

AMENDED IN ASSEMBLY MAY 4, 2015

AMENDED IN ASSEMBLY APRIL 20, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1051**

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**Introduced by Assembly Member Maienschein**

**(Coauthors: Assembly Members Atkins, *Baker*, Bonilla, Chávez, Gonzalez, Jones, *Jones-Sawyer*, Lackey, Steinorth, and Waldron)**

**(Coauthors: Senators Anderson, Bates, Block, and Hueso)**

February 26, 2015

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An act to amend Section 186.22 of, and to add Section 266m to, the Penal Code, relating to human trafficking.

LEGISLATIVE COUNSEL'S DIGEST

AB 1051, as amended, Maienschein. Human trafficking.

Existing law, as amended by Proposition 21, as approved by the voters at the March 7, 2000, statewide primary election, provides that any person who actively participates in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, and who willfully promotes, furthers, or assists in any felonious criminal conduct by members of that gang, shall be punished, as specified. Existing law defines “a pattern of criminal gang activity” as the commission of, attempted commission of, conspiracy to commit, or solicitation of, sustained juvenile petition for, or conviction of, 2 or more listed offenses. Proposition 21 may be amended by a statute passed by a  $\frac{2}{3}$  vote of the membership of each house of the Legislature.

This bill would add human trafficking as an offense that may be used to establish a pattern of criminal gang activity. Because this bill would amend Proposition 21, the bill requires a  $\frac{2}{3}$  vote.

Existing law provides various penalties for human trafficking and sex trafficking offenses.

This bill would require that a person convicted of ~~a human trafficking offense or of specified sex trafficking offenses~~ *certain felony human trafficking offenses*, where any part of the violation takes place upon the grounds of, or within 1,000 feet of, a public or private elementary school, vocational, junior high, or high school during the hours that the school is open for classes or school-related programs, or at any time when minors are using the facility, to receive, in addition to any other penalty imposed, punishment of ~~3 years~~ *one year* in state prison. ~~The bill would also require that the person sentenced under this provision serve the entire term of his or her imprisonment for the underlying offense, as well as the additional term imposed, in the state prison.~~

Because this bill would change the definition of a crime, impose an enhancement on certain crimes, and require a higher level of service from local prosecutors in pleading and proving the enhancement, it would impose a state-mandated local program.

The bill would also correct cross-references and make conforming changes.

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 186.22 of the Penal Code, as amended
- 2 by Section 1 of Chapter 508 of the Statutes of 2013, is amended
- 3 to read:
- 4 186.22. (a) A person who actively participates in any criminal
- 5 street gang with knowledge that its members engage in or have
- 6 engaged in a pattern of criminal gang activity, and who willfully
- 7 promotes, furthers, or assists in any felonious criminal conduct by
- 8 members of that gang, shall be punished by imprisonment in a

1 county jail for a period not to exceed one year, or by imprisonment  
2 in the state prison for 16 months, or two or three years.

3 (b) (1) Except as provided in paragraphs (4) and (5), a person  
4 who is convicted of a felony committed for the benefit of, at the  
5 direction of, or in association with any criminal street gang, with  
6 the specific intent to promote, further, or assist in any criminal  
7 conduct by gang members, shall, upon conviction of that felony,  
8 in addition and consecutive to the punishment prescribed for the  
9 felony or attempted felony of which he or she has been convicted,  
10 be punished as follows:

11 (A) Except as provided in subparagraphs (B) and (C), the person  
12 shall be punished by an additional term of two, three, or four years  
13 at the court's discretion.

14 (B) If the felony is a serious felony, as defined in subdivision  
15 (c) of Section 1192.7, the person shall be punished by an additional  
16 term of five years.

17 (C) If the felony is a violent felony, as defined in subdivision  
18 (c) of Section 667.5, the person shall be punished by an additional  
19 term of 10 years.

20 (2) If the underlying felony described in paragraph (1) is  
21 committed on the grounds of, or within 1,000 feet of, a public or  
22 private elementary, vocational, junior high, or high school, during  
23 hours in which the facility is open for classes or school-related  
24 programs or when minors are using the facility, that fact shall be  
25 a circumstance in aggravation of the crime in imposing a term  
26 under paragraph (1).

27 (3) The court shall select the sentence enhancement which, in  
28 the court's discretion, best serves the interests of justice and shall  
29 state the reasons for its choice on the record at the time of the  
30 sentencing in accordance with the provisions of subdivision (d) of  
31 Section 1170.1.

