

ASSEMBLY BILL

No. 2936

Introduced by Assembly Member Cunneen

February 23, 1996

An act to amend Sections 3411, 6240, 6250, 6251, 6252, and 6253 of, and to add Section 3135 to, the Family Code, and to amend Section 868.5 of, and to repeal and add Chapter 4 (commencing with Section 277) of Title 9 of Part 1 of, the Penal Code, relating to child abduction.

LEGISLATIVE COUNSEL'S DIGEST

AB 2936, as introduced, Cunneen. Child abduction.

(1) Existing law makes each of the following a crime:

(a) A person who has a right to physical custody of, or visitation with, a child pursuant to a court order, judgment, or decree that grants another person, guardian, or public agency the same right, detains, conceals, takes, or entices away the child with the intent to deprive the other person of that right.

(b) A person who, in the absence of such a court order, has a right to custody of a child maliciously detains, conceals, takes, or entices away the child, without good cause, and with the intent to deprive the custody right of another person or public agency.

(c) A person who does not have a right to custody of a child maliciously detains, conceals, takes, or entices away the child, with the intent to detain or conceal the child from a person, guardian, or public agency having the lawful charge of the child.

This bill instead would make each of the following a crime:

(A) A person who does not have a right to custody of a child maliciously takes, entices away, keeps, withholds, or conceals a child with the intent to detain or conceal the child from a lawful custodian.

(B) A person takes, entices away, keeps, withholds, or conceals a child from a lawful custodian or person having visitation rights, as defined, and maliciously deprives the other of his or her right to physical custody or visitation. By changing the definition of a crime, the bill would impose a state-mandated local program.

(2) Existing law authorizes a peace officer to take a child into protective custody if it appears that a person unlawfully will flee the jurisdiction with the child. A child who has been detained or concealed must be returned to the person, guardian, or public agency having lawful charge of the child, to the court, or to the probation department, as appropriate.

This bill additionally would authorize a peace officer to take a child into protective custody if it appears that a person will conceal a child or, by flight or concealment, evade the authority of the court, if there is no lawful custodian available to take custody of the child, if there are conflicting custody orders or claims regarding the child, or if the child is an abducted child. The bill also would authorize a peace officer who takes a child into protective custody to obtain an emergency protective order ordering placement of the child with an interim custodian or to release the child to a social services agency and would provide that the officer may return the child to the lawful custodian, unless it appears that this placement would cause the child to be endangered, concealed, or removed from the jurisdiction.

(3) Existing law authorizes a court to issue emergency protective orders in specified situations.

This bill additionally would permit a court to issue an emergency protective order if a child is in danger of being abducted by a parent or relative and would authorize a court to issue a protective custody warrant to secure the recovery, or appearance in court, of an unlawfully detained or concealed child.



(4) 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 3135 is added to the Family
2 Code, to read:

3 3135. (a) Upon request of the district attorney, the
4 court may issue a protective custody warrant to secure
5 the recovery of an unlawfully detained or concealed
6 child. The request by the district attorney shall include a
7 written declaration under penalty of perjury that a
8 warrant for the child is necessary in order for the district
9 attorney to perform the duties described in Sections 3130
10 and 3131. The protective custody warrant for the child
11 shall contain an order that the arresting agency shall
12 place the child in protective custody, or return the child
13 as directed by the court. The protective custody warrant
14 may be served in any county in the same manner as a
15 warrant of arrest and may be served at any time of the day
16 or night.

17 (b) Upon a declaration of the district attorney that the
18 child has been recovered or that the warrant is otherwise
19 no longer required, the court may dismiss the warrant
20 without further court proceedings.

21 SEC. 2. Section 3411 of the Family Code is amended
22 to read:

23 3411. (a) The court may order any party to the
24 proceeding who is ~~in~~ *within or without* this state to appear
25 personally before the court. If that party has physical
26 custody of the child, the court may order that ~~the party~~
27 *he or she* appear personally with the child. If the party
28 who is ordered to appear with the child cannot be served
29 or fails to obey the order, or it appears the order will be

1 ineffective, the court may issue a warrant of arrest against
2 the party *and a protective custody warrant for the child,*
3 *to secure the party's or the child's appearance with the*
4 *child or both, before the court. The protective custody*
5 *warrant for the child shall contain an order that the*
6 *arresting agency shall place the child in protective*
7 *custody, or return the child as directed by the court. The*
8 *protective custody warrant may be served in any county*
9 *in the same manner as a warrant of arrest and may be*
10 *served at any time of the day or night.*

