

AMENDED IN SENATE AUGUST 19, 1996
AMENDED IN SENATE AUGUST 5, 1996
AMENDED IN SENATE JULY 10, 1996
AMENDED IN ASSEMBLY MARCH 27, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

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~~ 3134.5 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 amended, 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 and maliciously deprives a lawful custodian of a right to custody, or a person of a right to 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 the 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, to release the child to a social services agency, or to return the child pursuant to a court order, and would provide that the officer may release the child to the lawful custodian, unless it appears that this release would cause the child to be endangered, abducted, 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. This act shall be known and may be cited
2 as the Parental Kidnapping Prevention Act.

3 SEC. 1.5. Section ~~3135~~ 3134.5 is added to the Family
4 Code, to read:

5 ~~3135.~~

6 3134.5. (a) Upon request of the district attorney, the
7 court may issue a protective custody warrant to secure
8 the recovery of an unlawfully detained or concealed
9 child. The request by the district attorney shall include a
10 written declaration under penalty of perjury that a
11 warrant for the child is necessary in order for the district
12 attorney to perform the duties described in Sections 3130
13 and 3131. The protective custody warrant for the child
14 shall contain an order that the arresting agency shall
15 place the child in protective custody, or return the child
16 as directed by the court. The protective custody warrant
17 may be served in any county in the same manner as a
18 warrant of arrest and may be served at any time of the day
19 or night.

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



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

3 3411. (a) The court may order any party to the
4 proceeding who is within or without this state to appear
5 personally before the court. If that party has physical
6 custody of the child, the court may order him or her to
7 appear personally with the child. If the party who is
8 ordered to appear with the child cannot be served or fails
9 to obey the order, or it appears the order will be
10 ineffective, the court may issue a warrant of arrest against
11 the party and a protective custody warrant for the child,
12 to secure the party's or the child's appearance or both,
13 before the court. The protective custody warrant for the
14 child shall contain an order that the arresting agency shall
15 place the child in protective custody, or return the child
16 as directed by the court. The protective custody warrant
17 may be served in any county in the same manner as a
18 warrant of arrest and may be served at any time of the day
19 or night.

20 (b) If a party to the proceeding whose presence is
21 desired by the court is outside this state with or without
22 the child the court may order that the notice given under
23 Section 3405 include a statement directing that party to
24 appear personally with or without the child and stating
25 that failure to appear may result in a decision adverse to
26 that party and the issuance of a warrant pursuant to
27 subdivision (a).

28 (c) If a party to the proceeding who is outside this state
29 is directed to appear under subdivision (b) or desires to
30 appear personally before the court with or without the
31 child, the court may require another party to pay to the
32 clerk of the court travel and other necessary expenses of
33 the party so appearing and of the child if this is just and
34 proper under the circumstances.

35 SEC. 3. Section 6240 of the Family Code is amended
36 to read:

37 6240. As used in this part:

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



1 (b) “Law enforcement officer” means one of the
2 following officers who requests or enforces an emergency
3 protective order under this part:

4 (1) A police officer.

5 (2) A sheriff’s officer.

6 (3) A peace officer of the *Department of the California*
7 *Highway Patrol*.

8 (4) A peace officer of the University of California
9 Police Department.

10 (5) A peace officer of the California State University
11 and College Police Departments.

12 (6) A peace officer of the Department of Parks and
13 Recreation, as defined in subdivision ~~(g)~~ (f) of Section
14 830.2 of the Penal Code.

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

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

19 (9) A parole officer, probation officer, or deputy
20 probation officer, as defined in Section 830.5 of the Penal
21 Code.

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

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

26 6250. A judicial officer may issue an ex parte
27 emergency protective order where a law enforcement
28 officer asserts reasonable grounds to believe any of the
29 following:

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

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

38 (c) That a child is in immediate and present danger of
39 being abducted by a parent or relative, based on a
40 reasonable belief that a person has an intent to abduct the



1 child or flee with the child from the jurisdiction or based
2 on an allegation of a recent threat to abduct the child or
3 flee with the child from the jurisdiction.