32 (4) A person who is convicted of a felony enumerated in this  
33 paragraph committed for the benefit of, at the direction of, or in  
34 association with any criminal street gang, with the specific intent  
35 to promote, further, or assist in any criminal conduct by gang  
36 members, shall, upon conviction of that felony, be sentenced to  
37 an indeterminate term of life imprisonment with a minimum term  
38 of the indeterminate sentence calculated as the greater of:

39 (A) The term determined by the court pursuant to Section 1170  
40 for the underlying conviction, including any enhancement

1 applicable under Chapter 4.5 (commencing with Section 1170) of  
2 Title 7 of Part 2, or any period prescribed by Section 3046, if the  
3 felony is any of the offenses enumerated in subparagraph (B) or  
4 (C) of this paragraph.

5 (B) Imprisonment in the state prison for 15 years, if the felony  
6 is a home invasion robbery, in violation of subparagraph (A) of  
7 paragraph (1) of subdivision (a) of Section 213; carjacking, as  
8 defined in Section 215; a felony violation of Section 246; or a  
9 violation of Section 12022.55.

10 (C) Imprisonment in the state prison for seven years, if the  
11 felony is extortion, as defined in Section 519; or threats to victims  
12 and witnesses, as defined in Section 136.1.

13 (5) Except as provided in paragraph (4), a person who violates  
14 this subdivision in the commission of a felony punishable by  
15 imprisonment in the state prison for life shall not be paroled until  
16 a minimum of 15 calendar years have been served.

17 (c) If the court grants probation or suspends the execution of  
18 sentence imposed upon the defendant for a violation of subdivision  
19 (a), or in cases involving a true finding of the enhancement  
20 enumerated in subdivision (b), the court shall require that the  
21 defendant serve a minimum of 180 days in a county jail as a  
22 condition thereof.

23 (d) A person who is convicted of a public offense punishable  
24 as a felony or a misdemeanor, which is committed for the benefit  
25 of, at the direction of, or in association with a criminal street gang,  
26 with the specific intent to promote, further, or assist in any criminal  
27 conduct by gang members, shall be punished by imprisonment in  
28 a county jail not to exceed one year, or by imprisonment in a state  
29 prison for one, two, or three years, provided that a person sentenced  
30 to imprisonment in a county jail shall be imprisoned for a period  
31 not to exceed one year, but not less than 180 days, and shall not  
32 be eligible for release upon completion of sentence, parole, or any  
33 other basis, until he or she has served 180 days. If the court grants  
34 probation or suspends the execution of sentence imposed upon the  
35 defendant, it shall require as a condition thereof that the defendant  
36 serve 180 days in a county jail.

37 (e) As used in this chapter, “pattern of criminal gang activity”  
38 means the commission of, attempted commission of, conspiracy  
39 to commit, or solicitation of, sustained juvenile petition for, or  
40 conviction of two or more of the following offenses, provided at

- 1 least one of these offenses occurred after the effective date of this  
2 chapter and the last of those offenses occurred within three years  
3 after a prior offense, and the offenses were committed on separate  
4 occasions, or by two or more persons:
- 5 (1) Assault with a deadly weapon or by means of force likely  
6 to produce great bodily injury, as defined in Section 245.
  - 7 (2) Robbery, as defined in Chapter 4 (commencing with Section  
8 211) of Title 8.
  - 9 (3) Unlawful homicide or manslaughter, as defined in Chapter  
10 1 (commencing with Section 187) of Title 8.
  - 11 (4) The sale, possession for sale, transportation, manufacture,  
12 offer for sale, or offer to manufacture controlled substances as  
13 defined in Sections 11054, 11055, 11056, 11057, and 11058 of  
14 the Health and Safety Code.
  - 15 (5) Shooting at an inhabited dwelling or occupied motor vehicle,  
16 as defined in Section 246.
  - 17 (6) Discharging or permitting the discharge of a firearm from  
18 a motor vehicle, as defined in subdivisions (a) and (b) of Section  
19 12034 until January 1, 2012, and, on or after that date, subdivisions  
20 (a) and (b) of Section 26100.
  - 21 (7) Arson, as defined in Chapter 1 (commencing with Section  
22 450) of Title 13.
  - 23 (8) The intimidation of witnesses and victims, as defined in  
24 Section 136.1.
  - 25 (9) Grand theft, as defined in subdivision (a) or (c) of Section  
26 487.
  - 27 (10) Grand theft of any firearm, vehicle, trailer, or vessel.
  - 28 (11) Burglary, as defined in Section 459.
  - 29 (12) Rape, as defined in Section 261.
  - 30 (13) Looting, as defined in Section 463.
  - 31 (14) Money laundering, as defined in Section 186.10.
  - 32 (15) Kidnapping, as defined in Section 207.
  - 33 (16) Mayhem, as defined in Section 203.
  - 34 (17) Aggravated mayhem, as defined in Section 205.
  - 35 (18) Torture, as defined in Section 206.
  - 36 (19) Felony extortion, as defined in Sections 518 and 520.
  - 37 (20) Felony vandalism, as defined in paragraph (1) of  
38 subdivision (b) of Section 594.
  - 39 (21) Carjacking, as defined in Section 215.

