

AMENDED IN ASSEMBLY APRIL 28, 2010

AMENDED IN ASSEMBLY APRIL 13, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1844

Introduced by Assembly Member Fletcher

(~~Coauthor: Assembly Member Gilmore~~)

**(Principal coauthors: Assembly Members Anderson, Block, Garrick,
Gilmore, Nielsen, and Salas)**

(Principal coauthors: Senators Hollingsworth and Wyland)

**(Coauthors: Assembly Members Arambula, Blakeslee, Caballero,
Cook, Coto, DeVore, Fong, Fuller, Gaines, Galgiani, Hagman,
Hill, Huber, Jeffries, Miller, Nestande, Portantino, Torres, Torrico,
and Tran)**

**(Coauthors: Senators Correa, Cox, Denham, Harman, Maldonado, and
Runner)**

February 12, 2010

An act to amend Sections 220, 264, 264.1, 286, 288, 288a, 289, 667.61, 3000, and 3000.1 of, and to add Section 647.9 to, the Penal Code, relating to sex crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1844, as amended, Fletcher. Sex offenders: punishment: parole.

Under existing law, an assault with the intent to commit mayhem, rape, sodomy, oral copulation, or with the intent to commit, by force, rape, spousal rape, or sexual penetration in concert with another, is punishable by imprisonment in the state prison for 2, 4, or 6 years, except as specified.

This bill would provide that an assault of a person under 18 years of age with the intent to commit rape, sodomy, oral copulation, or with the intent to commit, by force, rape, spousal rape, or sexual penetration in concert with another, would be punishable by imprisonment in state prison for 5, 7, or 9 years.

Under existing law, rape, sodomy accomplished against the victim's will, oral copulation accomplished against the victim's will, and sexual penetration accomplished against the victim's will is punishable by imprisonment in state prison for 3, 6, or 8 years. Rape, sodomy, and oral copulation committed in concert with another is punishable by imprisonment in the state prison for 5, 7, or 9 years.

This bill would provide that the punishment for these specified crimes upon a child who is under 14 years of age is punishable by imprisonment in state prison for 6, 12, or 16 years, and if committed upon a minor who is 14 years of age or older is punishable by imprisonment in state prison for 6, 9, or 11 years. This bill would provide that if these crimes are committed in concert with another person upon a child who is under 14 years of age they are punishable in state prison for 7, 13, or 17 years and if committed in concert upon a minor who is 14 years of age or older by imprisonment for 7, 10, or 12 years. By increasing the punishment for crimes, this bill would impose a state-mandated local program.

Under existing law, a person who commits an act of rape, rape or sexual penetration in concert, sodomy, oral copulation, or sexual penetration, when the act is committed upon a child who is under 14 years of age and 7 or more years younger than the person, is guilty of aggravated sexual assault of a child. Aggravated sexual assault of a child under these circumstances is punishable by imprisonment in state prison for 15 years to life.

This bill would provide that it does not preclude prosecution under this existing law.

Under existing law, a person who commits any lewd or lascivious act upon a child who is under 14 years of age by use of force or fear is guilty of a felony punishable by imprisonment in state prison for 3, 6, or 8 years.

This bill would increase the punishment for this crime to imprisonment in the state prison for 6, 12, or 16 years. By increasing the punishment for a crime, this bill would impose a state-mandated local program.

Under existing law, a person who commits any lewd or lascivious act upon a dependent person, as defined, by use of force or fear is guilty

of a felony punishable by imprisonment in state prison for 3, 6, or 8 years.

This bill would increase the punishment for this crime to imprisonment in the state prison for 6, 9, or 11 years. By increasing the punishment for a crime, this bill would impose a state-mandated local program.

Existing law, as amended by Proposition 83 of the November 7, 2006, statewide general election, requires a person convicted of certain felonies under specified circumstances to be committed to prison for a term of years to life.

This bill would provide that these felonies committed under the above-specified circumstances upon a victim who is a child under 14 years of age shall be punished by imprisonment in state prison for life without the possibility of parole. This bill would add as a circumstance the infliction of physical injury resulting in a traumatic condition on a victim who is a child under 14 years of age to the list of specified circumstances that would result in imprisonment for life without parole.

This bill would provide that when rape, spousal rape, rape in concert, or sexual penetration, sodomy, or oral copulation committed against the victim's will are committed under specified circumstances, the punishment shall be imprisonment in state prison for 25 years to life, or if committed upon a person who is a child 14 years of age or older, *for 25 years to life if committed under one of the specified circumstances, or for life without possibility of parole if committed under 2 or more of the specified circumstances.*

Under existing law, a person convicted of certain felony sex offenses shall be committed to prison for a term of 15 years to life if during the commission of the felony the defendant inflicted great bodily injury on the victim.

This bill would change the required sentence to 25 years to life for this type of offense.

Existing law makes it unlawful for a person who is required to register as a sex offender to reside within 2,000 feet of a public or private school, or park where children regularly gather. Existing law also provides that any person required to register as a sex offender who comes into any school building or upon any school ground without lawful business and written permission is guilty of a misdemeanor.

This bill would make it a misdemeanor for a person who is required to register as a sex offender to enter any park where children regularly gather without written permission from either the person's parole agent,

if the person is on parole, or the chief administrative officer of the park, if the person is not on parole.

Under existing law a prisoner is generally released on parole for a period not exceeding 3 years, except that inmates sentenced for certain enumerated violent felonies are released on parole for a period not exceeding 5 years.

This bill would change this period of parole for certain of these violent felons from a maximum of 5 years to a maximum of 10 years. This bill would impose lifetime parole on habitual sex offenders whose victims were under 14 years of age and on inmates sentenced for lewd or lascivious acts committed upon the body of a minor, continuous sexual abuse of a child, specified sexual conduct with a child 10 years of age or younger, other specified sexual offenses against a victim under 14 years of age, and aggravated sexual assault of a child.

Under existing law, the period of parole for an inmate who has received a life sentence for certain specified sex offenses is for a period not exceeding 10 years.

This bill would include in this category of parolees, inmates who have received a life sentence for kidnaping with intent to commit certain specified crimes.

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. This act shall be known as the Chelsea King Child*
- 2 *Predator Prevention Act of 2010.*
- 3 *SEC. 2. Section 220 of the Penal Code is amended to read:*
- 4 220. (a) (1) Except as provided in subdivision (b), any person
- 5 who assaults another with intent to commit mayhem, rape, sodomy,
- 6 oral copulation, or any violation of Section 264.1, 288, or 289 shall
- 7 be punished by imprisonment in the state prison for two, four, or
- 8 six years.
- 9 (2) Except as provided in subdivision (b), any person who
- 10 assaults another person under 18 years of age with the intent to

1 *commit rape, sodomy, oral copulation, or any violation of Section*
2 *264.1, 288, or 289 shall be punished by imprisonment in the state*
3 *prison for five, seven, or nine years.*

4 (b) Any person who, in the commission of a burglary of the first
5 degree, as defined in subdivision (a) of Section 460, assaults
6 another with intent to commit rape, sodomy, oral copulation, or
7 any violation of Section 264.1, 288, or 289 shall be punished by
8 imprisonment in the state prison for life with the possibility of
9 parole.