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

6 6251. An emergency protective order may be issued
7 only if the judicial officer finds both of the following:

8 (a) That reasonable grounds have been asserted to
9 believe that an immediate and present danger of
10 domestic violence exists or that a child is in immediate
11 and present danger of abuse or abduction.

12 (b) That an emergency protective order is necessary
13 to prevent the occurrence or recurrence of domestic
14 violence, child abuse, or child abduction.

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

17 6252. An emergency protective order may include
18 any of the following specific orders, as appropriate:

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

20 (b) An order determining the temporary care and
21 control of any minor child of the endangered person and
22 the person against whom the order is sought.

23 (c) An order authorized in Section 213.5 of the Welfare
24 and Institutions Code, including provisions placing the
25 temporary care and control of the endangered child and
26 any other minor children in the family or household with
27 the parent or guardian of the endangered child who is not
28 a restrained party.

29 (d) An order determining the temporary care and
30 control of any minor child who is in danger of being
31 abducted.

32 SEC. 7. Section 6253 of the Family Code is amended
33 to read:

34 6253. An emergency protective order shall include all
35 of the following:

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

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

38 (c) The address of the superior court for the district or
39 county in which the endangered person or child in
40 danger of being abducted resides.



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

3 (1) “To the Protected Person: This order will last only
4 until the date and time noted above. If you wish to seek
5 continuing protection, you will have to apply for an order
6 from the court, at the address noted above. You may seek
7 the advice of an attorney as to any matter connected with
8 your application for any future court orders. The attorney
9 should be consulted promptly so that the attorney may
10 assist you in making your application.”

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

18 (e) In the case of an endangered child, the following
19 statement, which shall be printed in English and Spanish:
20 “This order will last only until the date and time noted
21 above. You may apply for a more permanent restraining
22 order under Section 213.5 of the Welfare and Institutions
23 Code from the court at the address noted above. You may
24 seek the advice of an attorney in connection with the
25 application for a more permanent restraining order.”

26 (f) In the case of a child in danger of being abducted,
27 the following statement, which shall be printed in English
28 and Spanish: “This order will last only until the date and
29 time noted above. You may apply for a child custody
30 order from the court, at the address noted above. You
31 may seek the advice of an attorney as to any matter
32 connected with the application. The attorney should be
33 consulted promptly so that the attorney may assist you in
34 responding to the application.”

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

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

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CHAPTER 4. CHILD ABDUCTION

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

(a) "Child" means a person under the age of 18 years.

(b) "Court order" or "custody order" means a custody determination decree, judgment, or order issued by a court of competent jurisdiction, whether permanent or temporary, initial or modified, that affects the custody or visitation of a child, issued in the context of a custody proceeding. An order, once made, shall continue in effect until it expires, is modified, is rescinded, or terminates by operation of law.

(c) "Custody proceeding" means a proceeding in which a custody determination is an issue, including, but not limited to, an action for dissolution or separation, dependency, guardianship, termination of parental rights, adoption, paternity, except actions under Section 11350 or 11350.1 of the Welfare and Institutions Code, or protection from domestic violence proceedings, including an emergency protective order pursuant to Part 3 (commencing with Section 6240) of Division 10 of the Family Code.

(d) "Lawful custodian" means a person, guardian, or public agency having a right to custody of a child.

(e) A "right to custody" means the right to the physical care, custody, and control of a child pursuant to a custody order as defined in subdivision (b) or, in the absence of a court order, by operation of law, or pursuant to the Uniform Parentage Act contained in Part 3 (commencing with Section 7600) of Division 12 of the Family Code. Whenever a public agency takes protective custody or jurisdiction of the care, custody, control, or conduct of a child by statutory authority or court order, that agency is a lawful custodian of the child and has a right to physical custody of the child. In any subsequent placement of the child, the public agency continues to be a lawful custodian with a right to physical custody of the child until the public agency's right of custody is terminated by an



1 order of a court of competent jurisdiction or by operation
2 of law.

