

**ASSEMBLY BILL**

**No. 17**

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**Introduced by Assembly Member Swanson**

December 1, 2008

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An act to add Sections 266m and 266n to the Penal Code, relating to sex offenses, declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 17, as introduced, Swanson. Prostitution: solicitation, pimping, and pandering.

Under existing law, a person who is convicted of human trafficking where the victim is under 18 years of age is punishable by imprisonment in the state prison. A person convicted of soliciting or agreeing to engage in an act of prostitution is guilty of a misdemeanor, punishable by imprisonment in the county jail for up to 6 months and a fine of up to \$1,000. Under existing law, a person who is convicted of pimping, pandering, or procurement of a child under 16 years of age is guilty of a felony, punishable by imprisonment in the state prison and a fine of up to \$15,000. In addition, under existing law, the court may impose a fine of up to \$5,000 on a person convicted of pimping, pandering, or procuring a child under 16 years of age for any of those purposes, the proceeds of which are deposited into the Victim-Witness Assistance Fund, to be made available to child sexual exploitation and child sexual abuse victim counseling centers and prevention programs.

This bill would require a court to impose upon any person who solicits another person to engage in an act of prostitution in return for money or other consideration or who agrees to give another person money or other consideration in return for the other person committing an act of prostitution, in addition to any punishment prescribed or fine imposed

under other applicable provisions, a fine of no less than \$250 and no more than \$2,500 per conviction, as determined by the court. The bill would also require a court to impose upon any person who is convicted of pimping, pandering, or procuring of a child under 16 years of age, in addition to any other punishment prescribed, a fine of no less than \$2,500 and no more than \$250,000 per conviction, as determined by the court. In addition, this bill would authorize the court to impound any personal property used in the course of that unlawful conduct for a period of up to 60 days. If the person has previously been convicted of one of those offenses, the court would be authorized to order any personal property used in the course of committing the violation forfeited, pursuant to specified procedures. If real property is used in a violation of those provisions, the bill would apply to that property existing provisions of law declaring property used for illegal purposes to be a nuisance. By imposing additional duties on local officials, this bill would create a state-mandated local program.

This bill would also require each county to establish a sexually exploited minors fund into which shall be deposited the proceeds of those additional fines imposed or forfeitures made pursuant to the provisions of this bill from convictions in that county. Fifty percent of the money in that fund would be available to local law enforcement for the enforcement of specified crimes, and 50% would be available to community-based organizations that assist sexually exploited minors through prevention, education, counseling, job training, and life skills programs.

This bill would authorize local law enforcement agencies to make public or make available to media outlets the name and photograph of any person who is convicted pursuant to the above provisions.

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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

1 SECTION 1. This act shall be known, and may be cited as, the  
2 Human Trafficking Accountability Act.

3 SEC. 2. Section 266m is added to the Penal Code, to read:

4 266m. (a) (1) Any person who is convicted of a violation of  
5 Section 647.5 shall be fined, in addition to any punishment or fine  
6 prescribed in other applicable provisions, including Section 266k,  
7 no less than two hundred fifty dollars (\$250) and no more than  
8 two thousand five hundred dollars (\$2,500) per conviction, as  
9 determined by the court.

10 (2) Any person who is convicted of a violation of Section 266h,  
11 266i, 266j, or subdivision (c) of Section 236.1 shall be fined, in  
12 addition to any punishment or fine prescribed in other applicable  
13 provisions, including Sections 266h, 266i, 266j, and 266k, no less  
14 than two thousand five hundred dollars (\$2,500) and no more than  
15 two hundred fifty thousand dollars (\$250,000) per conviction, as  
16 determined by the court.

17 (3) Upon conviction of an offense subjecting a person to a fine  
18 pursuant to paragraph (1) or (2), the court may impound any  
19 personal property used in the course of the unlawful conduct for  
20 a period of up to 60 days. The owner of the property shall be  
21 responsible for all fees and charges related to the impoundment.  
22 The impoundment procedures set forth in Section 22659.5 of the  
23 Vehicle Code shall apply to this section.

24 (b) If the person has previously been convicted of violating  
25 Section 266h, 266i, 266j, or 647.5, the court may order any  
26 personal property used in the course of committing the violation  
27 forfeited, pursuant to the procedures in Section 502.01. If real  
28 property is used, the procedures declaring the property to be a  
29 nuisance in Article 2 (commencing with Section 11225) of Chapter  
30 3 of Title 1 of Part 4 shall apply.

31 (c) A local law enforcement agency may make public or may  
32 make available to media outlets the name and photograph of any  
33 person who is subject to this section.

34 SEC. 3. Section 266n is added to the Penal Code, to read:

35 266n. (a) Each county shall establish a Sexually Exploited  
36 Minors Fund into which shall be deposited the proceeds of any  
37 fines imposed or forfeitures made pursuant to Section 266m from  
38 convictions in that county. After the withdrawal of moneys

1 pursuant to subdivision (b), fifty percent of the money in that fund  
2 shall be available to local law enforcement for the enforcement of  
3 crimes involving the sexual exploitation of minors and fifty percent  
4 shall be available to nonprofit community-based organizations that  
5 assist sexually exploited minors through education, counseling,  
6 job training, and life skills programs.

7 (b) Money in a county’s Sexually Exploited Minors Fund may  
8 be used to reimburse the county for the reasonable administrative  
9 costs associated with the collection of a fine imposed pursuant to  
10 Section 266m, not to exceed 2 percent of the total amount paid.

11 SEC. 4. No reimbursement is required by this act pursuant to  
12 Section 6 of Article XIII B of the California Constitution because  
13 this act provides for offsetting savings to local agencies or school  
14 districts that result in no net costs to the local agencies or school  
15 districts, within the meaning of Section 17556 of the Government  
16 Code.

17 SEC. 5. This act is an urgency statute necessary for the  
18 immediate preservation of the public peace, health, or safety within  
19 the meaning of Article IV of the Constitution and shall go into  
20 immediate effect. The facts constituting the necessity are:

21 In order to protect minors in California from current and ongoing  
22 crimes involving sexual exploitation it is necessary that this  
23 legislation take effect immediately.