
Introduced by Senator Block

February 27, 2015

An act to amend Section 647 of the Penal Code, relating to prostitution.

LEGISLATIVE COUNSEL'S DIGEST

SB 776, as introduced, Block. Prostitution.

Existing law makes it a misdemeanor to commit specified acts of disorderly conduct, including soliciting or agreeing to engage in or engaging in any act of prostitution.

This bill would make technical, nonsubstantive changes to that provision.

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. Section 647 of the Penal Code is amended to
2 read:

3 647. Except as provided in subdivision (l), ~~every person an~~
4 *individual* who commits any of the following acts is guilty of
5 disorderly conduct, a misdemeanor:

6 (a) ~~Who~~ *An individual who* solicits ~~anyone~~ *another* to engage
7 in or who engages in lewd or dissolute conduct in any public place
8 or in any place open to the public or exposed to public view.

9 (b) Who solicits or who agrees to engage in or who engages in
10 any act of prostitution. A person agrees to engage in an act of
11 prostitution when, with specific intent to so engage, he or she
12 manifests an acceptance of an offer or solicitation to so engage,

1 regardless of whether the offer or solicitation was made by a person
2 who also possessed the specific intent to engage in prostitution.
3 No agreement to engage in an act of prostitution shall constitute
4 a violation of this subdivision unless some act, in addition to the
5 agreement, is done within this state in furtherance of the
6 commission of an act of prostitution by the person agreeing to
7 engage in that act. As used in this subdivision, “prostitution”
8 includes any lewd act between persons for money or other
9 consideration.

10 (c) Who accosts other persons in any public place or in any
11 place open to the public for the purpose of begging or soliciting
12 alms.

13 (d) Who loiters in or about any toilet open to the public for the
14 purpose of engaging in or soliciting any lewd or lascivious or any
15 unlawful act.

16 (e) Who lodges in any building, structure, vehicle, or place,
17 whether public or private, without the permission of the owner or
18 person entitled to the possession or in control of it.

19 (f) Who is found in any public place under the influence of
20 intoxicating liquor, any drug, controlled substance, toluene, or any
21 combination of any intoxicating liquor, drug, controlled substance,
22 or toluene, in a condition that he or she is unable to exercise care
23 for his or her own safety or the safety of others, or by reason of
24 his or her being under the influence of intoxicating liquor, any
25 drug, controlled substance, toluene, or any combination of any
26 intoxicating liquor, drug, or toluene, interferes with or obstructs
27 or prevents the free use of any street, sidewalk, or other public
28 way.

29 (g) ~~When~~ If a person has violated subdivision (f), a peace officer,
30 if he or she is reasonably able to do so, shall place the person, or
31 cause him or her to be placed, in civil protective custody. The
32 person shall be taken to a facility, designated pursuant to Section
33 5170 of the Welfare and Institutions Code, for the 72-hour
34 treatment and evaluation of inebriates. A peace officer may place
35 a person in civil protective custody with that kind and degree of
36 force ~~which~~ that would be lawful were he or she effecting an arrest
37 for a misdemeanor without a warrant. A person who has been
38 placed in civil protective custody shall not thereafter be subject to
39 any criminal prosecution or juvenile court proceeding based on

1 the facts giving rise to this placement. This subdivision shall not
2 apply to the following persons:

3 (1) Any person who is under the influence of any drug, or under
4 the combined influence of intoxicating liquor and any drug.

5 (2) Any person who a peace officer has probable cause to believe
6 has committed any felony, or who has committed any misdemeanor
7 in addition to subdivision (f).

8 (3) Any person who a peace officer in good faith believes will
9 attempt escape or will be unreasonably difficult for medical
10 personnel to control.

11 (h) Who loiters, prowls, or wanders upon the private property
12 of another, at any time, without visible or lawful business with the
13 owner or occupant. As used in this subdivision, “loiter” means to
14 delay or linger without a lawful purpose for being on the property
15 and for the purpose of committing a crime as opportunity may be
16 discovered.

17 (i) Who, while loitering, prowling, or wandering upon the private
18 property of another, at any time, peeks in the door or window of
19 any inhabited building or structure, without visible or lawful
20 business with the owner or occupant.

21 (j) (1) Any person who looks through a hole or opening, into,
22 or otherwise views, by means of any instrumentality, including,
23 but not limited to, a periscope, telescope, binoculars, camera,
24 motion picture camera, camcorder, or mobile phone, the interior
25 of a bedroom, bathroom, changing room, fitting room, dressing
26 room, or tanning booth, or the interior of any other area in which
27 the occupant has a reasonable expectation of privacy, with the
28 intent to invade the privacy of a person or persons inside. This
29 subdivision shall not apply to those areas of a private business
30 used to count currency or other negotiable instruments.

31 (2) Any person who uses a concealed camcorder, motion picture
32 camera, or photographic camera of any type, to secretly videotape,
33 film, photograph, or record by electronic means, another,
34 identifiable person under or through the clothing being worn by
35 that other person, for the purpose of viewing the body of, or the
36 undergarments worn by, that other person, without the consent or
37 knowledge of that other person, with the intent to arouse, appeal
38 to, or gratify the lust, passions, or sexual desires of that person and
39 invade the privacy of that other person, under circumstances in
40 which the other person has a reasonable expectation of privacy.