3 (f) In the absence of a court order to the contrary, a
4 parent loses his or her right to custody of the child to the
5 other parent if the parent having the right to custody is
6 dead, is unable or refuses to take the custody, or has
7 abandoned his or her family. A natural parent whose
8 parental rights have been terminated by court order is no
9 longer a lawful custodian and no longer has a right to
10 physical custody.

11 (g) “Keeps” or “withholds” means retains physical
12 possession of a child whether or not the child resists or
13 objects.

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

16 (i) “Person” includes, but is not limited to, a parent or
17 an agent of a parent.

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

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

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

32 278.5. (a) Every person who takes, entices away,
33 keeps, withholds, or conceals a child and maliciously
34 deprives a lawful custodian of a right to custody, or a
35 person of a right to visitation, shall be punished by
36 imprisonment in a county jail not exceeding one year, a
37 fine not exceeding one thousand dollars (\$1,000), or both
38 that fine and imprisonment, or by imprisonment in the
39 state prison for 16 months, or two or three years, a fine not



1 exceeding ten thousand dollars (\$10,000), or both that
2 fine and imprisonment.

3 (b) Nothing contained in this section limits the court's
4 contempt power.

5 (c) A custody order obtained after the taking, enticing
6 away, keeping, withholding, or concealing of a child does
7 not constitute a defense to a crime charged under this
8 section.

9 278.6. (a) At the sentencing hearing following a
10 conviction for a violation of Section 278 or 278.5, or both,
11 the court shall consider any relevant factors and
12 circumstances in aggravation, including, but not limited
13 to, all of the following:

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

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

19 (3) The defendant harmed or abandoned the child
20 during the abduction.

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

23 (5) The child has not been returned to the lawful
24 custodian.

25 (6) The defendant previously abducted or threatened
26 to abduct the child.

27 (7) The defendant substantially altered the
28 appearance or the name of the child.

29 (8) The defendant denied the child appropriate
30 education during the abduction.

31 (9) The length of the abduction.

32 (10) The age of the child.

33 (b) At the sentencing hearing following a conviction
34 for a violation of Section 278 or 278.5, or both, the court
35 shall consider any relevant factors and circumstances in
36 mitigation, including, but not limited to, both of the
37 following:

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



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

3 (c) In addition to any other penalties provided for a
4 violation of Section 278 or 278.5, a court shall order the
5 defendant to pay restitution to the district attorney for
6 any costs incurred in locating and returning the child as
7 provided in Section 3134 of the Family Code, and to the
8 victim for those expenses and costs reasonably incurred
9 by, or on behalf of, the victim in locating and recovering
10 the child. An award made pursuant to this section shall
11 constitute a final judgment and shall be enforceable as
12 such.

13 278.7. (a) Section 278.5 does not apply to a person
14 with a right to custody of a child who, with a good faith
15 and reasonable belief that the child, if left with the other
16 person, will suffer immediate bodily injury or emotional
17 harm, takes, entices away, keeps, withholds, or conceals
18 that child.

19 (b) Section 278.5 does not apply to a person with a
20 right to custody of a child who has been a victim of
21 domestic violence who, with a good faith and reasonable
22 belief that the child, if left with the other person, will
23 suffer immediate bodily injury or emotional harm, takes,
24 entices away, keeps, withholds, or conceals that child.
25 "Emotional harm" includes having a parent who has
26 committed domestic violence against the parent who is
27 taking, enticing away, keeping, withholding, or
28 concealing the child.

29 (c) The person who takes, entices away, keeps,
30 withholds, or conceals a child shall do all of the following:

31 (1) Within a reasonable time from the taking, enticing
32 away, keeping, withholding, or concealing, make a report
33 to the office of the district attorney of the county where
34 the child resided before the action. The report shall
35 include the name of the person, the current address and
36 telephone number of the child and the person, and the
37 reasons the child was taken, enticed away, kept, withheld,
38 or concealed.

