is readily accessible to consumers in all  
36 parts of California, and that protects patient confidentiality. ~~The~~  
37 ~~information~~

38 (b) *By January 1, 2009, and until January 1, 2015, the*  
39 *department shall make information regarding reports of adverse*  
40 *events pursuant to Section 1279.1, and outcomes of inspections*

1 and investigations conducted pursuant to Section 1279.1, readily  
2 accessible to consumers throughout California. The department  
3 shall also compile and make available, to entities deemed  
4 appropriate by the department, data regarding these reports of  
5 adverse events and outcomes of inspections and investigations, in  
6 order that these entities may post this data on their Internet Web  
7 sites. These entities may include universities, consumer  
8 organizations, or health care quality organizations.

9 (c) The information required pursuant to this section shall  
10 include, but not be limited to, information regarding each  
11 substantiated adverse event, as defined in Section 1279.1,  
12 reported to the department, and may include compliance  
13 information history. The names of the health care professionals  
14 and health care workers shall not be included in the information  
15 released by the department to the public.

16 ~~SEC. 5.~~

17 SEC. 4. Section 1280.1 of the Health and Safety Code is  
18 amended to read:

19 1280.1. (a) (1) If a licensee of a health facility licensed  
20 under subdivision (a), (b), or (f) of Section 1250 fails to correct a  
21 deficiency within the time specified in a plan of correction, the  
22 state department may assess the licensee a civil penalty in an  
23 amount not to exceed fifty dollars (\$50) per patient affected by  
24 the deficiency for each day that the deficiency continues beyond  
25 the date specified for correction. The civil penalties shall be  
26 assessed only for deficiencies that pose an immediate and  
27 substantial hazard to the health or safety of patients. If the  
28 licensee disputes a determination by the state department  
29 regarding alleged failure to correct a deficiency or regarding the  
30 reasonableness of the proposed deadline for correction, the  
31 licensee may, within 10 days, request a hearing pursuant to  
32 Section 100171. Penalties shall be paid when appeals pursuant to  
33 those provisions have been exhausted.

34 (2) Paragraph (1) shall not apply to a deficiency for which a  
35 facility was cited prior to January 1, 1994.

36 (b) If a licensee of a health facility licensed under subdivision  
37 (a), (b), or (f) of Section 1250 fails to report an adverse event  
38 pursuant to Section 1279.1, the department may assess the  
39 licensee a civil penalty in an amount not to exceed one hundred  
40 dollars (\$100) for each day that the adverse event is not reported

1 following the initial five-day period or 24-hour period, as  
2 applicable, pursuant to subdivision (a) of Section 1279.1. If the  
3 licensee disputes a determination by the department regarding  
4 alleged failure to report an adverse event, the licensee may,  
5 within 10 days, request a hearing pursuant to Section 100171.  
6 Penalties shall be paid when appeals pursuant to those provisions  
7 have been exhausted.

8 *SEC. 5. This act shall become operative on July 1, 2007.*

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