10 ~~SECTION 1.~~

11 *SEC. 3.* Section 264 of the Penal Code is amended to read:

12 264. (a) Except as provided in subdivision (c), rape, as defined
13 in Section 261 or 262, is punishable by imprisonment in the state
14 prison for three, six, or eight years.

15 (b) In addition to any punishment imposed under this section
16 the judge may assess a fine not to exceed seventy dollars (\$70)
17 against any person who violates Section 261 or 262 with the
18 proceeds of this fine to be used in accordance with Section 1463.23.
19 The court shall, however, take into consideration the defendant's
20 ability to pay, and no defendant shall be denied probation because
21 of his or her inability to pay the fine permitted under this
22 subdivision.

23 (c) (1) Any person who commits rape in violation of paragraph
24 (2) of subdivision (a) of Section 261 upon a child who is under 14
25 years of age shall be punished by imprisonment in the state prison
26 for 6, 12, or 16 years.

27 (2) Any person who commits rape in violation of paragraph (2)
28 of subdivision (a) of Section 261 upon a minor who is 14 years of
29 age or older shall be punished by imprisonment in the state prison
30 for 6, 9, or 11 years.

31 (3) This subdivision does not preclude prosecution under Section
32 269, *Section 288.7, or any other provision of law.*

33 ~~SEC. 2.~~

34 *SEC. 4.* Section 264.1 of the Penal Code is amended to read:

35 264.1. (a) The provisions of Section 264 notwithstanding, in
36 any case in which the defendant, voluntarily acting in concert with
37 another person, by force or violence and against the will of the
38 victim, committed an act described in Section 261, 262, or 289,
39 either personally or by aiding and abetting the other person, that
40 fact shall be charged in the indictment or information and if found

1 to be true by the jury, upon a jury trial, or if found to be true by
2 the court, upon a court trial, or if admitted by the defendant, the
3 defendant shall suffer confinement in the state prison for five,
4 seven, or nine years.

5 (b) (1) If the victim of an offense described in subdivision (a)
6 is a child who is under 14 years of age, the defendant shall be
7 punished by imprisonment in the state prison for 7, 13, or 17 years.

8 (2) If the victim of an offense described in subdivision (a) is a
9 minor who is 14 years of age or older, the defendant shall be
10 punished by imprisonment in the state prison for 7, 10, or 12 years.

11 (3) This subdivision does not preclude prosecution under Section
12 269, *Section 288.7, or any other provision of law.*

13 ~~SEC. 3.~~

14 *SEC. 5.* Section 286 of the Penal Code is amended to read:

15 286. (a) Sodomy is sexual conduct consisting of contact
16 between the penis of one person and the anus of another person.
17 Any sexual penetration, however slight, is sufficient to complete
18 the crime of sodomy.

19 (b) (1) Except as provided in Section 288, any person who
20 participates in an act of sodomy with another person who is under
21 18 years of age shall be punished by imprisonment in the state
22 prison, or in a county jail for not more than one year.

23 (2) Except as provided in Section 288, any person over the age
24 of 21 years who participates in an act of sodomy with another
25 person who is under 16 years of age shall be guilty of a felony.

26 (c) (1) Any person who participates in an act of sodomy with
27 another person who is under 14 years of age and more than 10
28 years younger than he or she shall be punished by imprisonment
29 in the state prison for three, six, or eight years.

30 (2) (A) Any person who commits an act of sodomy when the
31 act is accomplished against the victim's will by means of force,
32 violence, duress, menace, or fear of immediate and unlawful bodily
33 injury on the victim or another person shall be punished by
34 imprisonment in the state prison for three, six, or eight years.

35 (B) Any person who commits an act of sodomy with another
36 person who is under 14 years of age when the act is accomplished
37 against the victim's will by means of force, violence, duress,
38 menace, or fear of immediate and unlawful bodily injury on the
39 victim or another person shall be punished by imprisonment in the
40 state prison for 6, 12, or 16 years.

1 (C) Any person who commits an act of sodomy with another
2 person who is a minor 14 years of age or older when the act is
3 accomplished against the victim's will by means of force, violence,
4 duress, menace, or fear of immediate and unlawful bodily injury
5 on the victim or another person shall be punished by imprisonment
6 in the state prison for 6, 9, or 11 years.

7 (D) This paragraph does not preclude prosecution under Section
8 269, *Section 288.7, or any other provision of law.*

9 (3) Any person who commits an act of sodomy where the act
10 is accomplished against the victim's will by threatening to retaliate
11 in the future against the victim or any other person, and there is a
12 reasonable possibility that the perpetrator will execute the threat,
13 shall be punished by imprisonment in the state prison for three,
14 six, or eight years.

15 (d) (1) Any person who, while voluntarily acting in concert
16 with another person, either personally or aiding and abetting that
17 other person, commits an act of sodomy when the act is
18 accomplished against the victim's will by means of force or fear
19 of immediate and unlawful bodily injury on the victim or another
20 person or where the act is accomplished against the victim's will
21 by threatening to retaliate in the future against the victim or any
22 other person, and there is a reasonable possibility that the
23 perpetrator will execute the threat, shall be punished by
24 imprisonment in the state prison for five, seven, or nine years.

25 (2) Any person who, while voluntarily acting in concert with
26 another person, either personally or aiding and abetting that other
27 person, commits an act of sodomy upon a victim who is under 14
28 years of age, when the act is accomplished against the victim's
29 will by means of force or fear of immediate and unlawful bodily
30 injury on the victim or another person, shall be punished by
31 imprisonment in the state prison for 7, 13, or 17 years.

32 (3) Any person who, while voluntarily acting in concert with
33 another person, either personally or aiding and abetting that other
34 person, commits an act of sodomy upon a victim who is a minor
35 14 years of age or older, when the act is accomplished against the
36 victim's will by means of force or fear of immediate and unlawful
37 bodily injury on the victim or another person, shall be punished
38 by imprisonment in the state prison for 7, 10, or 12 years.

39 (4) This subdivision does not preclude prosecution under Section
40 269, *Section 288.7, or any other provision of law.*

1 (e) Any person who participates in an act of sodomy with any
2 person of any age while confined in any state prison, as defined
3 in Section 4504, or in any local detention facility, as defined in
4 Section 6031.4, shall be punished by imprisonment in the state
5 prison, or in a county jail for not more than one year.

