

AMENDED IN SENATE MARCH 28, 2014

SENATE BILL

No. 1084

Introduced by Senator Walters
(Coauthor: Senator Wolk)

February 19, 2014

An act to amend Sections 1170.125 and 1192.7 of the Penal Code, relating to human trafficking.

LEGISLATIVE COUNSEL'S DIGEST

SB 1084, as amended, Walters. Human trafficking.

Existing law, as added by Proposition 8, adopted June 8, 1982, and amended by Proposition 21, adopted March 7, 2000, among other things, defines a serious felony. Existing law, also added by Proposition 8, adopted June 8, 1982, and amended by Proposition 36, adopted November 6, 2012, commonly known as the Three Strikes law, requires increased penalties for certain recidivist offenders in addition to any other enhancement or penalty provisions that may apply, including individuals with current and prior convictions of a serious felony, as specified. The Three Strikes law specifies that references to code sections contained in its provisions, including references to the definition of a serious felony, are to those statutes as they existed on November 7, 2012. The Legislature may directly amend Proposition 8 and Proposition 21 by a statute passed in each house by a $\frac{2}{3}$ vote, or by a statute that becomes effective only when approved by the voters. The Legislature may directly amend Proposition 36 by a statute passed in each house by a $\frac{2}{3}$ vote and the Governor concurring, or with a majority vote to be placed on the next general ballot, or by a statute that becomes effective when approved by a majority of the electors.

This bill would add human trafficking to the definition of a serious felony, as specified. The bill would specify that references to code sections contained in the Three Strikes law are to those statutes as they exist January 1, 2015. Because the bill would impose additional duties on local prosecutors, and because it would expand the punishments for existing crimes, it 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: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 1170.125 of the Penal Code is amended
2 to read:

3 1170.125. Notwithstanding Section 2 of Proposition 184, as
4 adopted at the November 8, 1994, General Election, for all offenses
5 committed on or after January 1, 2015, all references to existing
6 statutes in Sections 1170.12 and 1170.126 are to those sections as
7 they existed on January 1, 2015.

8 SEC. 2. Section 1192.7 of the Penal Code is amended to read:

9 1192.7. (a) (1) It is the intent of the Legislature that district
10 attorneys prosecute violent sex crimes under statutes that provide
11 sentencing under a “one strike,” “~~three strikes~~” *strikes*,” or habitual
12 sex offender statute instead of engaging in plea bargaining over
13 those offenses.

14 (2) Plea bargaining in any case in which the indictment or
15 information charges any serious felony, any felony in which it is
16 alleged that a firearm was personally used by the defendant, or
17 any offense of driving while under the influence of alcohol, drugs,
18 narcotics, or any other intoxicating substance, or any combination
19 thereof, is prohibited, unless there is insufficient evidence to prove
20 the people’s case, or testimony of a material witness cannot be
21 obtained, or a reduction or dismissal would not result in a
22 substantial change in sentence.

23 (3) If the indictment or information charges the defendant with
24 a violent sex crime, as listed in subdivision (c) of Section 667.61,

1 that could be prosecuted under ~~Sections 269~~, *Section 269* or 288.7,
2 subdivisions (b) through (i) of Section 667, *or* Section 667.61; or
3 667.71, plea bargaining is prohibited unless there is insufficient
4 evidence to prove the people’s case, or testimony of a material
5 witness cannot be obtained, or a reduction or dismissal would not
6 result in a substantial change in sentence. At the time of presenting
7 the agreement to the court, the district attorney shall state on the
8 record why a sentence under one of those sections was not sought.

9 (b) As used in this section, “plea bargaining” means any
10 bargaining, negotiation, or discussion between a criminal
11 defendant, or his or her counsel, and a prosecuting attorney or
12 judge, whereby the defendant agrees to plead guilty or nolo
13 contendere, in exchange for any promises, commitments,
14 concessions, assurances, or consideration by the prosecuting
15 attorney or judge relating to any charge against the defendant or
16 to the sentencing of the defendant.

