

AMENDED IN SENATE AUGUST 19, 2016
AMENDED IN SENATE AUGUST 16, 2016
AMENDED IN SENATE AUGUST 2, 2016
AMENDED IN ASSEMBLY MAY 19, 2016
AMENDED IN ASSEMBLY MARCH 29, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1771

Introduced by Assembly Member Members O'Donnell and Gonzalez

February 3, 2016

An act to ~~amend Section 653.23 of the Penal Code, and to amend Section 602 of the Welfare and Institutions Code, relating to prostitution.~~ *add Article 7.5 (commencing with Section 48317) to Chapter 2 of Part 27 of Division 4 of Title 2 of the Education Code, relating to school attendance.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1771, as amended, O'Donnell. ~~Prostitution.~~ *School attendance: school districts of choice: continued enrollment.*

Existing law, until July 1, 2017, authorizes the governing board of a school district to accept pupils from other school districts by adopting a resolution to become a school district of choice, as defined.

This bill, commencing with July 1, 2017, would authorize a pupil attending a school in a school district of choice on or before July 1, 2017, to continue to attend that school if the school district of choice authorizes the pupil to do so.

~~(1) Existing law makes a person who directs, supervises, recruits, or otherwise aids another person in the commission of an act of prostitution, or who collects or receives all or part of the proceeds earned from an act of prostitution committed by another person, guilty of a misdemeanor that is punishable by imprisonment in a county jail for no more than 6 months, by a fine not exceeding \$1,000, or by both that imprisonment and fine. Existing law specifies circumstances that may be used to determine if a person has committed the offense, including repeatedly speaking or communicating with another person, or repeatedly or continuously monitoring or watching another person, who is loitering in a public place with the intent to commit prostitution.~~

~~This bill would establish additional circumstances that may be used to determine if a person has committed that offense, including, but not limited to, repeatedly speaking or communicating with, or repeatedly or continuously monitoring or watching, another person who solicits or agrees to engage in any act of prostitution.~~

~~(2) Under existing law, a person who is under 18 years of age when he or she violates the law may be adjudged a ward of the court.~~

~~This bill would authorize a court to dismiss the petition against the juvenile upon a finding that he or she committed certain acts of prostitution due to coercion or duress, as defined.~~

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

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

1 SECTION 1. Article 7.5 (commencing with Section 48317) is
2 added to Chapter 2 of Part 27 of Division 4 of Title 2 of the
3 Education Code, to read:

4
5 Article 7.5. School District of Choice Continued Enrollment
6
7 48317. Notwithstanding any other law, a pupil attending a
8 school in a school district of choice on or before July 1, 2017,
9 pursuant to Article 7 (commencing with Section 48300), as that
10 article read on December 31, 2016, may continue to attend that
11 school if the school district of choice authorizes the pupil to do
12 so.

13 48318. This article shall become operative on July 1, 2017.

1 SECTION 1. ~~Section 653.23 of the Penal Code is amended to~~
2 ~~read:~~

3 ~~653.23. (a) It is unlawful for any person to do either of the~~
4 ~~following:~~

5 ~~(1) Direct, supervise, recruit, or otherwise aid another person~~
6 ~~in the commission of a violation of subdivision (b) of Section 647~~
7 ~~or subdivision (a) of Section 653.22.~~

8 ~~(2) Collect or receive all or part of the proceeds earned from an~~
9 ~~act or acts of prostitution committed by another person in violation~~
10 ~~of subdivision (b) of Section 647.~~

11 ~~(b) Among the circumstances that may be considered in~~
12 ~~determining whether a person is in violation of subdivision (a) are~~
13 ~~that the person does the following:~~

14 ~~(1) Repeatedly speaks or communicates with another person~~
15 ~~who is acting in violation of subdivision (b) of Section 647 or~~
16 ~~subdivision (a) of Section 653.22.~~

17 ~~(2) Repeatedly or continuously monitors or watches another~~
18 ~~person who is acting in violation of subdivision (b) of Section 647~~
19 ~~or subdivision (a) of Section 653.22.~~

20 ~~(3) Repeatedly engages or attempts to engage in conversation~~
21 ~~with pedestrians or motorists to solicit, arrange, or facilitate an act~~
22 ~~of prostitution between the pedestrians or motorists and another~~
23 ~~person who is acting in violation of subdivision (a) of Section~~
24 ~~653.22.~~

25 ~~(4) Repeatedly stops or attempts to stop pedestrians or motorists~~
26 ~~to solicit, arrange, or facilitate an act of prostitution between~~
27 ~~pedestrians or motorists and another person who is acting in~~
28 ~~violation of subdivision (a) of Section 653.22.~~

29 ~~(5) Circles an area in a motor vehicle and repeatedly beckons~~
30 ~~to, contacts, or attempts to contact or stop pedestrians or other~~
31 ~~motorists to solicit, arrange, or facilitate an act of prostitution~~
32 ~~between the pedestrians or motorists and another person who is~~
33 ~~acting in violation of subdivision (a) of Section 653.22.~~

34 ~~(6) Receives or appears to receive money from another person~~
35 ~~who is acting in violation of subdivision (b) of Section 647 or~~
36 ~~subdivision (a) of Section 653.22.~~

37 ~~(7) Engages in any of the behavior described in paragraphs (1)~~
38 ~~to (6), inclusive, in regard to, or on behalf of, two or more persons~~
39 ~~who are in violation of subdivision (a) of Section 653.22.~~