11 (b) If a party to the proceeding whose presence is
12 desired by the court is outside this state with or without
13 the child the court may order that the notice given under
14 Section 3405 include a statement directing that party to
15 appear personally with or without the child and ~~declaring~~
16 *stating* that failure to appear may result in a decision
17 adverse to that party *and the issuance of a warrant*
18 *pursuant to subdivision (a).*

19 (c) If a party to the proceeding who is outside this state
20 is directed to appear under subdivision (b) or desires to
21 appear personally before the court with or without the
22 child, the court may require another party to pay to the
23 clerk of the court travel and other necessary expenses of
24 the party so appearing and of the child if this is just and
25 proper under the circumstances.

26 SEC. 3. Section 6240 of the Family Code is amended
27 to read:

28 6240. As used in this part:

29 (a) "Judicial officer" means a judge, commissioner, or
30 referee designated under Section 6241.

31 (b) "Law enforcement officer" means one of the
32 following officers who requests or enforces an emergency
33 protective order under this part:

34 (1) A police officer.

35 (2) A sheriff's officer.

36 (3) A peace officer of the California Highway Patrol.

37 (4) A peace officer of the California State Police.

38 (5) A peace officer of the University of California
39 Police Department.

(6) A peace officer of the California State University and College Police Departments.

(7) A peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2 of the Penal Code.

(8) A housing authority patrol officer, as defined in subdivision (d) of Section 830.31 of the Penal Code.

(9) *A peace officer for a district attorney, as defined in Section 830.1 or 830.35 of the Penal Code.*

(10) *A parole officer, probation officer, or deputy probation officer, as defined in Section 830.5 of the Penal Code.*

(c) “Abduct” means take, entice away, keep, withhold, or conceal.

SEC. 4. Section 6250 of the Family Code is amended to read:

6250. A judicial officer may issue an ex parte emergency protective order where a law enforcement officer asserts reasonable grounds to believe—~~either or both~~ any of the following:

(a) That a person is in immediate and present danger of domestic violence, based on the person’s allegation of a recent incident of abuse or threat of abuse by the person against whom the order is sought.

(b) That a child is in immediate and present danger of abuse by a family or household member, based on an allegation of a recent incident of abuse or threat of abuse by the family or household member.

(c) *That a child is in immediate and present danger of being abducted by a parent or relative, based on a reasonable belief that a person has an intent to abduct the child or flee with the child from the jurisdiction or based on an allegation of a recent threat to abduct the child or flee with the child from the jurisdiction.*

SEC. 5. Section 6251 of the Family Code is amended to read:

6251. An emergency protective order may be issued only if the judicial officer finds both of the following:

(a) That reasonable grounds have been asserted to believe that an immediate and present danger of

1 domestic violence exists or that a child is in immediate
2 and present danger of abuse *or abduction*.

3 (b) That an emergency protective order is necessary
4 to prevent the occurrence or recurrence of domestic
5 violence ~~or~~ child abuse, *or child abduction*.

6 SEC. 6. Section 6252 of the Family Code is amended
7 to read:

8 6252. An emergency protective order may include
9 any of the following specific orders, as appropriate:

10 (a) A protective order, as defined in Section 6218.

11 (b) An order determining the temporary care and
12 control of any minor child of the endangered person and
13 the person against whom the order is sought.

14 (c) An order authorized in Section 213.5 of the Welfare
15 and Institutions Code, including provisions placing the
16 temporary care and control of the endangered child and
17 any other minor children in the family or household with
18 the parent or guardian of the endangered child who is not
19 a restrained party.

20 (d) *An order determining the temporary care and*
21 *control of any minor child who is in danger of being*
22 *abducted.*

23 SEC. 7. Section 6253 of the Family Code is amended
24 to read:

25 6253. An emergency protective order shall include all
26 of the following:

27 (a) A statement of the grounds asserted for the order.

28 (b) The date and time the order expires.

29 (c) The address of the superior court for the district or
30 county in which the endangered person *or child in*
31 *danger of being abducted* resides.

32 (d) The following statements, which shall be printed
33 in English and Spanish:

34 (1) “To the Protected Person: This order will last only
35 until the date and time noted above. If you wish to seek
36 continuing protection, you will have to apply for an order
37 from the court, at the address noted above. You may seek
38 the advice of an attorney as to any matter connected with
39 your application for any future court orders. The attorney

1 should be consulted promptly so that the attorney may
2 assist you in making your application.”