6 (f) Any person who commits an act of sodomy, and the victim
7 is at the time unconscious of the nature of the act and this is known
8 to the person committing the act, shall be punished by
9 imprisonment in the state prison for three, six, or eight years. As
10 used in this subdivision, “unconscious of the nature of the act”
11 means incapable of resisting because the victim meets one of the
12 following conditions:

13 (1) Was unconscious or asleep.

14 (2) Was not aware, knowing, perceiving, or cognizant that the
15 act occurred.

16 (3) Was not aware, knowing, perceiving, or cognizant of the
17 essential characteristics of the act due to the perpetrator’s fraud in
18 fact.

19 (4) Was not aware, knowing, perceiving, or cognizant of the
20 essential characteristics of the act due to the perpetrator’s fraudulent
21 representation that the sexual penetration served a professional
22 purpose when it served no professional purpose.

23 (g) Except as provided in subdivision (h), a person who commits
24 an act of sodomy, and the victim is at the time incapable, because
25 of a mental disorder or developmental or physical disability, of
26 giving legal consent, and this is known or reasonably should be
27 known to the person committing the act, shall be punished by
28 imprisonment in the state prison for three, six, or eight years.
29 Notwithstanding the existence of a conservatorship pursuant to
30 the Lanterman-Petris-Short Act (Part 1 (commencing with Section
31 5000) of Division 5 of the Welfare and Institutions Code), the
32 prosecuting attorney shall prove, as an element of the crime, that
33 a mental disorder or developmental or physical disability rendered
34 the alleged victim incapable of giving consent.

35 (h) Any person who commits an act of sodomy, and the victim
36 is at the time incapable, because of a mental disorder or
37 developmental or physical disability, of giving legal consent, and
38 this is known or reasonably should be known to the person
39 committing the act, and both the defendant and the victim are at
40 the time confined in a state hospital for the care and treatment of

1 the mentally disordered or in any other public or private facility
2 for the care and treatment of the mentally disordered approved by
3 a county mental health director, shall be punished by imprisonment
4 in the state prison, or in a county jail for not more than one year.
5 Notwithstanding the existence of a conservatorship pursuant to
6 the Lanterman-Petris-Short Act (Part 1 (commencing with Section
7 5000) of Division 5 of the Welfare and Institutions Code), the
8 prosecuting attorney shall prove, as an element of the crime, that
9 a mental disorder or developmental or physical disability rendered
10 the alleged victim incapable of giving legal consent.

11 (i) Any person who commits an act of sodomy, where the victim
12 is prevented from resisting by an intoxicating or anesthetic
13 substance, or any controlled substance, and this condition was
14 known, or reasonably should have been known by the accused,
15 shall be punished by imprisonment in the state prison for three,
16 six, or eight years.

17 (j) Any person who commits an act of sodomy, where the victim
18 submits under the belief that the person committing the act is the
19 victim's spouse, and this belief is induced by any artifice, pretense,
20 or concealment practiced by the accused, with intent to induce the
21 belief, shall be punished by imprisonment in the state prison for
22 three, six, or eight years.

23 (k) Any person who commits an act of sodomy, where the act
24 is accomplished against the victim's will by threatening to use the
25 authority of a public official to incarcerate, arrest, or deport the
26 victim or another, and the victim has a reasonable belief that the
27 perpetrator is a public official, shall be punished by imprisonment
28 in the state prison for three, six, or eight years.

29 As used in this subdivision, "public official" means a person
30 employed by a governmental agency who has the authority, as part
31 of that position, to incarcerate, arrest, or deport another. The
32 perpetrator does not actually have to be a public official.

33 (l) As used in subdivisions (c) and (d), "threatening to retaliate"
34 means a threat to kidnap or falsely imprison, or inflict extreme
35 pain, serious bodily injury, or death.

36 (m) In addition to any punishment imposed under this section,
37 the judge may assess a fine not to exceed seventy dollars (\$70)
38 against any person who violates this section, with the proceeds of
39 this fine to be used in accordance with Section 1463.23. The court,
40 however, shall take into consideration the defendant's ability to

1 pay, and no defendant shall be denied probation because of his or
2 her inability to pay the fine permitted under this subdivision.

3 ~~SEC. 4.~~

4 *SEC. 6.* Section 288 of the Penal Code is amended to read:

5 288. (a) Any person who willfully and lewdly commits any
6 lewd or lascivious act, including any of the acts constituting other
7 crimes provided for in Part 1, upon or with the body, or any part
8 or member thereof, of a child who is under the age of 14 years,
9 with the intent of arousing, appealing to, or gratifying the lust,
10 passions, or sexual desires of that person or the child, is guilty of
11 a felony and shall be punished by imprisonment in the state prison
12 for three, six, or eight years.

13 (b) (1) Any person who commits an act described in subdivision
14 (a) by use of force, violence, duress, menace, or fear of immediate
15 and unlawful bodily injury on the victim or another person, is
16 guilty of a felony and shall be punished by imprisonment in the
17 state prison for 6, 12, or 16 years.

18 (2) Any person who is a caretaker and commits an act described
19 in subdivision (a) upon a dependent person by use of force,
20 violence, duress, menace, or fear of immediate and unlawful bodily
21 injury on the victim or another person, with the intent described
22 in subdivision (a), is guilty of a felony and shall be punished by
23 imprisonment in the state prison for 6, 9, or 11 years.

24 (c) (1) Any person who commits an act described in subdivision
25 (a) with the intent described in that subdivision, and the victim is
26 a child of 14 or 15 years, and that person is at least 10 years older
27 than the child, is guilty of a public offense and shall be punished
28 by imprisonment in the state prison for one, two, or three years,
29 or by imprisonment in a county jail for not more than one year. In
30 determining whether the person is at least 10 years older than the
31 child, the difference in age shall be measured from the birth date
32 of the person to the birth date of the child.

33 (2) Any person who is a caretaker and commits an act described
34 in subdivision (a) upon a dependent person, with the intent
35 described in subdivision (a), is guilty of a public offense and shall
36 be punished by imprisonment in the state prison for one, two, or
37 three years, or by imprisonment in a county jail for not more than
38 one year.

39 (d) In any arrest or prosecution under this section or Section
40 288.5, the peace officer, district attorney, and the court shall

1 consider the needs of the child victim or dependent person and
2 shall do whatever is necessary, within existing budgetary resources,
3 and constitutionally permissible to prevent psychological harm to
4 the child victim or to prevent psychological harm to the dependent
5 person victim resulting from participation in the court process.