(3) (A) Any person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person.

(B) Neither of the following is a defense to the crime specified in this paragraph:

(i) The defendant was a cohabitant, landlord, tenant, cotenant, employer, employee, or business partner or associate of the victim, or an agent of any of these.

(ii) The victim was not in a state of full or partial undress.

(4) (A) Any person who intentionally distributes the image of the intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or an image of masturbation by the person depicted or in which the person depicted participates, under circumstances in which the persons agree or understand that the image shall remain private, the person distributing the image knows or should know that distribution of the image will cause serious emotional distress, and the person depicted suffers that distress.

(B) A person intentionally distributes an image described in subparagraph (A) when he or she personally distributes the image, or arranges, specifically requests, or intentionally causes another person to distribute that image.

(C) As used in this paragraph, “intimate body part” means any portion of the genitals, the anus and in the case of a female, also includes any portion of the breasts below the top of the areola, that is either uncovered or clearly visible through clothing.

(D) It shall not be a violation of this paragraph to distribute an image described in subparagraph (A) if any of the following applies:

(i) The distribution is made in the course of reporting an unlawful activity.

1 (ii) The distribution is made in compliance with a subpoena or
2 other court order for use in a legal proceeding.

3 (iii) The distribution is made in the course of a lawful public
4 proceeding.

5 (5) This subdivision shall not preclude punishment under any
6 section of law providing for greater punishment.

7 (k) In any accusatory pleading charging a violation of
8 subdivision (b), if the defendant has been once previously convicted
9 of a violation of that subdivision, the previous conviction shall be
10 charged in the accusatory pleading. If the previous conviction is
11 found to be true by the jury, upon a jury trial, or by the court, upon
12 a court trial, or is admitted by the defendant, the defendant shall
13 be imprisoned in a county jail for a period of not less than 45 days
14 and shall not be eligible for release upon completion of sentence,
15 on probation, on parole, on work furlough or work release, or on
16 any other basis until he or she has served a period of not less than
17 45 days in a county jail. In all cases in which probation is granted,
18 the court shall require as a condition thereof that the person be
19 confined in a county jail for at least 45 days. In no event does the
20 court have the power to absolve a person who violates this
21 subdivision from the obligation of spending at least 45 days in
22 confinement in a county jail.

23 In any accusatory pleading charging a violation of subdivision
24 (b), if the defendant has been previously convicted two or more
25 times of a violation of that subdivision, each of these previous
26 convictions shall be charged in the accusatory pleading. If two or
27 more of these previous convictions are found to be true by the jury,
28 upon a jury trial, or by the court, upon a court trial, or are admitted
29 by the defendant, the defendant shall be imprisoned in a county
30 jail for a period of not less than 90 days and shall not be eligible
31 for release upon completion of sentence, on probation, on parole,
32 on work furlough or work release, or on any other basis until he
33 or she has served a period of not less than 90 days in a county jail.
34 In all cases in which probation is granted, the court shall require
35 as a condition thereof that the person be confined in a county jail
36 for at least 90 days. In no event does the court have the power to
37 absolve a person who violates this subdivision from the obligation
38 of spending at least 90 days in confinement in a county jail.

39 In addition to any punishment prescribed by this section, a court
40 may suspend, for not more than 30 days, the privilege of the person

1 to operate a motor vehicle pursuant to Section 13201.5 of the
2 Vehicle Code for any violation of subdivision (b) that was
3 committed within 1,000 feet of a private residence and with the
4 use of a vehicle. In lieu of the suspension, the court may order a
5 person's privilege to operate a motor vehicle restricted, for not
6 more than six months, to necessary travel to and from the person's
7 place of employment or education. If driving a motor vehicle is
8 necessary to perform the duties of the person's employment, the
9 court may also allow the person to drive in that person's scope of
10 employment.

11 (l) (1) A second or subsequent violation of subdivision (j) is
12 punishable by imprisonment in a county jail not exceeding one
13 year, or by a fine not exceeding two thousand dollars (\$2,000), or
14 by both that fine and imprisonment.

15 (2) If the victim of a violation of subdivision (j) was a minor at
16 the time of the offense, the violation is punishable by imprisonment
17 in a county jail not exceeding one year, or by a fine not exceeding
18 two thousand dollars (\$2,000), or by both that fine and
19 imprisonment.

20 (m) (1) If a crime is committed in violation of subdivision (b)
21 and the person who was solicited was a minor at the time of the
22 offense, and if the defendant knew or should have known that the
23 person who was solicited was a minor at the time of the offense,
24 the violation is punishable by imprisonment in a county jail for
25 not less than two days and not more than one year, or by a fine not
26 exceeding ten thousand dollars (\$10,000), or by both that fine and
27 imprisonment.

28 (2) The court may, in unusual cases, when the interests of justice
29 are best served, reduce or eliminate the mandatory two days of
30 imprisonment in a county jail required by this subdivision. If the
31 court reduces or eliminates the mandatory two days' imprisonment,
32 the court shall specify the reason on the record.