3 (2) “To the Restrained Person: This order will last until
4 the date and time noted above. The protected party may,
5 however, obtain a more permanent restraining order
6 from the court. You may seek the advice of an attorney
7 as to any matter connected with the application. The
8 attorney should be consulted promptly so that the
9 attorney may assist you in responding to the application.”

10 (e) In the case of an endangered child, the following
11 statement, which shall be printed in English and Spanish:
12 “This order will last only until the date and time noted
13 above. You may apply for a more permanent restraining
14 order under Section 213.5 of the Welfare and Institutions
15 Code from the court at the address noted above. You may
16 seek the advice of an attorney in connection with the
17 application for a more permanent restraining order.”

18 (f) *In the case of a child in danger of being abducted,*
19 *the following statement, which shall be printed in English*
20 *and Spanish: “This order will last only until the date and*
21 *time noted above. You may apply for a child custody*
22 *order from the court, at the address noted above. You*
23 *may seek the advice of an attorney as to any matter*
24 *connected with the application. The attorney should be*
25 *consulted promptly so that the attorney may assist you in*
26 *responding to the application.”*

27 SEC. 8. Chapter 4 (commencing with Section 277) of
28 Title 9 of Part 1 of the Penal Code is repealed.

29 SEC. 9. Chapter 4 (commencing with Section 277) is
30 added to Title 9 of Part 1 of the Penal Code, to read:

31
32 CHAPTER 4. CHILD ABDUCTION
33

34 277. The following definitions apply for the purposes
35 of this chapter:

36 (a) “Child” means a person under the age of 18 years.

37 (b) “Court order” or “custody order” means a custody
38 determination decree, judgment, or order issued by a
39 court of competent jurisdiction, whether permanent or
40 temporary, initial or modified, that affects the custody or

1 visitation of a child, issued in the context of a custody
2 proceeding. An order, once made, shall continue in effect
3 until it expires, is modified, is rescinded, or terminates by
4 operation of law.

5 (c) “Custody proceeding” includes proceedings in
6 which a custody determination is an issue, including, but
7 not limited to, an action for divorce, separation, paternity,
8 except actions under Section 11350 or 11350.1 of the
9 Welfare and Institutions Code, neglect, abuse,
10 dependency, wardship, guardianship, termination of
11 parental rights, adoption, or protection from domestic
12 violence proceedings, including an emergency
13 protective order pursuant to Part 3 (commencing with
14 Section 6240) of Division 10 of the Family Code.

15 (d) “Lawful custodian” means a person, guardian, or
16 public agency having a right to physical custody of a child.

17 (e) A “right to custody” means the right to physical
18 custody of the child. In the absence of a court order to the
19 contrary, a parent loses his or her right to custody of the
20 child to the other parent if the parent having the right to
21 custody is dead, is unable or refuses to take the custody,
22 or has abandoned his or her family.

23 (f) A “right to physical custody” is the right to physical
24 possession of a child by an order of a court of competent
25 jurisdiction of any state and may include an order of sole
26 physical custody, joint or shared physical custody, or, in
27 the absence of a court order, pursuant to the Uniform
28 Parentage Act contained in Part 3 (commencing with
29 Section 7600) of Division 12 of the Family Code or by
30 operation of law. Whenever a public agency takes
31 protective custody or jurisdiction of the care, custody,
32 control, or conduct of a child by statutory authority or
33 court order, that agency is a lawful custodian of that child
34 and has a right to physical custody of that child. In any
35 subsequent placement of the child, the public agency
36 continues to be a lawful custodian with a right to physical
37 custody of that child until the public agency’s right of
38 custody is terminated by an order of a court of competent
39 jurisdiction or by operation of law. A natural parent
40 whose parental rights have been terminated by court



1 order is no longer a lawful custodian and no longer has a
2 right to physical custody.

3 (g) “Keeps” or “withholds” means retains physical
4 possession of a child whether or not the child resists or
5 objects.

6 (h) “Visitation” means the time for access to the child
7 allotted to any person by court order.

8 (i) “Person” includes, but is not limited to, a parent,
9 agent of a parent, or person acting as a parent.

10 (j) “Domestic violence” means domestic violence as
11 defined in Section 6211 of the Family Code.