6 (e) Upon the conviction of any person for a violation of
7 subdivision (a) or (b), the court may, in addition to any other
8 penalty or fine imposed, order the defendant to pay an additional
9 fine not to exceed ten thousand dollars (\$10,000). In setting the
10 amount of the fine, the court shall consider any relevant factors,
11 including, but not limited to, the seriousness and gravity of the
12 offense, the circumstances of its commission, whether the
13 defendant derived any economic gain as a result of the crime, and
14 the extent to which the victim suffered economic losses as a result
15 of the crime. Every fine imposed and collected under this section
16 shall be deposited in the Victim-Witness Assistance Fund to be
17 available for appropriation to fund child sexual exploitation and
18 child sexual abuse victim counseling centers and prevention
19 programs pursuant to Section 13837.

20 If the court orders a fine imposed pursuant to this subdivision,
21 the actual administrative cost of collecting that fine, not to exceed
22 2 percent of the total amount paid, may be paid into the general
23 fund of the county treasury for the use and benefit of the county.

24 (f) For purposes of paragraph (2) of subdivision (b) and
25 paragraph (2) of subdivision (c), the following definitions apply:

26 (1) "Caretaker" means an owner, operator, administrator,
27 employee, independent contractor, agent, or volunteer of any of
28 the following public or private facilities when the facilities provide
29 care for elder or dependent persons:

30 (A) Twenty-four hour health facilities, as defined in Sections
31 1250, 1250.2, and 1250.3 of the Health and Safety Code.

32 (B) Clinics.

33 (C) Home health agencies.

34 (D) Adult day health care centers.

35 (E) Secondary schools that serve dependent persons and
36 postsecondary educational institutions that serve dependent persons
37 or elders.

38 (F) Sheltered workshops.

39 (G) Camps.

1 (H) Community care facilities, as defined by Section 1402 of
2 the Health and Safety Code, and residential care facilities for the
3 elderly, as defined in Section 1569.2 of the Health and Safety
4 Code.

5 (I) Respite care facilities.

6 (J) Foster homes.

7 (K) Regional centers for persons with developmental disabilities.

8 (L) A home health agency licensed in accordance with Chapter
9 8 (commencing with Section 1725) of Division 2 of the Health
10 and Safety Code.

11 (M) An agency that supplies in-home supportive services.

12 (N) Board and care facilities.

13 (O) Any other protective or public assistance agency that
14 provides health services or social services to elder or dependent
15 persons, including, but not limited to, in-home supportive services,
16 as defined in Section 14005.14 of the Welfare and Institutions
17 Code.

18 (P) Private residences.

19 (2) “Board and care facilities” means licensed or unlicensed
20 facilities that provide assistance with one or more of the following
21 activities:

22 (A) Bathing.

23 (B) Dressing.

24 (C) Grooming.

25 (D) Medication storage.

26 (E) Medical dispensation.

27 (F) Money management.

28 (3) “Dependent person” means any person who has a physical
29 or mental impairment that substantially restricts his or her ability
30 to carry out normal activities or to protect his or her rights,
31 including, but not limited to, persons who have physical or
32 developmental disabilities or whose physical or mental abilities
33 have significantly diminished because of age. “Dependent person”
34 includes any person who is admitted as an inpatient to a 24-hour
35 health facility, as defined in Sections 1250, 1250.2, and 1250.3 of
36 the Health and Safety Code.

37 (g) Paragraph (2) of subdivision (b) and paragraph (2) of
38 subdivision (c) apply to the owners, operators, administrators,
39 employees, independent contractors, agents, or volunteers working
40 at these public or private facilities and only to the extent that the

1 individuals personally commit, conspire, aid, abet, or facilitate any
2 act prohibited by paragraph (2) of subdivision (b) and paragraph
3 (2) of subdivision (c).

4 (h) Paragraph (2) of subdivision (b) and paragraph (2) of
5 subdivision (c) do not apply to a caretaker who is a spouse of, or
6 who is in an equivalent domestic relationship with, the dependent
7 person under care.

8 ~~SEC. 5.~~

9 *SEC. 7.* Section 288a of the Penal Code is amended to read:

10 288a. (a) Oral copulation is the act of copulating the mouth
11 of one person with the sexual organ or anus of another person.

12 (b) (1) Except as provided in Section 288, any person who
13 participates in an act of oral copulation with another person who
14 is under 18 years of age shall be punished by imprisonment in the
15 state prison, or in a county jail for a period of not more than one
16 year.

17 (2) Except as provided in Section 288, any person over the age
18 of 21 years who participates in an act of oral copulation with
19 another person who is under 16 years of age is guilty of a felony.

20 (c) (1) Any person who participates in an act of oral copulation
21 with another person who is under 14 years of age and more than
22 10 years younger than he or she shall be punished by imprisonment
23 in the state prison for three, six, or eight years.

24 (2) (A) Any person who commits an act of oral copulation when
25 the act is accomplished against the victim's will by means of force,
26 violence, duress, menace, or fear of immediate and unlawful bodily
27 injury on the victim or another person shall be punished by
28 imprisonment in the state prison for three, six, or eight years.

29 (B) Any person who commits an act of oral copulation upon a
30 person who is under 14 years of age, when the act is accomplished
31 against the victim's will by means of force, violence, duress,
32 menace, or fear of immediate and unlawful bodily injury on the
33 victim or another person, shall be punished by imprisonment in
34 the state prison for 6, 12, or 16 years.

35 (C) Any person who commits an act of oral copulation upon a
36 minor who is 14 years of age or older, when the act is accomplished
37 against the victim's will by means of force, violence, duress,
38 menace, or fear of immediate and unlawful bodily injury on the
39 victim or another person, shall be punished by imprisonment in
40 the state prison for 6, 9, or 11 years.

(D) This paragraph does not preclude prosecution under Section 269, *Section 288.7, or any other provision of law.*

(3) Any person who commits an act of oral copulation where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(d) (1) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting that other person, commits an act of oral copulation (1) when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, or (2) where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, or (3) where the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for five, seven, or nine years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime described under paragraph (3), that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(2) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of oral copulation upon a victim who is under 14 years of age, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 7, 13, or 17 years.

(3) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of oral copulation upon a victim who is a minor 14 years of age or older, when the act is accomplished

1 against the victim's will by means of force or fear of immediate
2 and unlawful bodily injury on the victim or another person, shall
3 be punished by imprisonment in the state prison for 7, 10, or 12
4 years.

5 (4) This paragraph does not preclude prosecution under Section
6 269, *Section 288.7, or any other provision of law.*

7 (e) Any person who participates in an act of oral copulation
8 while confined in any state prison, as defined in Section 4504 or
9 in any local detention facility as defined in Section 6031.4, shall
10 be punished by imprisonment in the state prison, or in a county
11 jail for a period of not more than one year.