17 (c) As used in this section, “serious felony” means any of the
18 following:

- 19 (1) Murder or voluntary manslaughter; (2) mayhem; (3) rape;
- 20 (4) sodomy by force, violence, duress, menace, threat of great
- 21 bodily injury, or fear of immediate and unlawful bodily injury on
- 22 the victim or another person; (5) oral copulation by force, violence,
- 23 duress, menace, threat of great bodily injury, or fear of immediate
- 24 and unlawful bodily injury on the victim or another person; (6)
- 25 lewd or lascivious act on a child under 14 years of age; (7) any
- 26 felony punishable by death or imprisonment in the state prison for
- 27 life; (8) any felony in which the defendant personally inflicts great
- 28 bodily injury on any person, other than an accomplice, or any
- 29 felony in which the defendant personally uses a firearm; (9)
- 30 attempted murder; (10) assault with intent to commit rape or
- 31 robbery; (11) assault with a deadly weapon or instrument on a
- 32 peace officer; (12) assault by a life prisoner on a noninmate; (13)
- 33 assault with a deadly weapon by an inmate; (14) arson; (15)
- 34 exploding a destructive device or any explosive with intent to
- 35 injure; (16) exploding a destructive device or any explosive causing
- 36 bodily injury, great bodily injury, or mayhem; (17) exploding a
- 37 destructive device or any explosive with intent to murder; (18) any
- 38 burglary of the first degree; (19) robbery or bank robbery; (20)
- 39 kidnapping; (21) holding of a hostage by a person confined in a
- 40 *the* state prison; (22) attempt to commit a felony punishable by

1 death or imprisonment in the state prison for life; (23) any felony
2 in which the defendant personally used a dangerous or deadly
3 weapon; (24) selling, furnishing, administering, giving, or offering
4 to sell, furnish, administer, or give to a minor any heroin, cocaine,
5 phencyclidine (PCP), or any methamphetamine-related drug, as
6 described in paragraph (2) of subdivision (d) of Section 11055 of
7 the Health and Safety Code, or any of the precursors of
8 methamphetamines, as described in subparagraph (A) of paragraph
9 (1) of subdivision (f) of Section 11055 or subdivision (a) of Section
10 11100 of the Health and Safety Code; (25) any violation of
11 subdivision (a) of Section 289 where the act is accomplished
12 against the victim's will by force, violence, duress, menace, or
13 fear of immediate and unlawful bodily injury on the victim or
14 another person; (26) grand theft involving a firearm; (27)
15 carjacking; (28) any felony offense, which would also constitute
16 a felony violation of Section 186.22; (29) assault with the intent
17 to commit mayhem, rape, sodomy, or oral copulation, in violation
18 of Section 220; (30) throwing acid or flammable substances, in
19 violation of Section 244; (31) assault with a deadly weapon,
20 firearm, machinegun, assault weapon, or semiautomatic firearm
21 or assault on a peace officer or firefighter, in violation of Section
22 245; (32) assault with a deadly weapon against a public transit
23 employee, custodial officer, or school employee, in violation of
24 Section 245.2, 245.3, or 245.5; (33) discharge of a firearm at an
25 inhabited dwelling, vehicle, or aircraft, in violation of Section 246;
26 (34) commission of rape or sexual penetration in concert with
27 another person, in violation of Section 264.1; (35) continuous
28 sexual abuse of a child, in violation of Section 288.5; (36) shooting
29 from a vehicle, in violation of subdivision (c) or (d) of Section
30 26100; (37) intimidation of victims or witnesses, in violation of
31 Section 136.1; (38) criminal threats, in violation of Section 422;
32 (39) any attempt to commit a crime listed in this subdivision other
33 than an assault; (40) any violation of Section 12022.53; (41) a
34 violation of subdivision (b) or (c) of Section 11418; (42) human
35 trafficking in violation of Section 236.1; and (43) any conspiracy
36 to commit an offense described in this subdivision.

37 (d) As used in this section, "bank robbery" means to take or
38 attempt to take, by force or violence, or by intimidation from the
39 person or presence of another any property or money or any other
40 thing of value belonging to, or in the care, custody, control,

1 management, or possession of, any bank, credit union, or any
2 savings and loan association.

3 As used in this subdivision, the following terms have the
4 following meanings:

5 (1) “Bank” means any member of the Federal Reserve System,
6 and any bank, banking association, trust company, savings bank,
7 or other banking institution organized or operating under the laws
8 of the United States, and any bank the deposits of which are insured
9 by the Federal Deposit Insurance Corporation.

10 (2) “Savings and loan association” means any federal savings
11 and loan association and any “insured institution” as defined in
12 Section 401 of the National Housing Act, as amended, and any
13 federal credit union as defined in Section 2 of the Federal Credit
14 Union Act.

15 (3) “Credit union” means any federal credit union and any
16 state-chartered credit union the accounts of which are insured by
17 the Administrator of the National Credit Union ~~administration.~~
18 *Administration.*

19 (e) The provisions of this section shall not be amended by the
20 Legislature except by statute passed in each house by rollcall vote
21 entered in the journal, two-thirds of the membership concurring,
22 or by a statute that becomes effective only when approved by the
23 electors.

24 SEC. 3. 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.