12 (k) “Abduct” means take, entice away, keep,
13 withhold, or conceal.

14 278. Every person, not having a right to custody, who
15 maliciously takes, entices away, keeps, withholds, or
16 conceals any child with the intent to detain or conceal
17 that child from a lawful custodian shall be punished by
18 imprisonment in a county jail not exceeding one year, a
19 fine not exceeding one thousand dollars (\$1,000), or both
20 that fine and imprisonment, or by imprisonment in the
21 state prison for two, three, or four years, a fine not
22 exceeding ten thousand dollars (\$10,000), or both that
23 fine and imprisonment.

24 278.5. (a) A person shall not take, entice away, keep,
25 withhold, or conceal a child from a lawful custodian or
26 person having visitation rights and maliciously deprive
27 the other of his or her right to physical custody or
28 visitation. A violation of this section is punishable by
29 imprisonment in a county jail not exceeding one year, a
30 fine not exceeding one thousand dollars (\$1,000), or both
31 that fine and imprisonment, or by imprisonment in the
32 state prison for 16 months, or two or three years, a fine not
33 exceeding ten thousand dollars (\$10,000), or both that
34 fine and imprisonment.

35 (b) Nothing contained in this section limits the court’s
36 contempt power.

37 (c) A custody order obtained subsequent to the
38 commission of an offense under this section does not
39 constitute a defense to a crime charged under this section.

1 278.6. (a) Section 278.5 does not apply to a person
2 with a right to custody of a child who, with a good faith
3 and reasonable belief that the child, if left with the other
4 person, will suffer immediate bodily injury or emotional
5 harm, takes, entices away, keeps, withholds, or conceals
6 that child. Section 278.5 does not apply to a person with
7 a right to custody of a child who has been a victim of
8 domestic violence who, with a good faith and reasonable
9 belief that the child, if left with the other person, will
10 suffer immediate bodily injury or emotional harm, takes,
11 entices away, keeps, withholds, or conceals that child.
12 “Emotional harm” includes having a parent who has
13 committed domestic violence against the parent who is
14 taking, enticing away, keeping, withholding, or
15 concealing the child. The person who takes, entices away,
16 keeps, withholds, or conceals a child shall do both of the
17 following:

18 (1) Within a reasonable time from the taking, enticing
19 away, keeping, withholding, or concealing, make a report
20 to the office of the district attorney of the county where
21 the child resided before the action. The report shall
22 include the name of the person, the current address and
23 telephone number of the child and the person, and the
24 reasons the child was taken, enticed away, kept, withheld,
25 or concealed.

26 (2) Within a reasonable time from the taking, enticing
27 away, keeping, withholding, or concealing, commence a
28 custody proceeding in a court of competent jurisdiction
29 consistent with the federal Parental Kidnapping
30 Prevention Act (Section 1738A, Title 28, United States
31 Code) or the Uniform Child Custody Jurisdiction Act
32 (Part 3 (commencing with Section 3400) of Division 8 of
33 the Family Code).

34 (b) The address and telephone number of the person
35 and the child provided pursuant to this section shall
36 remain confidential unless released pursuant to state law
37 or by a court order that contains appropriate safeguards
38 to ensure the safety of the person and the child.

39 278.7. (a) At the sentencing hearing following a
40 conviction for a violation of Section 278 or 278.5, or both,

1 the court shall consider any relevant factors and
2 circumstances in aggravation, including, but not limited
3 to, all of the following:

4 (1) The child was exposed to a substantial risk of
5 physical injury or illness.

6 (2) The defendant inflicted or threatened to inflict
7 physical harm on a parent or lawful custodian of the child
8 or on the child at the time of or during the abduction.

9 (3) The defendant harmed or abandoned the child
10 during the abduction.

11 (4) The child was taken, enticed away, kept, withheld,
12 or concealed outside the United States.

13 (5) The child has not been returned to the lawful
14 custodian.

15 (6) The defendant previously abducted or threatened
16 to abduct the child.

17 (7) The defendant substantially altered the
18 appearance or the name of the child.

19 (8) The defendant denied the child appropriate
20 education during the abduction.

21 (9) The length of the abduction.

22 (10) The age of the child.

23 (b) At the sentencing hearing following a conviction
24 for a violation of Section 278 or 278.5, or both, the court
25 shall consider any relevant factors and circumstances in
26 mitigation, including, but not limited to, both of the
27 following:

28 (1) The defendant returned the child unharmed and
29 prior to arrest or issuance of a warrant for arrest,
30 whichever is first.

