

ASSEMBLY BILL

No. 2949

Introduced by Assembly Member Harvey

February 23, 1996

An act to amend Sections 44010 and 87010 of the Education Code, to amend Section 51032 of the Government Code, to amend Sections 266a, 266e, 647, 647f, 647.1, 653.22, 784, 1001.10, and 1202.6 of the Penal Code, and to amend Section 22659.5 of the Vehicle Code, relating to prostitution.

LEGISLATIVE COUNSEL'S DIGEST

AB 2949, as introduced, Harvey. Prostitution.

(1) Existing law makes it a misdemeanor to solicit or agree to engage in or to engage in any act of prostitution, which includes any lewd act between persons for money or other consideration. Existing law provides that no agreement to engage in prostitution shall violate this provision unless the person does some act in furtherance of the agreement.

This bill would enact the Prostitution Abatement and Neighborhood Protection Act of 1996. The bill would revise the definition of prostitution by deleting the requirement that a person do some act in furtherance of the agreement to engage in prostitution. The bill would provide that prostitution include any sexual conduct, rather than any lewd act, for money or other consideration.

This bill would provide that a person first convicted of prostitution shall be punished by imprisonment in a county jail for a period of not less than 3 months and that a person convicted of a subsequent violation shall be punished by

imprisonment in the state prison for a period not less than one year. The bill would provide for an enhanced punishment for a violation occurring within 1,500 feet of a home, school, church, park, or business. The bill would authorize the judge to impose a fine to be paid to the arresting law enforcement agency in addition to this punishment.

By increasing the penalties for existing crimes, the bill would impose a state-mandated local program.

(2) Existing law authorizes, until January 1, 1999, specified cities, counties, and portions of cities to adopt an ordinance establishing a pilot program implementing procedures for declaring any motor vehicle a public nuisance when used in the commission of an act of prostitution, and there is a conviction of the underlying offense, except in specified circumstances. Existing law authorizes the ordinance to include procedures, as prescribed, to enjoin and abate the declared nuisance.

This bill would add the County of Kern and any city in that county to the list of cities and counties authorized to adopt this ordinance.

The bill would also make conforming changes.

(3) 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 "Prostitution Abatement and Neighborhood
3 Protection Act of 1996."

4 SEC. 2. Section 44010 of the Education Code is
5 amended to read:

6 44010. "Sex offense," as used in Sections 44346, 44425,
7 44436, 44836, 45123, and 45304, means any one or more of
8 the offenses listed below:



1 (a) Any offense defined in Section 261.5, 264.1, 266,
2 267, 285, 286, 288, 288a, 289, 311.3, 311.4, 313.1, 647.6, or
3 former Section 647a, subdivision (a), (b), or (c) of Section
4 243.4, paragraph (1), (2), (3), or (4) of subdivision (a) of
5 Section 261, subdivision (b) of Section 311.2, or *paragraph*
6 *(1) or (4) of* subdivision (a) ~~or (d)~~ of Section 647 of the
7 Penal Code.

8 (b) Any offense defined in former subdivision 5 of
9 former Section 647 of the Penal Code repealed by
10 Chapter 560 of the Statutes of 1961, or any offense defined
11 in former subdivision 2 of former Section 311 of the Penal
12 Code repealed by Chapter 2147 of the Statutes of 1961, if
13 the offense defined in those sections was committed prior
14 to September 15, 1961, to the same extent that an offense
15 committed prior to that date was a sex offense for the
16 purposes of this section prior to September 15, 1961.

17 (c) Any offense defined in Section 314 of the Penal
18 Code committed on or after September 15, 1961.

19 (d) Any offense defined in former subdivision 1 of
20 former Section 311 of the Penal Code repealed by
21 Chapter 2147 of the Statutes of 1961 committed on or after
22 September 7, 1955, and prior to September 15, 1961.

23 (e) Any offense involving lewd and lascivious conduct
24 under Section 272 of the Penal Code committed on or
25 after September 15, 1961.

26 (f) Any offense involving lewd and lascivious conduct
27 under former Section 702 of the Welfare and Institutions
28 Code repealed by Chapter 1616 of the Statutes of 1961, if
29 that offense was committed prior to September 15, 1961,
30 to the same extent that an offense committed prior to that
31 date was a sex offense for the purposes of this section prior
32 to September 15, 1961.

33 (g) Any offense defined in Section 286 or 288a of the
34 Penal Code prior to the effective date of the amendment
35 of either section enacted at the 1975–76 Regular Session
36 of the Legislature committed prior to the effective date
37 of the amendment.

38 (h) Any attempt to commit any of the
39 above-mentioned offenses.



1 (i) Any offense committed or attempted in any other
2 state which, if committed or attempted in this state,
3 would have been punishable as one or more of the
4 above-mentioned offenses.

5 (j) Any conviction for an offense resulting in the
6 requirement to register as a sex offender pursuant to
7 Section 290 of the Penal Code.

8 SEC. 3. Section 87010 of the Education Code is
9 amended to read:

10 87010. "Sex offense," as used in Sections 87405, 88022,
11 and 88123, means any one or more of the offenses listed
12 below:

13 (a) Any offense defined in Section 261.5, 266, 267, 285,
14 286, 288, 288a, 647.6, or former Section 647a, subdivision
15 2 or 3 of Section 261, or *paragraph (1) or (4) of* subdivision
16 (a) ~~or (d)~~ of Section 647 of the Penal Code.

