

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1306

Introduced by Assembly Member Donnelly

February 18, 2011

~~An act to amend Section 11364 of the Health and Safety Code, relating to controlled substances.~~ *An act to amend Section 123464 of the Health and Safety Code, relating to abortion.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1306, as amended, Donnelly. ~~Controlled substances; paraphernalia.~~ *Abortion.*

Existing law provides for the implementation of a community-based system of perinatal care for eligible women and infants administered by the State Department of Public Health.

Existing law regulates the performance of abortions. Existing law, the Reproductive Privacy Act, provides that the state may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman. Under this existing law, a surgical abortion is unauthorized unless it complies with provisions of the Medical Practice Act that make performance of an abortion by a person without a physician and surgeon's certificate subject to the provisions relating to the unauthorized practice of medicine. Violation of these provisions constitutes unprofessional conduct and is a crime.

This bill would define "woman" for all of the above purposes as an adult female human. By expanding the scope of an existing crime, 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.

~~Existing law states that it is unlawful to possess an opium pipe or any paraphernalia used for unlawfully injecting or smoking a controlled substance, as defined. This provision does not apply to hypodermic needles or syringes that have been containerized for safe disposal in a container that meets state and federal standards for the disposal of sharps waste.~~

~~This bill would make a technical, nonsubstantive change to these provisions:~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

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

- 1 SECTION 1. Section 123464 of the Health and Safety Code is
- 2 amended to read:
- 3 123464. The following definitions shall apply for purposes of
- 4 this chapter:
- 5 (a) “Abortion” means any medical treatment intended to induce
- 6 the termination of a pregnancy except for the purpose of producing
- 7 a live birth.
- 8 (b) “Pregnancy” means the human reproductive process,
- 9 beginning with the implantation of an embryo.
- 10 (c) “State” means the State of California, and every county,
- 11 city, town and municipal corporation, and quasi-municipal
- 12 corporation in the state.
- 13 (d) “Viability” means the point in a pregnancy when, in the
- 14 good faith medical judgment of a physician, on the particular facts
- 15 of the case before that physician, there is a reasonable likelihood
- 16 of the fetus’ sustained survival outside the uterus without the
- 17 application of extraordinary medical measures.
- 18 (e) “Woman” means an adult female human.
- 19 SEC. 2. *No reimbursement is required by this act pursuant to*
- 20 *Section 6 of Article XIII B of the California Constitution because*
- 21 *the only costs that may be incurred by a local agency or school*

1 *district will be incurred because this act creates a new crime or*
2 *infraction, eliminates a crime or infraction, or changes the penalty*
3 *for a crime or infraction, within the meaning of Section 17556 of*
4 *the Government Code, or changes the definition of a crime within*
5 *the meaning of Section 6 of Article XIII B of the California*
6 *Constitution.*

7 SECTION 1. ~~Section 11364 of the Health and Safety Code is~~
8 ~~amended to read:~~

9 ~~11364. (a) It is unlawful to possess an opium pipe or any~~
10 ~~device, contrivance, instrument, or paraphernalia used for~~
11 ~~unlawfully injecting or smoking (1) a controlled substance specified~~
12 ~~in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f)~~
13 ~~of Section 11054, specified in paragraph (14), (15), or (20) of~~
14 ~~subdivision (d) of Section 11054, specified in subdivision (b) or~~
15 ~~(e) of Section 11055, or specified in paragraph (2) of subdivision~~
16 ~~(d) of Section 11055, or (2) a controlled substance which is a~~
17 ~~narcotic drug classified in Schedule III, IV, or V.~~

18 ~~(b) This section shall not apply to hypodermic needles or~~
19 ~~syringes that have been containerized for safe disposal in a~~
20 ~~container that meets state and federal standards for the disposal of~~
21 ~~sharps waste.~~

22 ~~(c) Pursuant to authorization by a county, with respect to all of~~
23 ~~the territory within the county, or a city, with respect to the territory~~
24 ~~within in the city, for the period commencing January 1, 2005, and~~
25 ~~ending December 31, 2018, subdivision (a) shall not apply to the~~
26 ~~possession solely for personal use of 10 or fewer hypodermic~~
27 ~~needles or syringes if acquired from an authorized source.~~