31 (2) The defendant provided information and
32 assistance leading to the child's safe return.

33 (c) In addition to any other penalties provided for a
34 violation of Section 278 or 278.5, a court shall order the
35 defendant to pay restitution for any reasonable expenses
36 incurred by any person, organization, or governmental
37 entity in locating and securing the return of the child. An
38 award made pursuant to this section shall constitute a
39 final judgment and shall be enforceable as such.

1 279. A violation of Section 278 or 278.5 by a person
2 who was not a resident of, or present in, this state at the
3 time of the alleged offense is punishable in this state,
4 whether the intent to commit the offense is formed
5 within or outside of this state, if any of the following apply:

6 (a) The child was a resident of, or present in, this state
7 at the time the child was taken, enticed away, kept,
8 withheld, or concealed.

9 (b) The child thereafter is found in this state.

10 (c) A lawful custodian or a person with a right to
11 visitation is a resident of this state at the time the child was
12 taken, enticed away, kept, withheld, or concealed.

13 279.1. The offenses enumerated in Sections 278 and
14 278.5 are continuous in nature, and continue for as long
15 as the minor child is concealed or detained.

16 279.5. When a person is arrested for an alleged
17 violation of Section 278 or 278.5, the court, in setting bail,
18 shall take into consideration whether the child has been
19 returned to the lawful custodian, and if not, shall consider
20 whether there is an increased risk that the child may not
21 be returned, or the defendant may flee the jurisdiction,
22 or, by flight or concealment, evade the authority of the
23 court.

24 279.6. (a) A law enforcement officer may take a child
25 into protective custody under any of the following
26 circumstances:

27 (1) It reasonably appears to the officer that a person is
28 likely to conceal the child, flee the jurisdiction with the
29 child, or, by flight or concealment, evade the authority of
30 the court.

31 (2) There is no lawful custodian available to take
32 custody of the child.

33 (3) There are conflicting custody orders or conflicting
34 claims to custody and the parties cannot agree which
35 party should take custody of the child.

36 (4) The child is an abducted child.

37 (b) When a law enforcement officer takes a child into
38 protective custody pursuant to this section, the officer
39 shall do one of the following:

40 (1) Release the child to the lawful custodian.

1 (2) Obtain an emergency protective order pursuant to
2 Part 3 (commencing with Section 6240) of Division 10 of
3 the Family Code ordering placement of the child with an
4 interim custodian who agrees in writing to accept interim
5 custody.

6 (3) Release the child to the social services agency
7 responsible for arranging shelter or foster care.

8 (4) Return the child as ordered by a court of
9 competent jurisdiction.

10 (c) A law enforcement officer who recovers an
11 abducted child shall return the child to the lawful
12 custodian of the child unless it reasonably appears that
13 the return would cause the child to be endangered,
14 abducted, or removed from the jurisdiction, in which case
15 the officer shall take the child into protective custody
16 pursuant to this section. Upon the arrest of a person for
17 a violation of Section 278 or 278.5, a law enforcement
18 officer shall take possession of an abducted child who is
19 found in the company of, or under the control of, the
20 arrested person and deliver the child as directed in
21 subdivision (b).

22 (d) Notwithstanding any other law, when a person is
23 arrested for an alleged violation of Section 278 or 278.5,
24 the court shall, at the time of the arraignment or
25 thereafter, order that the child shall be returned to the
26 lawful custodian, and the court shall specify the date by
27 which the child shall be returned. If conflicting custodial
28 orders exist within this state, or between this state and a
29 foreign state, the court shall set a hearing within five
30 court days to determine which court has jurisdiction
31 under the laws of this state and determine which state has
32 subject matter jurisdiction to issue a custodial order
33 under the laws of this state, the Uniform Child Custody
34 Jurisdiction Act (Part 3 (commencing with Section 3400)
35 of Division 8 of the Family Code), or federal law, if
36 applicable. At the conclusion of the hearing, or if the child
37 has not been returned as ordered by the court at the time
38 of arraignment, the court shall enter an order as to which
39 custody order is valid and is to be enforced. If the child has
40 not been returned at the conclusion of the hearing, or if

1 the child has not been returned as ordered by the court
2 at the time of arraignment, the court shall set a date
3 within a reasonable time by which the child shall be
4 returned to the lawful custodian, and order the defendant
5 to comply by this date, or to show cause on that date why
6 he or she has not returned the child as directed. The court
7 shall only enforce its order, or any subsequent orders for
8 the return of the child, under subdivision (a) of Section
9 1219 of the Code of Civil Procedure, to ensure that the
10 child is promptly placed with the lawful custodian. An
11 order adverse to either the prosecution or defense is
12 reviewable by a writ of mandate or prohibition addressed
13 to the appropriate court.