12 (f) Any person who commits an act of oral copulation, and the
13 victim is at the time unconscious of the nature of the act and this
14 is known to the person committing the act, shall be punished by
15 imprisonment in the state prison for a period of three, six, or eight
16 years. As used in this subdivision, "unconscious of the nature of
17 the act" means incapable of resisting because the victim meets one
18 of the following conditions:

19 (1) Was unconscious or asleep.

20 (2) Was not aware, knowing, perceiving, or cognizant that the
21 act occurred.

22 (3) Was not aware, knowing, perceiving, or cognizant of the
23 essential characteristics of the act due to the perpetrator's fraud in
24 fact.

25 (4) Was not aware, knowing, perceiving, or cognizant of the
26 essential characteristics of the act due to the perpetrator's fraudulent
27 representation that the oral copulation served a professional purpose
28 when it served no professional purpose.

29 (g) Except as provided in subdivision (h), any person who
30 commits an act of oral copulation, and the victim is at the time
31 incapable, because of a mental disorder or developmental or
32 physical disability, of giving legal consent, and this is known or
33 reasonably should be known to the person committing the act,
34 shall be punished by imprisonment in the state prison, for three,
35 six, or eight years. Notwithstanding the existence of a
36 conservatorship pursuant to the provisions of the
37 Lanterman-Petris-Short Act (Part 1 (commencing with Section
38 5000) of Division 5 of the Welfare and Institutions Code), the
39 prosecuting attorney shall prove, as an element of the crime, that

1 a mental disorder or developmental or physical disability rendered
2 the alleged victim incapable of giving consent.

3 (h) Any person who commits an act of oral copulation, and the
4 victim is at the time incapable, because of a mental disorder or
5 developmental or physical disability, of giving legal consent, and
6 this is known or reasonably should be known to the person
7 committing the act, and both the defendant and the victim are at
8 the time confined in a state hospital for the care and treatment of
9 the mentally disordered or in any other public or private facility
10 for the care and treatment of the mentally disordered approved by
11 a county mental health director, shall be punished by imprisonment
12 in the state prison, or in a county jail for a period of not more than
13 one year. Notwithstanding the existence of a conservatorship
14 pursuant to the provisions of the Lanterman-Petris-Short Act (Part
15 1 (commencing with Section 5000) of Division 5 of the Welfare
16 and Institutions Code), the prosecuting attorney shall prove, as an
17 element of the crime, that a mental disorder or developmental or
18 physical disability rendered the alleged victim incapable of giving
19 legal consent.

20 (i) Any person who commits an act of oral copulation, where
21 the victim is prevented from resisting by any intoxicating or
22 anesthetic substance, or any controlled substance, and this condition
23 was known, or reasonably should have been known by the accused,
24 shall be punished by imprisonment in the state prison for a period
25 of three, six, or eight years.

26 (j) Any person who commits an act of oral copulation, where
27 the victim submits under the belief that the person committing the
28 act is the victim's spouse, and this belief is induced by any artifice,
29 pretense, or concealment practiced by the accused, with intent to
30 induce the belief, shall be punished by imprisonment in the state
31 prison for a period of three, six, or eight years.

32 (k) Any person who commits an act of oral copulation, where
33 the act is accomplished against the victim's will by threatening to
34 use the authority of a public official to incarcerate, arrest, or deport
35 the victim or another, and the victim has a reasonable belief that
36 the perpetrator is a public official, shall be punished by
37 imprisonment in the state prison for a period of three, six, or eight
38 years.

39 As used in this subdivision, "public official" means a person
40 employed by a governmental agency who has the authority, as part

1 of that position, to incarcerate, arrest, or deport another. The
2 perpetrator does not actually have to be a public official.

3 (l) As used in subdivisions (c) and (d), “threatening to retaliate”
4 means a threat to kidnap or falsely imprison, or to inflict extreme
5 pain, serious bodily injury, or death.

6 (m) In addition to any punishment imposed under this section,
7 the judge may assess a fine not to exceed seventy dollars (\$70)
8 against any person who violates this section, with the proceeds of
9 this fine to be used in accordance with Section 1463.23. The court
10 shall, however, take into consideration the defendant’s ability to
11 pay, and no defendant shall be denied probation because of his or
12 her inability to pay the fine permitted under this subdivision.

13 ~~SEC. 6.~~

14 *SEC. 8.* Section 289 of the Penal Code is amended to read:

15 289. (a) (1) (A) Any person who commits an act of sexual
16 penetration when the act is accomplished against the victim’s will
17 by means of force, violence, duress, menace, or fear of immediate
18 and unlawful bodily injury on the victim or another person shall
19 be punished by imprisonment in the state prison for three, six, or
20 eight years.

21 (B) Any person who commits an act of sexual penetration upon
22 a child who is under 14 years of age, when the act is accomplished
23 against the victim’s will by means of force, violence, duress,
24 menace, or fear of immediate and unlawful bodily injury on the
25 victim or another person, shall be punished by imprisonment in
26 the state prison for 6, 12, or 16 years.

27 (C) Any person who commits an act of sexual penetration upon
28 a minor who is 14 years of age or older, when the act is
29 accomplished against the victim’s will by means of force, violence,
30 duress, menace, or fear of immediate and unlawful bodily injury
31 on the victim or another person, shall be punished by imprisonment
32 in the state prison for 6, 9, or 11 years.

33 (D) This paragraph does not preclude prosecution under Section
34 269, *Section 288.7, or any other provision of law.*

35 (2) Any person who commits an act of sexual penetration when
36 the act is accomplished against the victim’s will by threatening to
37 retaliate in the future against the victim or any other person, and
38 there is a reasonable possibility that the perpetrator will execute
39 the threat, shall be punished by imprisonment in the state prison
40 for three, six, or eight years.

(b) Except as provided in subdivision (c), any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(c) Any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(d) Any person who commits an act of sexual penetration, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. As used in this subdivision, “unconscious of the nature of the act” means incapable of resisting because the victim meets one of the following conditions:

- (1) Was unconscious or asleep.

1 (2) Was not aware, knowing, perceiving, or cognizant that the
2 act occurred.

3 (3) Was not aware, knowing, perceiving, or cognizant of the
4 essential characteristics of the act due to the perpetrator's fraud in
5 fact.

6 (4) Was not aware, knowing, perceiving, or cognizant of the
7 essential characteristics of the act due to the perpetrator's fraudulent
8 representation that the sexual penetration served a professional
9 purpose when it served no professional purpose.

10 (e) Any person who commits an act of sexual penetration when
11 the victim is prevented from resisting by any intoxicating or
12 anesthetic substance, or any controlled substance, and this condition
13 was known, or reasonably should have been known by the accused,
14 shall be punished by imprisonment in the state prison for a period
15 of three, six, or eight years.