1 ~~(8) Has been convicted of violating this section, subdivision (a)~~
2 ~~or (b) of Section 647, subdivision (a) of Section 653.22, Section~~
3 ~~236.1, 266h, or 266i, or any other offense relating to or involving~~
4 ~~prostitution within five years of the arrest under this section.~~

5 ~~(9) Has engaged, within six months prior to the arrest under~~
6 ~~subdivision (a), in any behavior described in this subdivision, with~~
7 ~~the exception of paragraph (8), or in any other behavior indicative~~
8 ~~of prostitution activity.~~

9 ~~(e) The list of circumstances set forth in subdivision (b) is not~~
10 ~~exclusive. The circumstances set forth in subdivision (b) should~~
11 ~~be considered particularly salient if they occur in an area that is~~
12 ~~known for prostitution activity. Any other relevant circumstances~~
13 ~~may be considered. Moreover, no one circumstance or combination~~
14 ~~of circumstances is in itself determinative. A violation of~~
15 ~~subdivision (a) shall be determined based on an evaluation of the~~
16 ~~particular circumstances of each case.~~

17 ~~(d) This section does not preclude the prosecution of a suspect~~
18 ~~for a violation of Section 236.1, 266h, or 266i, or for any other~~
19 ~~offense, or for a violation of this section in conjunction with a~~
20 ~~violation of Section 236.1, 266h, or 266i, or any other offense.~~

21 ~~SEC. 2. Section 602 of the Welfare and Institutions Code is~~
22 ~~amended to read:~~

23 ~~602. (a) Except as provided in subdivision (b), a person who~~
24 ~~is under 18 years of age when he or she violates any law of this~~
25 ~~state or of the United States or any ordinance of any city or county~~
26 ~~of this state defining crime other than an ordinance establishing a~~
27 ~~curfew based solely on age, is within the jurisdiction of the juvenile~~
28 ~~court and may be adjudged a ward of the court.~~

29 ~~(b) Any person who is alleged, when he or she was 14 years of~~
30 ~~age or older, to have committed one of the following offenses shall~~
31 ~~be prosecuted under the general law in a court of criminal~~
32 ~~jurisdiction:~~

33 ~~(1) Murder, as described in Section 187 of the Penal Code, if~~
34 ~~one of the circumstances enumerated in subdivision (a) of Section~~
35 ~~190.2 of the Penal Code is alleged by the prosecutor, and the~~
36 ~~prosecutor alleges that the minor personally killed the victim.~~

37 ~~(2) The following sex offenses, if the prosecutor alleges that~~
38 ~~the minor personally committed the offense, and if the prosecutor~~
39 ~~alleges one of the circumstances enumerated in the One Strike~~

1 law, subdivision (d) or (e) of Section 667.61 of the Penal Code,
2 applies:

3 (A) Rape, as described in paragraph (2) of subdivision (a) of
4 Section 261 of the Penal Code.

5 (B) Spousal rape, as described in paragraph (1) of subdivision
6 (a) of Section 262 of the Penal Code.

7 (C) Foreible sex offenses in concert with another, as described
8 in Section 264.1 of the Penal Code.

9 (D) Foreible lewd and lascivious acts on a child under 14 years
10 of age, as described in subdivision (b) of Section 288 of the Penal
11 Code.

12 (E) Foreible sexual penetration, as described in subdivision (a)
13 of Section 289 of the Penal Code.

14 (F) Sodomy or oral copulation in violation of Section 286 or
15 288a of the Penal Code, by force, violence, duress, menace, or fear
16 of immediate and unlawful bodily injury on the victim or another
17 person.

18 (G) Lewd and lascivious acts on a child under 14 years of age,
19 as defined in subdivision (a) of Section 288, unless the defendant
20 qualifies for probation under subdivision (d) of Section 1203.066
21 of the Penal Code.

22 (e) (1) Notwithstanding subdivision (a), the juvenile court may
23 dismiss a petition upon a finding that the juvenile who is alleged
24 to have violated Section 653.23 or subdivision (b) of Section 647
25 of the Penal Code did so due to coercion or duress.

26 (2) For purposes of this subdivision, the following definitions
27 apply:

28 (A) “Coercion” means a scheme, plan, or pattern intended to
29 cause a person to believe that failure to perform the act would
30 result in serious harm to, or physical restraint against, a person;
31 the abuse or threatened abuse of legal process; debt bondage; or
32 providing and facilitating the possession of a controlled substance
33 to a person with the intent to impair the person’s judgment.

34 (B) “Duress” means a direct or implied threat of force, violence,
35 danger, hardship, or retribution sufficient to cause a reasonable
36 person to acquiesce in or perform an act that he or she would
37 otherwise not have submitted to or performed; a direct or implied
38 threat to destroy, conceal, remove, confiscate, or possess an actual
39 or purported passport or immigration document of the victim; or
40 knowingly destroying, concealing, removing, confiscating, or

1 ~~possessing an actual or purported passport or immigration~~
2 ~~document of the victim.~~
3 ~~(C) “Serious harm” means any harm, whether physical or~~
4 ~~nonphysical, including, but not limited to, psychological, financial,~~
5 ~~or reputational harm, that is sufficiently serious, under all~~
6 ~~surrounding circumstances, to compel a reasonable person of the~~
7 ~~same background and in the same circumstances to perform or to~~
8 ~~continue to perform labor, services, or commercial sexual acts in~~
9 ~~order to avoid incurring that harm.~~