1 (22) The sale, delivery, or transfer of a firearm, as defined in  
2 Section 12072 until January 1, 2012, and, on or after that date,  
3 Article 1 (commencing with Section 27500) of Chapter 4 of  
4 Division 6 of Title 4 of Part 6.

5 (23) Possession of a pistol, revolver, or other firearm capable  
6 of being concealed upon the person in violation of paragraph (1)  
7 of subdivision (a) of Section 12101 until January 1, 2012, and, on  
8 or after that date, Section 29610.

9 (24) Threats to commit crimes resulting in death or great bodily  
10 injury, as defined in Section 422.

11 (25) Theft and unlawful taking or driving of a vehicle, as defined  
12 in Section 10851 of the Vehicle Code.

13 (26) Felony theft of an access card or account information, as  
14 defined in Section 484e.

15 (27) Counterfeiting, designing, using, or attempting to use an  
16 access card, as defined in Section 484f.

17 (28) Felony fraudulent use of an access card or account  
18 information, as defined in Section 484g.

19 (29) Unlawful use of personal identifying information to obtain  
20 credit, goods, services, or medical information, as defined in  
21 Section 530.5.

22 (30) Wrongfully obtaining Department of Motor Vehicles  
23 documentation, as defined in Section 529.7.

24 (31) Prohibited possession of a firearm in violation of Section  
25 12021 until January 1, 2012, and on or after that date, Chapter 2  
26 (commencing with Section 29800) of Division 9 of Title 4 of Part  
27 6.

28 (32) Carrying a concealed firearm in violation of Section 12025  
29 until January 1, 2012, and, on or after that date, Section 25400.

30 (33) Carrying a loaded firearm in violation of Section 12031  
31 until January 1, 2012, and, on or after that date, Section 25850.

32 (34) Human trafficking in violation of Section 236.1.

33 (f) As used in this chapter, “criminal street gang” means any  
34 ongoing organization, association, or group of three or more  
35 persons, whether formal or informal, having as one of its primary  
36 activities the commission of one or more of the criminal acts  
37 enumerated in paragraphs (1) to (25), inclusive, or (31) to (34),  
38 inclusive, of subdivision (e), having a common name or common  
39 identifying sign or symbol, and whose members individually or

1 collectively engage in or have engaged in a pattern of criminal  
2 gang activity.

3 (g) Notwithstanding any other law, the court may strike the  
4 additional punishment for the enhancements provided in this  
5 section or refuse to impose the minimum jail sentence for  
6 misdemeanors in an unusual case where the interests of justice  
7 would best be served, if the court specifies on the record and enters  
8 into the minutes the circumstances indicating that the interests of  
9 justice would best be served by that disposition.

10 (h) Notwithstanding any other law, for each person committed  
11 to the Department of Corrections and Rehabilitation, Division of  
12 Juvenile Facilities for a conviction pursuant to subdivision (a) or  
13 (b) of this section, the offense shall be deemed one for which the  
14 state shall pay the rate of 100 percent of the per capita institutional  
15 cost of the Department of Corrections and Rehabilitation, Division  
16 of Juvenile Facilities.

17 (i) In order to secure a conviction or sustain a juvenile petition,  
18 pursuant to subdivision (a) it is not necessary for the prosecution  
19 to prove that the person devotes all, or a substantial part, of his or  
20 her time or efforts to the criminal street gang, nor is it necessary  
21 to prove that the person is a member of the criminal street gang.  
22 Active participation in the criminal street gang is all that is  
23 required.