39 (2) Within a reasonable time from the taking, enticing
40 away, keeping, withholding, or concealing, commence a



1 custody proceeding in a court of competent jurisdiction
2 consistent with the federal Parental Kidnapping
3 Prevention Act (Section 1738A, Title 28, United States
4 Code) or the Uniform Child Custody Jurisdiction Act
5 (Part 3 (commencing with Section 3400) of Division 8 of
6 the Family Code).

7 (3) Inform the district attorney’s office of any change
8 of address or telephone number of the person and the
9 child.

10 (d) For the purposes of this article, a reasonable time
11 within which to make a report to the district attorney’s
12 office is at least 10 days and a reasonable time to
13 commence a custody proceeding is at least 30 days. This
14 section shall not preclude a person from making a report
15 to the district attorney’s office or commencing a custody
16 proceeding earlier than those specified times.

17 (e) The address and telephone number of the person
18 and the child provided pursuant to this section shall
19 remain confidential unless released pursuant to state law
20 or by a court order that contains appropriate safeguards
21 to ensure the safety of the person and the child.

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

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

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

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

34 279.1. The offenses enumerated in Sections 278 and
35 278.5 are continuous in nature, and continue for as long
36 as the minor child is concealed or detained.

37 279.5. When a person is arrested for an alleged
38 violation of Section 278 or 278.5, the court, in setting bail,
39 shall take into consideration whether the child has been
40 returned to the lawful custodian, and if not, shall consider



1 whether there is an increased risk that the child may not
2 be returned, or the defendant may flee the jurisdiction,
3 or, by flight or concealment, evade the authority of the
4 court.

5 279.6. (a) A law enforcement officer may take a child
6 into protective custody under any of the following
7 circumstances:

8 (1) It reasonably appears to the officer that a person is
9 likely to conceal the child, flee the jurisdiction with the
10 child, or, by flight or concealment, evade the authority of
11 the court.

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

14 (3) There are conflicting custody orders or conflicting
15 claims to custody and the parties cannot agree which
16 party should take custody of the child.

17 (4) The child is an abducted child.

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

21 (1) Release the child to the lawful custodian of the
22 child, unless it reasonably appears that the release would
23 cause the child to be endangered, abducted, or removed
24 from the jurisdiction.

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

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

32 (4) Return the child as ordered by a court of
33 competent jurisdiction.

34 (c) Upon the arrest of a person for a violation of
35 Section 278 or 278.5, a law enforcement officer shall take
36 possession of an abducted child who is found in the
37 company of, or under the control of, the arrested person
38 and deliver the child as directed in subdivision (b).

39 (d) Notwithstanding any other law, when a person is
40 arrested for an alleged violation of Section 278 or 278.5,



1 the court shall, at the time of the arraignment or
2 thereafter, order that the child shall be returned to the
3 lawful custodian by or on a specific date, or that the
4 person show cause on that date why the child has not been
5 returned as ordered. If conflicting custodial orders exist
6 within this state, or between this state and a foreign state,
7 the court shall set a hearing within five court days to
8 determine which court has jurisdiction under the laws of
9 this state and determine which state has subject matter
10 jurisdiction to issue a custodial order under the laws of this
11 state, the Uniform Child Custody Jurisdiction Act (Part
12 3 (commencing with Section 3400) of Division 8 of the
13 Family Code), or federal law, if applicable. At the
14 conclusion of the hearing, or if the child has not been
15 returned as ordered by the court at the time of
16 arraignment, the court shall enter an order as to which
17 custody order is valid and is to be enforced. If the child has
18 not been returned at the conclusion of the hearing, the
19 court shall set a date within a reasonable time by which
20 the child shall be returned to the lawful custodian, and
21 order the defendant to comply by this date, or to show
22 cause on that date why he or she has not returned the
23 child as directed. The court shall only enforce its order,
24 or any subsequent orders for the return of the child,
25 under subdivision (a) of Section 1219 of the Code of Civil
26 Procedure, to ensure that the child is promptly placed
27 with the lawful custodian. An order adverse to either the
28 prosecution or defense is reviewable by a writ of mandate
29 or prohibition addressed to the appropriate court.