16 (f) Any person who commits an act of sexual penetration when
17 the victim submits under the belief that the person committing the
18 act or causing the act to be committed is the victim's spouse, and
19 this belief is induced by any artifice, pretense, or concealment
20 practiced by the accused, with intent to induce the belief, shall be
21 punished by imprisonment in the state prison for a period of three,
22 six, or eight years.

23 (g) Any person who commits an act of sexual penetration when
24 the act is accomplished against the victim's will by threatening to
25 use the authority of a public official to incarcerate, arrest, or deport
26 the victim or another, and the victim has a reasonable belief that
27 the perpetrator is a public official, shall be punished by
28 imprisonment in the state prison for a period of three, six, or eight
29 years.

30 As used in this subdivision, "public official" means a person
31 employed by a governmental agency who has the authority, as part
32 of that position, to incarcerate, arrest, or deport another. The
33 perpetrator does not actually have to be a public official.

34 (h) Except as provided in Section 288, any person who
35 participates in an act of sexual penetration with another person
36 who is under 18 years of age shall be punished by imprisonment
37 in the state prison or in the county jail for a period of not more
38 than one year.

39 (i) Except as provided in Section 288, any person over the age
40 of 21 years who participates in an act of sexual penetration with

1 another person who is under 16 years of age shall be guilty of a
2 felony.

3 (j) Any person who participates in an act of sexual penetration
4 with another person who is under 14 years of age and who is more
5 than 10 years younger than he or she shall be punished by
6 imprisonment in the state prison for three, six, or eight years.

7 (k) As used in this section:

8 (1) "Sexual penetration" is the act of causing the penetration,
9 however slight, of the genital or anal opening of any person or
10 causing another person to so penetrate the defendant's or another
11 person's genital or anal opening for the purpose of sexual arousal,
12 gratification, or abuse by any foreign object, substance, instrument,
13 or device, or by any unknown object.

14 (2) "Foreign object, substance, instrument, or device" shall
15 include any part of the body, except a sexual organ.

16 (3) "Unknown object" shall include any foreign object,
17 substance, instrument, or device, or any part of the body, including
18 a penis, when it is not known whether penetration was by a penis
19 or by a foreign object, substance, instrument, or device, or by any
20 other part of the body.

21 (l) As used in subdivision (a), "threatening to retaliate" means
22 a threat to kidnap or falsely imprison, or inflict extreme pain,
23 serious bodily injury or death.

24 (m) As used in this section, "victim" includes any person who
25 the defendant causes to penetrate the genital or anal opening of
26 the defendant or another person or whose genital or anal opening
27 is caused to be penetrated by the defendant or another person and
28 who otherwise qualifies as a victim under the requirements of this
29 section.

30 ~~SEC. 7.~~

31 *SEC. 9.* Section 647.9 is added to the Penal Code, to read:

32 647.9. (a) Any person who is required to register pursuant to
33 the Sex Offender Registration Act for a felony offense, who enters
34 any park where children regularly gather without written
35 permission, is guilty of a misdemeanor.

36 (1) If the person is on parole, written permission shall be
37 obtained from the person's parole officer.

38 (2) If the person is not on parole, written permission shall be
39 obtained from the chief administrative official of the park.

40 (b) Punishment for a violation of this section shall be as follows:

1 (1) Upon a first conviction, by imprisonment in a county jail
2 not exceeding six months, or by a fine not exceeding five hundred
3 dollars (\$500), or by both imprisonment and a fine.

4 (2) Upon a second conviction pursuant to this section, by
5 imprisonment in a county jail for a period of not less than 10 days
6 and not more than 6 months. In addition to imprisonment, a
7 violation of this section punishable pursuant to this paragraph may
8 also be punished by a fine not exceeding five hundred dollars
9 (\$500). A defendant sentenced pursuant to this paragraph shall not
10 be released on probation, parole, or any other basis, until he or she
11 has served at least 10 days imprisonment in a county jail.

12 (3) Upon a third or subsequent conviction pursuant to this
13 section, by imprisonment in a county jail for a period of not less
14 than 90 days and not more than 6 months and a fine not exceeding
15 five hundred dollars (\$500). A defendant sentenced pursuant to
16 this paragraph shall not be released on probation, parole, or any
17 other basis, until he or she has served at least 90 days imprisonment
18 in a county jail.

19 (c) This section does not preclude or prohibit prosecution under
20 any other provision of law.

21 ~~SEC. 8.~~

22 *SEC. 10.* Section 667.61 of the Penal Code is amended to read:

23 667.61. (a) Except as provided in subdivision (j), (l), or (m),
24 any person who is convicted of an offense specified in subdivision
25 (c) under one or more of the circumstances specified in subdivision
26 (d) or under two or more of the circumstances specified in
27 subdivision (e) shall be punished by imprisonment in the state
28 prison for 25 years to life.

29 (b) Except as provided in subdivision (a), (j), (l), or (m), any
30 person who is convicted of an offense specified in subdivision (c)
31 under one of the circumstances specified in subdivision (e) shall
32 be punished by imprisonment in the state prison for 15 years to
33 life.

34 (c) This section shall apply to any of the following offenses:

35 (1) Rape, in violation of paragraph (2) or (6) of subdivision (a)
36 of Section 261.

37 (2) Spousal rape, in violation of paragraph (1) or (4) of
38 subdivision (a) of Section 262.

39 (3) Rape, spousal rape, or sexual penetration, in concert, in
40 violation of Section 264.1.

1 (4) Lewd or lascivious act, in violation of subdivision (b) of
2 Section 288.

3 (5) Sexual penetration, in violation of subdivision (a) of Section
4 289.

5 (6) Sodomy, in violation of paragraph (2) or (3) of subdivision
6 (c), or subdivision (d), of Section 286.

7 (7) Oral copulation, in violation of paragraph (2) or (3) of
8 subdivision (c), or subdivision (d), of Section 288a.

9 (8) Lewd or lascivious act, in violation of subdivision (a) of
10 Section 288.

11 (9) Continuous sexual abuse of a child, in violation of Section
12 288.5.

13 (d) The following circumstances shall apply to the offenses
14 specified in subdivision (c):

15 (1) The defendant has been previously convicted of an offense
16 specified in subdivision (c), including an offense committed in
17 another jurisdiction that includes all of the elements of an offense
18 specified in subdivision (c).

19 (2) The defendant kidnapped the victim of the present offense
20 and the movement of the victim substantially increased the risk of
21 harm to the victim over and above that level of risk necessarily
22 inherent in the underlying offense in subdivision (c).

23 (3) The defendant inflicted aggravated mayhem or torture on
24 the victim or another person in the commission of the present
25 offense in violation of Section 205 or 206.

26 (4) The defendant committed the present offense during the
27 commission of a burglary of the first degree, as defined in
28 subdivision (a) of Section 460, with intent to commit an offense
29 specified in subdivision (c).