24 (j) A pattern of gang activity may be shown by the commission  
25 of one or more of the offenses enumerated in paragraphs (26) to  
26 (30), inclusive, of subdivision (e), and the commission of one or  
27 more of the offenses enumerated in paragraphs (1) to (25),  
28 inclusive, or (31) to (34), inclusive, of subdivision (e). A pattern  
29 of gang activity cannot be established solely by proof of  
30 commission of offenses enumerated in paragraphs (26) to (30),  
31 inclusive, of subdivision (e), alone.

32 (k) This section shall remain in effect only until January 1, 2017,  
33 and as of that date is repealed, unless a later enacted statute, that  
34 is enacted before January 1, 2017, deletes or extends that date.

35 SEC. 2. Section 186.22 of the Penal Code, as amended by  
36 Section 2 of Chapter 508 of the Statutes of 2013, is amended to  
37 read:

38 186.22. (a) A person who actively participates in any criminal  
39 street gang with knowledge that its members engage in or have  
40 engaged in a pattern of criminal gang activity, and who willfully

1 promotes, furthers, or assists in any felonious criminal conduct by  
2 members of that gang, shall be punished by imprisonment in a  
3 county jail for a period not to exceed one year, or by imprisonment  
4 in the state prison for 16 months, or two or three years.

5 (b) (1) Except as provided in paragraphs (4) and (5), a person  
6 who is convicted of a felony committed for the benefit of, at the  
7 direction of, or in association with any criminal street gang, with  
8 the specific intent to promote, further, or assist in any criminal  
9 conduct by gang members, shall, upon conviction of that felony,  
10 in addition and consecutive to the punishment prescribed for the  
11 felony or attempted felony of which he or she has been convicted,  
12 be punished as follows:

13 (A) Except as provided in subparagraphs (B) and (C), the person  
14 shall be punished by an additional term of two, three, or four years  
15 at the court's discretion.

16 (B) If the felony is a serious felony, as defined in subdivision  
17 (c) of Section 1192.7, the person shall be punished by an additional  
18 term of five years.

19 (C) If the felony is a violent felony, as defined in subdivision  
20 (c) of Section 667.5, the person shall be punished by an additional  
21 term of 10 years.

22 (2) If the underlying felony described in paragraph (1) is  
23 committed on the grounds of, or within 1,000 feet of, a public or  
24 private elementary, vocational, junior high, or high school, during  
25 hours in which the facility is open for classes or school-related  
26 programs or when minors are using the facility, that fact shall be  
27 a circumstance in aggravation of the crime in imposing a term  
28 under paragraph (1).

29 (3) The court shall order the imposition of the middle term of  
30 the sentence enhancement, unless there are circumstances in  
31 aggravation or mitigation. The court shall state the reasons for its  
32 choice of sentencing enhancements on the record at the time of  
33 the sentencing.

34 (4) A person who is convicted of a felony enumerated in this  
35 paragraph committed for the benefit of, at the direction of, or in  
36 association with any criminal street gang, with the specific intent  
37 to promote, further, or assist in any criminal conduct by gang  
38 members, shall, upon conviction of that felony, be sentenced to  
39 an indeterminate term of life imprisonment with a minimum term  
40 of the indeterminate sentence calculated as the greater of:

1 (A) The term determined by the court pursuant to Section 1170  
2 for the underlying conviction, including any enhancement  
3 applicable under Chapter 4.5 (commencing with Section 1170) of  
4 Title 7 of Part 2, or any period prescribed by Section 3046, if the  
5 felony is any of the offenses enumerated in subparagraph (B) or  
6 (C) of this paragraph.

7 (B) Imprisonment in the state prison for 15 years, if the felony  
8 is a home invasion robbery, in violation of subparagraph (A) of  
9 paragraph (1) of subdivision (a) of Section 213; carjacking, as  
10 defined in Section 215; a felony violation of Section 246; or a  
11 violation of Section 12022.55.

12 (C) Imprisonment in the state prison for seven years, if the  
13 felony is extortion, as defined in Section 519; or threats to victims  
14 and witnesses, as defined in Section 136.1.

15 (5) Except as provided in paragraph (4), a person who violates  
16 this subdivision in the commission of a felony punishable by  
17 imprisonment in the state prison for life shall not be paroled until  
18 a minimum of 15 calendar years have been served.