30 280. Every person who willfully causes or permits the
31 removal or concealment of any child in violation of
32 Section 8713, 8803, or 8910 of the Family Code shall be
33 punished as follows:

34 (a) By imprisonment in a county jail for not more than
35 one year if the child is concealed within the county in
36 which the adoption proceeding is pending or in which the
37 child has been placed for adoption, or is removed from
38 that county to a place within this state.

39 (b) By imprisonment in the state prison, or by
40 imprisonment in a county jail for not more than one year,



1 if the child is removed from that county to a place outside
2 of this state.

3 SEC. 10. Section 868.5 of the Penal Code is amended
4 to read:

5 868.5. (a) Notwithstanding any other law, a
6 prosecuting witness in a case involving a violation of
7 Section 187, 203, 205, 207, 211, 215, 220, 240, 242, 243.4, 245,
8 261, 262, 273a, 273d, 273.5, 273.6, 278, 278.5, 285, 286, 288,
9 288a, 288.5, 289, or 647.6, or former Section 277 or 647a, or
10 a violation of subdivision (1) of Section 314, shall be
11 entitled, for support, to the attendance of up to two
12 persons of his or her own choosing, one of whom may be
13 a witness, at the preliminary hearing and at the trial, or
14 at a juvenile court proceeding, during the testimony of
15 the prosecuting witness. Only one of those support
16 persons may accompany the witness to the witness stand,
17 although the other may remain in the courtroom during
18 the witness' testimony. The person or persons so chosen
19 shall not be a person described in Section 1070 of the
20 Evidence Code unless the person or persons are related
21 to the prosecuting witness as a parent, guardian, or sibling
22 and do not make notes during the hearing or proceeding.

23 (b) If the person or persons so chosen are also
24 prosecuting witnesses, the prosecution shall present
25 evidence that the person's attendance is both desired by
26 the prosecuting witness for support and will be helpful to
27 the prosecuting witness. Upon that showing, the court
28 shall grant the request unless information presented by
29 the defendant or noticed by the court establishes that the
30 support person's attendance during the testimony of the
31 prosecuting witness would pose a substantial risk of
32 influencing or affecting the content of that testimony. In
33 the case of a juvenile court proceeding, the judge shall
34 inform the support person or persons that juvenile court
35 proceedings are confidential and may not be discussed
36 with anyone not in attendance at the proceedings. In all
37 cases, the judge shall admonish the support person or
38 persons to not prompt, sway, or influence the witness in
39 any way. Nothing in this section shall preclude a court
40 from exercising its discretion to remove a person from the



1 courtroom whom it believes is prompting, swaying, or
2 influencing the witness.

3 (c) The testimony of the person or persons so chosen
4 who are also prosecuting witnesses shall be presented
5 before the testimony of the prosecuting witness. The
6 prosecuting witness shall be excluded from the
7 courtroom during that testimony. Whenever the
8 evidence given by that person or those persons would be
9 subject to exclusion because it has been given before the
10 corpus delicti has been established, the evidence shall be
11 admitted subject to the court's or the defendant's motion
12 to strike that evidence from the record if the corpus
13 delicti is not later established by the testimony of the
14 prosecuting witness.

15 SEC. 11. No reimbursement is required by this act
16 pursuant to Section 6 of Article XIII B of the California
17 Constitution because the only costs that may be incurred
18 by a local agency or school district will be incurred
19 because this act creates a new crime or infraction,
20 eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section
22 17556 of the Government Code, or changes the definition
23 of a crime within the meaning of Section 6 of Article
24 XIII B of the California Constitution.

25 Notwithstanding Section 17580 of the Government
26 Code, unless otherwise specified, the provisions of this act
27 shall become operative on the same date that the act
28 takes effect pursuant to the California Constitution.