30 (5) The defendant committed the present offense in violation
31 of Section 264.1, subdivision (d) of Section 286, or subdivision
32 (d) of Section 288a, and, in the commission of that offense, any
33 person committed any act described in paragraph (2), (3), or (4)
34 of this subdivision.

35 (6) The defendant personally inflicted great bodily injury on
36 the victim or another person in the commission of the present
37 offense in violation of Section 12022.53, 12022.7, or 12022.8.

38 (e) The following circumstances shall apply to the offenses
39 specified in subdivision (c):

1 (1) Except as provided in paragraph (2) of subdivision (d), the
2 defendant kidnapped the victim of the present offense in violation
3 of Section 207, 209, or 209.5.

4 (2) Except as provided in paragraph (4) of subdivision (d), the
5 defendant committed the present offense during the commission
6 of a burglary in violation of Section 459.

7 (3) The defendant personally used a dangerous or deadly weapon
8 or a firearm in the commission of the present offense in violation
9 of Section 12022, 12022.3, 12022.5, or 12022.53.

10 (4) The defendant has been convicted in the present case or
11 cases of committing an offense specified in subdivision (c) against
12 more than one victim.

13 (5) The defendant engaged in the tying or binding of the victim
14 or another person in the commission of the present offense.

15 (6) The defendant administered a controlled substance to the
16 victim in the commission of the present offense in violation of
17 Section 12022.75.

18 (7) The defendant committed the present offense in violation
19 of Section 264.1, subdivision (d) of Section 286, or subdivision
20 (d) of Section 288a, and, in the commission of that offense, any
21 person committed any act described in paragraph (1), (2), (3), (4),
22 (6), or (7) of this subdivision.

23 (f) If only the minimum number of circumstances specified in
24 subdivision (d), (e), or (k) that are required for the punishment
25 provided in subdivision (a), (b), (j), (l), or (m) to apply have been
26 pled and proved, that circumstance or those circumstances shall
27 be used as the basis for imposing the term provided in subdivision
28 (a), (b), (j), (l), or (m), whichever is greater, rather than being used
29 to impose the punishment authorized under any other provision of
30 law, unless another provision of law provides for a greater penalty
31 or the punishment under another provision of law can be imposed
32 in addition to the punishment provided by this section. However,
33 if any additional circumstance or circumstances specified in
34 subdivision (d), (e), or (k) have been pled and proved, the minimum
35 number of circumstances shall be used as the basis for imposing
36 the term provided in subdivision (a), (j), or (l), and any other
37 additional circumstance or circumstances shall be used to impose
38 any punishment or enhancement authorized under any other
39 provision of law.

(g) Notwithstanding Section 1385 or any other provision of law, the court shall not strike any allegation, admission, or finding of any of the circumstances specified in subdivision (d), (e), or (k) for any person who is subject to punishment under this section.

(h) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person who is subject to punishment under this section.

(i) For any offense specified in paragraphs (1) to (7), inclusive, of subdivision (c), or in subdivision (n), the court shall impose a consecutive sentence for each offense that results in a conviction under this section if the crimes involve separate victims or involve the same victim on separate occasions as defined in subdivision (d) of Section 667.6.

(j) (1) Any person who is convicted of an offense specified in subdivision (c) under one or more of the circumstances specified in subdivision (d), ~~(e), or (k)~~ or (k), or under two or more of the circumstances specified in subdivision (e), upon a victim who is a child under 14 years of age shall be punished by imprisonment in the state prison for life without the possibility of parole.

(2) Any person who is convicted of an offense specified in subdivision (c) under one of the circumstances specified in subdivision (e), upon a victim who is a child under 14 years of age shall be punished by imprisonment in the state prison for 25 years to life.

(k) Any person who is convicted of an offense specified in subdivision (c) upon a victim who is a child under 14 years of age and who, in the commission of the offense, inflicted physical injury resulting in a traumatic condition as defined in subdivision (c) of Section 273.5 shall be punished pursuant to subdivision (j).

(l) Any person who is convicted of an offense specified in subdivision (n) under one or more of the circumstances specified in subdivision (d) or under two or more of the circumstances specified in subdivision (e), upon a victim who is a minor 14 years of age or older shall be punished by imprisonment in the state prison for life without the possibility of parole.

(m) Any person who is convicted of an offense specified in subdivision (n) under one of the circumstances specified in subdivision (e) against a minor 14 years of age or older shall be punished by imprisonment in the state prison for 25 years to life.

(n) Subdivision (l) and (m) shall apply to any of the following offenses:

(1) Rape, in violation of paragraph (2) of subdivision (a) of Section 261.

(2) Spousal rape, in violation of paragraph (1) of subdivision (a) of Section 262.

(3) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.

(4) Sexual penetration, in violation of *paragraph (1) of subdivision (a) of Section 289.*

(5) Sodomy, in violation of ~~paragraph (2) or subdivision (e) or of subdivision (c) of Section 286, or in violation of subdivision (d) of Section 286.~~

(6) Oral copulation, in violation of paragraph (2) of subdivision (c) ~~or of Section 288a, or in violation of subdivision (d) of Section 288a.~~

(o) The penalties provided in this section shall apply only if the existence of any circumstance specified in subdivision (d), (e), or (k) is alleged in the accusatory pleading pursuant to this section, and is either admitted by the defendant in open court or found to be true by the trier of fact.

~~SEC. 9.~~

SEC. 11. Section 3000 of the Penal Code is amended to read:

3000. (a) (1) The Legislature finds and declares that the period immediately following incarceration is critical to successful reintegration of the offender into society and to positive citizenship. It is in the interest of public safety for the state to provide for the effective supervision of and surveillance of parolees, including the judicious use of revocation actions, and to provide educational, vocational, family and personal counseling necessary to assist parolees in the transition between imprisonment and discharge. A sentence pursuant to Section 1168 or 1170 shall include a period of parole, unless waived, or as otherwise provided in this article.

(2) The Legislature finds and declares that it is not the intent of this section to diminish resources allocated to the Department of Corrections and Rehabilitation for parole functions for which the department is responsible. It is also not the intent of this section to diminish the resources allocated to the Board of Parole Hearings to execute its duties with respect to parole functions for which the board is responsible.

1 (3) The Legislature finds and declares that diligent effort must
2 be made to ensure that parolees are held accountable for their
3 criminal behavior, including, but not limited to, the satisfaction of
4 restitution fines and orders.

5 (4) The parole period of any person found to be a sexually
6 violent predator shall be tolled until that person is found to no
7 longer be a sexually violent predator, at which time the period of
8 parole, or any remaining portion thereof, shall begin to run.