19 (c) If the court grants probation or suspends the execution of  
20 sentence imposed upon the defendant for a violation of subdivision  
21 (a), or in cases involving a true finding of the enhancement  
22 enumerated in subdivision (b), the court shall require that the  
23 defendant serve a minimum of 180 days in a county jail as a  
24 condition thereof.

25 (d) A person who is convicted of a public offense punishable  
26 as a felony or a misdemeanor, which is committed for the benefit  
27 of, at the direction of, or in association with a criminal street gang,  
28 with the specific intent to promote, further, or assist in any criminal  
29 conduct by gang members, shall be punished by imprisonment in  
30 a county jail not to exceed one year, or by imprisonment in a state  
31 prison for one, two, or three years, provided that a person sentenced  
32 to imprisonment in a county jail shall be imprisoned for a period  
33 not to exceed one year, but not less than 180 days, and shall not  
34 be eligible for release upon completion of sentence, parole, or any  
35 other basis, until he or she has served 180 days. If the court grants  
36 probation or suspends the execution of sentence imposed upon the  
37 defendant, it shall require as a condition thereof that the defendant  
38 serve 180 days in a county jail.

39 (e) As used in this chapter, “pattern of criminal gang activity”  
40 means the commission of, attempted commission of, conspiracy

1 to commit, or solicitation of, sustained juvenile petition for, or  
2 conviction of two or more of the following offenses, provided at  
3 least one of these offenses occurred after the effective date of this  
4 chapter and the last of those offenses occurred within three years  
5 after a prior offense, and the offenses were committed on separate  
6 occasions, or by two or more persons:

7 (1) Assault with a deadly weapon or by means of force likely  
8 to produce great bodily injury, as defined in Section 245.

9 (2) Robbery, as defined in Chapter 4 (commencing with Section  
10 211) of Title 8.

11 (3) Unlawful homicide or manslaughter, as defined in Chapter  
12 1 (commencing with Section 187) of Title 8.

13 (4) The sale, possession for sale, transportation, manufacture,  
14 offer for sale, or offer to manufacture controlled substances as  
15 defined in Sections 11054, 11055, 11056, 11057, and 11058 of  
16 the Health and Safety Code.

17 (5) Shooting at an inhabited dwelling or occupied motor vehicle,  
18 as defined in Section 246.

19 (6) Discharging or permitting the discharge of a firearm from  
20 a motor vehicle, as defined in subdivisions (a) and (b) of Section  
21 12034 until January 1, 2012, and, on or after that date, subdivisions  
22 (a) and (b) of Section 26100.

23 (7) Arson, as defined in Chapter 1 (commencing with Section  
24 450) of Title 13.

25 (8) The intimidation of witnesses and victims, as defined in  
26 Section 136.1.

27 (9) Grand theft, as defined in subdivision (a) or (c) of Section  
28 487.

29 (10) Grand theft of any firearm, vehicle, trailer, or vessel.

30 (11) Burglary, as defined in Section 459.

31 (12) Rape, as defined in Section 261.

32 (13) Looting, as defined in Section 463.

33 (14) Money laundering, as defined in Section 186.10.

34 (15) Kidnapping, as defined in Section 207.

35 (16) Mayhem, as defined in Section 203.

36 (17) Aggravated mayhem, as defined in Section 205.

37 (18) Torture, as defined in Section 206.

38 (19) Felony extortion, as defined in Sections 518 and 520.

39 (20) Felony vandalism, as defined in paragraph (1) of  
40 subdivision (b) of Section 594.

1 (21) Carjacking, as defined in Section 215.

2 (22) The sale, delivery, or transfer of a firearm, as defined in  
3 Section 12072 until January 1, 2012, and, on or after that date,  
4 Article 1 (commencing with Section 27500) of Chapter 4 of  
5 Division 6 of Title 4 of Part 6.

6 (23) Possession of a pistol, revolver, or other firearm capable  
7 of being concealed upon the person in violation of paragraph (1)  
8 of subdivision (a) of Section 12101 until January 1, 2012, and, on  
9 or after that date, Section 29610.

10 (24) Threats to commit crimes resulting in death or great bodily  
11 injury, as defined in Section 422.

12 (25) Theft and unlawful taking or driving of a vehicle, as defined  
13 in Section 10851 of the Vehicle Code.

14 (26) Felony theft of an access card or account information, as  
15 defined in Section 484e.

16 (27) Counterfeiting, designing, using, or attempting to use an  
17 access card, as defined in Section 484f.

18 (28) Felony fraudulent use of an access card or account  
19 information, as defined in Section 484g.