14 280. Every person who willfully causes or permits the
15 removal or concealment of any child in violation of
16 Section 8713, 8803, or 8910 of the Family Code shall be
17 punished as follows:

18 (a) By imprisonment in a county jail for not more than
19 one year if the child is concealed within the county in
20 which the adoption proceeding is pending or in which the
21 child has been placed for adoption, or is removed from
22 that county to a place within this state.

23 (b) By imprisonment in the state prison, or by
24 imprisonment in a county jail for not more than one year,
25 if the child is removed from that county to a place outside
26 of this state.

27 SEC. 10. Section 868.5 of the Penal Code is amended
28 to read:

29 868.5. (a) Notwithstanding any other law, a
30 prosecuting witness in a case involving a violation of
31 Section 187, 203, 205, 207, 211, 215, 220, 240, 242, 243.4, 245,
32 261, 262, 273a, 273d, 273.5, 273.6, ~~277~~, 278, 278.5, 285, 286,
33 288, 288a, 288.5, 289, *or* 647.6, or former Section 647a, or
34 a violation of subdivision (1) of Section 314, shall be
35 entitled, for support, to the attendance of up to two
36 persons of his or her own choosing, one of whom may be
37 a witness, at the preliminary hearing and at the trial, or
38 at a juvenile court proceeding, during the testimony of
39 the prosecuting witness. Only one of those support
40 persons may accompany the witness to the witness stand,

1 although the other may remain in the courtroom during
2 the witness' testimony. The person or persons so chosen
3 shall not be a person described in Section 1070 of the
4 Evidence Code unless the person or persons are related
5 to the prosecuting witness as a parent, guardian, or sibling
6 and do not make notes during the hearing or proceeding.

7 (b) If the person or persons so chosen are also
8 prosecuting witnesses, the prosecution shall present
9 evidence that the person's attendance is both desired by
10 the prosecuting witness for support and will be helpful to
11 the prosecuting witness. Upon that showing, the court
12 shall grant the request unless information presented by
13 the defendant or noticed by the court establishes that the
14 support person's attendance during the testimony of the
15 prosecuting witness would pose a substantial risk of
16 influencing or affecting the content of that testimony. In
17 the case of a juvenile court proceeding, the judge shall
18 inform the support person or persons that juvenile court
19 proceedings are confidential and may not be discussed
20 with anyone not in attendance at the proceedings. In all
21 cases, the judge shall admonish the support person or
22 persons to not prompt, sway, or influence the witness in
23 any way. Nothing in this section shall preclude a court
24 from exercising its discretion to remove a person from the
25 courtroom whom it believes is prompting, swaying, or
26 influencing the witness.

27 (c) The testimony of the person or persons so chosen
28 who are also prosecuting witnesses shall be presented
29 before the testimony of the prosecuting witness. The
30 prosecuting witness shall be excluded from the
31 courtroom during that testimony. Whenever the
32 evidence given by that person or those persons would be
33 subject to exclusion because it has been given before the
34 corpus delicti has been established, the evidence shall be
35 admitted subject to the court's or the defendant's motion
36 to strike that evidence from the record if the corpus
37 delicti is not later established by the testimony of the
38 prosecuting witness.

39 SEC. 11. No reimbursement is required by this act
40 pursuant to Section 6 of Article XIII B of the California

1 Constitution because the only costs that may be incurred
2 by a local agency or school district will be incurred
3 because this act creates a new crime or infraction,
4 eliminates a crime or infraction, or changes the penalty
5 for a crime or infraction, within the meaning of Section
6 17556 of the Government Code, or changes the definition
7 of a crime within the meaning of Section 6 of Article
8 XIII B of the California Constitution.

9 Notwithstanding Section 17580 of the Government
10 Code, unless otherwise specified, the provisions of this act
11 shall become operative on the same date that the act
12 takes effect pursuant to the California Constitution.