9 (b) Notwithstanding any provision to the contrary in Article 3
10 (commencing with Section 3040) of this chapter, the following
11 shall apply:

12 (1) At the expiration of a term of imprisonment of one year and
13 one day, or a term of imprisonment imposed pursuant to Section
14 1170 or at the expiration of a term reduced pursuant to Section
15 2931 or 2933, if applicable, the inmate shall be released on parole
16 for a period not exceeding three years, except that any inmate
17 sentenced for an offense specified in paragraph (3), (4), (5), (11),
18 or (18) of subdivision (c) of Section 667.5, *or an offense specified*
19 *in paragraph (2) of subdivision (b) of Section 288*, shall be released
20 on parole for a period not exceeding 10 years, unless a longer
21 period of parole is specified in Section 3000.1.

22 (2) In the case of any inmate sentenced under Section 1168, the
23 period of parole shall not exceed five years in the case of an inmate
24 imprisoned for any offense other than first or second degree murder
25 for which the inmate has received a life sentence, and shall not
26 exceed three years in the case of any other inmate, unless in either
27 case the parole authority for good cause waives parole and
28 discharges the inmate from custody of the department. This
29 subdivision shall also be applicable to inmates who committed
30 crimes prior to July 1, 1977, to the extent specified in Section
31 1170.2.

32 (3) Notwithstanding paragraphs (1) and (2), and except as
33 provided in subdivision (a) of Section 3000.1, in the case of any
34 offense for which the inmate has received a life sentence pursuant
35 to subdivision (b) of Section 209, *if that offense was committed*
36 *with the intent to commit a specified sexual offense*, or Section
37 667.61 or 667.71, the period of parole shall be 10 years.

38 (4) The parole authority shall consider the request of any inmate
39 regarding the length of his or her parole and the conditions thereof.

(5) Upon successful completion of parole, or at the end of the maximum statutory period of parole specified for the inmate under paragraph (1), (2), or (3), as the case may be, whichever is earlier, the inmate shall be discharged from custody. The date of the maximum statutory period of parole under this subdivision and paragraphs (1), (2), and (3) shall be computed from the date of initial parole and shall be a period chronologically determined. Time during which parole is suspended because the prisoner has absconded or has been returned to custody as a parole violator shall not be credited toward any period of parole unless the prisoner is found not guilty of the parole violation. However, the period of parole is subject to the following:

(A) Except as provided in Section 3064, in no case may a prisoner subject to three years on parole be retained under parole supervision or in custody for a period longer than four years from the date of his or her initial parole.

(B) Except as provided in Section 3064, in no case may a prisoner subject to five years on parole be retained under parole supervision or in custody for a period longer than seven years from the date of his or her initial parole.

(C) Except as provided in Section 3064, in no case may a prisoner subject to 10 years on parole be retained under parole supervision or in custody for a period longer than 15 years from the date of his or her initial parole.

(6) The Department of Corrections and Rehabilitation shall meet with each inmate at least 30 days prior to his or her good time release date and shall provide, under guidelines specified by the parole authority, the conditions of parole and the length of parole up to the maximum period of time provided by law. The inmate has the right to reconsideration of the length of parole and conditions thereof by the parole authority. The Department of Corrections and Rehabilitation or the Board of Parole Hearings may impose as a condition of parole that a prisoner make payments on the prisoner's outstanding restitution fines or orders imposed pursuant to subdivision (a) or (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, or subdivision (b) or (f) of Section 1202.4.

(7) For purposes of this chapter, the Board of Parole Hearings shall be considered the parole authority.

(8) The sole authority to issue warrants for the return to actual custody of any state prisoner released on parole rests with the Board of Parole Hearings, except for any escaped state prisoner or any state prisoner released prior to his or her scheduled release date who should be returned to custody, and Section 3060 shall apply.

(9) It is the intent of the Legislature that efforts be made with respect to persons who are subject to Section 290.011 who are on parole to engage them in treatment.

~~SEC. 10.~~

SEC. 12. Section 3000.1 of the Penal Code is amended to read:

3000.1. (a) (1) In the case of any inmate sentenced under Section 1168 for any offense of first or second degree murder with a maximum term of life imprisonment, the period of parole, if parole is granted, shall be the remainder of the inmate's life.

(2) Notwithstanding any other provision of law, in the case of any inmate sentenced under subdivision (a) or paragraph (1) of subdivision (b) of Section 288, Section 288.5, or Section 288.7, the period of parole, if parole is granted, shall be the remainder of the inmate's life.

(3) Notwithstanding any other provision of law, in the case of any inmate sentenced under Section 667.71 in which one or more of the victims of the offense was a child under 14 years of age, the period of parole, if parole is granted, shall be the remainder of the inmate's life.

(4) Notwithstanding any other provision of law, in the case of any inmate sentenced under Section 269, subdivision (c) of Section 667.51 with a maximum term of life imprisonment, *paragraph (2) of subdivision (j) of Section 667.61*, or subdivision (m) of Section 667.61, the period of parole, if parole is granted, shall be the remainder of the inmate's life.

(5) Notwithstanding any other provision of law, in the case of any inmate sentenced under Section 261, 262, 264.1, 286, 288a, or 289 in which one or more of the victims of the offense was a child under 14 years of age, the period of parole, if parole is granted, shall be the remainder of the inmate's life.

(b) Notwithstanding any other provision of law, when any person referred to in paragraph (1) of subdivision (a) has been released on parole from the state prison, and has been on parole continuously for seven years in the case of any person imprisoned

1 for first degree murder, and five years in the case of any person
2 imprisoned for second degree murder, since release from
3 confinement, the board shall, within 30 days, discharge that person
4 from parole, unless the board, for good cause, determines that the
5 person will be retained on parole. The board shall make a written
6 record of its determination and transmit a copy of it to the parolee.

7 (c) In the event of a retention on parole, the parolee shall be
8 entitled to a review by the board each year thereafter.

9 (d) There shall be a hearing as provided in Sections 3041.5 and
10 3041.7 within 12 months of the date of any revocation of parole
11 to consider the release of the inmate on parole, and notwithstanding
12 the provisions of paragraph (2) of subdivision (b) of Section
13 3041.5, there shall be annual parole consideration hearings
14 thereafter, unless the person is released or otherwise ineligible for
15 parole release. The panel or board shall release the person within
16 one year of the date of the revocation unless it determines that the
17 circumstances and gravity of the parole violation are such that
18 consideration of the public safety requires a more lengthy period
19 of incarceration or unless there is a new prison commitment
20 following a conviction.

21 (e) The provisions of Section 3042 shall not apply to any
22 hearing held pursuant to this section.

23 ~~SEC. 11.~~

24 *SEC. 13.* No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.

33 ~~SEC. 12.~~

34 *SEC. 14.* The provisions of this act are severable. If any
35 provision of this act or its application is held invalid, that invalidity
36 shall not affect other provisions or applications that can be given
37 effect without the invalid provision or application.