20 (29) Unlawful use of personal identifying information to obtain  
21 credit, goods, services, or medical information, as defined in  
22 Section 530.5.

23 (30) Wrongfully obtaining Department of Motor Vehicles  
24 documentation, as defined in Section 529.7.

25 (31) Prohibited possession of a firearm in violation of Section  
26 12021 until January 1, 2012, and, on or after that date, Chapter 2  
27 (commencing with Section 29800) of Division 9 of Title 4 of Part  
28 6.

29 (32) Carrying a concealed firearm in violation of Section 12025  
30 until January 1, 2012, and, on or after that date, Section 25400.

31 (33) Carrying a loaded firearm in violation of Section 12031  
32 until January 1, 2012, and, on or after that date, Section 25850.

33 (34) Human trafficking in violation of Section 236.1.

34 (f) As used in this chapter, “criminal street gang” means any  
35 ongoing organization, association, or group of three or more  
36 persons, whether formal or informal, having as one of its primary  
37 activities the commission of one or more of the criminal acts  
38 enumerated in paragraphs (1) to (25), inclusive, or (31) to (34),  
39 inclusive, of subdivision (e), having a common name or common  
40 identifying sign or symbol, and whose members individually or

1 collectively engage in or have engaged in a pattern of criminal  
2 gang activity.

3 (g) Notwithstanding any other law, the court may strike the  
4 additional punishment for the enhancements provided in this  
5 section or refuse to impose the minimum jail sentence for  
6 misdemeanors in an unusual case where the interests of justice  
7 would best be served, if the court specifies on the record and enters  
8 into the minutes the circumstances indicating that the interests of  
9 justice would best be served by that disposition.

10 (h) Notwithstanding any other law, for each person committed  
11 to the Department of Corrections and Rehabilitation, Division of  
12 Juvenile Facilities for a conviction pursuant to subdivision (a) or  
13 (b) of this section, the offense shall be deemed one for which the  
14 state shall pay the rate of 100 percent of the per capita institutional  
15 cost of the Department of Corrections and Rehabilitation, Division  
16 of Juvenile Facilities.

17 (i) In order to secure a conviction or sustain a juvenile petition,  
18 pursuant to subdivision (a) it is not necessary for the prosecution  
19 to prove that the person devotes all, or a substantial part, of his or  
20 her time or efforts to the criminal street gang, nor is it necessary  
21 to prove that the person is a member of the criminal street gang.  
22 Active participation in the criminal street gang is all that is  
23 required.

24 (j) A pattern of gang activity may be shown by the commission  
25 of one or more of the offenses enumerated in paragraphs (26) to  
26 (30), inclusive, of subdivision (e), and the commission of one or  
27 more of the offenses enumerated in paragraphs (1) to (25),  
28 inclusive, or (31) to (34), inclusive, of subdivision (e). A pattern  
29 of gang activity cannot be established solely by proof of  
30 commission of offenses enumerated in paragraphs (26) to (30),  
31 inclusive, of subdivision (e), alone.

32 (k) This section shall become operative on January 1, 2017.

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

34 266m. ~~(a)~~—A person who is convicted of a felony violation of  
35 Section 236.1, ~~266, 266a, 266b, 266c, 266d, 266e, 266f, 266g,~~  
36 ~~266h, 266i, or 266j,~~ *where the offense was committed against a*  
37 *minor, or Section 267, where any part of the violation takes place*  
38 *on the grounds of, or within 1,000 feet of, a public or private*  
39 *elementary, vocational, junior high, or high school, during hours*  
40 *that the school is open for classes or school-related programs or*

1 at any time when minors are using the facility, shall receive, in  
2 addition to any other penalty imposed, punishment of ~~three years~~  
3 *one year* in the state prison.

4 ~~(b) A person sentenced pursuant to this section shall serve the~~  
5 ~~entire term of his or her imprisonment for the underlying offense~~  
6 ~~as well as the additional term imposed pursuant to this section in~~  
7 ~~the state prison.~~

8 SEC. 4. No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 the only costs that may be incurred by a local agency or school  
11 district will be incurred because this act creates a new crime or  
12 infraction, eliminates a crime or infraction, or changes the penalty  
13 for a crime or infraction, within the meaning of Section 17556 of  
14 the Government Code, or changes the definition of a crime within  
15 the meaning of Section 6 of Article XIII B of the California  
16 Constitution.