

ASSEMBLY BILL

No. 156

Introduced by Assembly Member Holden

January 22, 2013

An act to amend Section 629.52 of the Penal Code, relating to human trafficking.

LEGISLATIVE COUNSEL'S DIGEST

AB 156, as introduced, Holden. Human trafficking: interception of electronic communications.

(1) Existing law authorizes, until January 1, 2015, the Attorney General, or other specified prosecuting officers at the Department of Justice, or a district attorney, to apply for, and a judge to enter, an ex parte order authorizing interception of wire or electronic communications under certain circumstances. Existing law authorizes a judge to enter an order authorizing the interception of communications initially intercepted within the territorial jurisdiction of the court in which the judge is sitting, if the judge determines that, among other things, there is probable cause to believe that an individual is committing, has committed, or is about to commit one of specified felony offenses, including murder and the illegal possession or sale of controlled substances.

Existing law proscribes the crime of human trafficking, as defined to include, among other prohibited acts, depriving or violating the personal liberty of another with the intent to obtain forced labor or services or to effect or maintain a specified criminal offense, or inducing or persuading a minor to engage in a commercial sex act.

This bill would expand the provisions described above authorizing interception of wire or electronic communications to apply if a judge

determines that, among other things, there is probable cause to believe that an individual is committing, has committed, or is about to commit a violation of the provision described above proscribing human trafficking.

(2) Existing law specifies obligations for parties applying for and carrying out orders to intercept communications pursuant to the provision described above, and makes a violation of these provisions a misdemeanor or felony.

This bill would broaden the types of communications to which these crimes would apply. By creating new crimes, 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 629.52 of the Penal Code is amended to
 2 read:

3 629.52. Upon application made under Section 629.50, the judge
 4 may enter an ex parte order, as requested or modified, authorizing
 5 interception of wire or electronic communications initially
 6 intercepted within the territorial jurisdiction of the court in which
 7 the judge is sitting, if the judge determines, on the basis of the
 8 facts submitted by the applicant, all of the following:

9 (a) There is probable cause to believe that an individual is
 10 committing, has committed, or is about to commit, one of the
 11 following offenses:

12 (1) Importation, possession for sale, transportation, manufacture,
 13 or sale of controlled substances in violation of Section 11351,
 14 11351.5, 11352, 11370.6, 11378, 11378.5, 11379, 11379.5, or
 15 11379.6 of the Health and Safety Code with respect to a substance
 16 containing heroin, cocaine, PCP, methamphetamine, or their
 17 precursors or analogs where the substance exceeds 10 gallons by
 18 liquid volume or three pounds of solid substance by weight.

1 (2) Murder, solicitation to commit murder, a violation of Section
2 209, or the commission of a felony involving a destructive device
3 in violation of Section 18710, 18715, 18720, 18725, 18730, 18740,
4 18745, 18750, or 18755.

5 (3) Any felony violation of Section 186.22.

6 (4) Any felony violation of Section 11418, relating to weapons
7 of mass destruction, Section 11418.5, relating to threats to use
8 weapons of mass destruction, or Section 11419, relating to
9 restricted biological agents.

10 (5) *Any violation of Section 236.1, relating to human trafficking.*

11 ~~(5)~~

12 (6) An attempt or conspiracy to commit any of the
13 above-mentioned crimes.

14 (b) There is probable cause to believe that particular
15 communications concerning the illegal activities will be obtained
16 through that interception, including, but not limited to,
17 communications that may be utilized for locating or rescuing a
18 kidnap victim.

19 (c) There is probable cause to believe that the facilities from
20 which, or the place where, the wire or electronic communications
21 are to be intercepted are being used, or are about to be used, in
22 connection with the commission of the offense, or are leased to,
23 listed in the name of, or commonly used by the person whose
24 communications are to be intercepted.

25 (d) Normal investigative procedures have been tried and have
26 failed or reasonably appear either to be unlikely to succeed if tried
27 or to be too dangerous.

28 SEC. 2. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.