17 (b) Any offense defined in former subdivision 5 of
18 former Section 647 of the Penal Code repealed by
19 Chapter 560 of the Statutes of 1961, or any offense defined
20 in former subdivision 2 of former Section 311 of the Penal
21 Code repealed by Chapter 2147 of the Statutes of 1961, if
22 the offense defined in those sections was committed prior
23 to September 15, 1961, to the same extent that such an
24 offense committed prior to that date was a sex offense for
25 the purposes of this section prior to September 15, 1961.

26 (c) Any offense defined in Section 314 of the Penal
27 Code committed on or after September 15, 1961.

28 (d) Any offense defined in former subdivision 1 of
29 former Section 311 of the Penal Code repealed by
30 Chapter 2147 of the Statutes of 1961 committed on or after
31 September 7, 1955, and prior to September 15, 1961.

32 (e) Any offense involving lewd and lascivious conduct
33 under Section 272 of the Penal Code committed on or
34 after September 15, 1961.

35 (f) Any offense involving lewd and lascivious conduct
36 under former Section 702 of the Welfare and Institutions
37 Code repealed by Chapter 1616 of the Statutes of 1961, if
38 the offense was committed prior to September 15, 1961,
39 to the same extent that such an offense committed prior



1 to that date was a sex offense for the purposes of this
2 section prior to September 15, 1961.

3 (g) Any offense defined in Section 286 or 288a of the
4 Penal Code prior to the effective date of the amendment
5 of either section enacted at the 1975–76 Regular Session
6 of the Legislature committed prior to the effective date
7 of the amendment.

8 (h) Any attempt to commit any of the
9 above-mentioned offenses.

10 (i) Any offense committed or attempted in any other
11 state which, if committed or attempted in this state,
12 would have been punishable as one or more of the
13 above-mentioned offenses.

14 SEC. 4. Section 51032 of the Government Code is
15 amended to read:

16 51032. The ordinance may also provide that a license
17 to engage in the business of massage may be denied upon
18 a showing by the licensing authority of any of the
19 following:

20 (a) Proof that the massage personnel and the owners
21 or operators of a massage business have been convicted
22 of a violation of Section 266i, 315, 316, 318, or *paragraph*
23 *(2) of subdivision (b) (a)* of Section 647 of the Penal
24 Code, proof that the massage personnel or the owners or
25 operators of a massage business have been convicted in
26 any other state of any offense which, if committed or
27 attempted in this state, would have been punishable as
28 one or more of the above-mentioned offenses of this
29 subdivision, or proof that the massage personnel or the
30 owners or operators of a massage business are required to
31 register under the provisions of Section 290 of the Penal
32 Code.

33 (b) Proof that the massage personnel and the owners
34 or operators of a massage business have been convicted
35 of any felony offense involving the sale of a controlled
36 substance specified in Section 11054, 11055, 11056, 11057,
37 or 11058 of the Health and Safety Code or proof that the
38 massage personnel or the owners or operators of the
39 massage business have been convicted in any other state
40 of any offense which, if committed or attempted in this



1 state, would have been punishable as one or more of the
2 above-mentioned offenses of this subdivision.

3 SEC. 5. Section 266a of the Penal Code is amended to
4 read:

5 266a. Every person who, within this state, takes any
6 person against his or her will and without his or her
7 consent, or with his or her consent procured by
8 fraudulent inducement or misrepresentation, for the
9 purpose of prostitution, as defined in *paragraph (2) of*
10 subdivision ~~(b)~~ (a) of Section 647, ~~is punishable~~ *shall be*
11 *punished* by imprisonment in the state prison, and a fine
12 not exceeding two thousand dollars (\$2,000).

13 SEC. 6. Section 266e of the Penal Code is amended to
14 read:

15 266e. Every person who purchases, or pays any
16 money or other valuable thing for, any person for the
17 purpose of prostitution as defined in *paragraph (2) of*
18 subdivision ~~(b)~~ (a) of Section 647, or for the purpose of
19 placing ~~such~~ *that* person, for immoral purposes, in any
20 house or place against his or her will, is guilty of a felony.

21 SEC. 7. Section 647 of the Penal Code is amended to
22 read:

23 647. (a) Every person who commits any of the
24 following acts is guilty of disorderly conduct, a
25 misdemeanor:

26 ~~(a)~~

27 (1) Who solicits anyone to engage in or who engages
28 in lewd or dissolute conduct in any public place or in any
29 place open to the public or exposed to public view.

30 ~~(b)~~

31 (2) Who solicits or who agrees to engage in or who
32 engages in any act of prostitution. A person agrees to
33 engage in an act of prostitution when, with specific intent
34 to ~~so~~ engage, he or she manifests an acceptance of an offer
35 or solicitation to ~~so~~ engage, regardless of whether the
36 offer or solicitation was made by a person who also
37 possessed the specific intent to engage in prostitution. ~~No~~
38 ~~agreement to engage in an act of prostitution shall~~
39 ~~constitute a violation of this subdivision unless some act,~~
40 ~~in addition to the agreement, is done within this state in~~



1 ~~furtherance of the commission of an act of prostitution by~~
2 ~~the person agreeing to engage in that act.~~ As used in this
3 subdivision, “prostitution” includes any ~~lewd act~~ *sexual*
4 *conduct* between persons for money or other
5 consideration.

6 ~~(e)~~

7 (3) Who accosts other persons in any public place or in
8 any place open to the public for the purpose of begging
9 or soliciting alms.

10 ~~(d)~~

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

14 ~~(e)~~

15 (5) Who loiters or wanders upon the streets or from
16 place to place without apparent reason or business and
17 who refuses to identify himself or herself and to account
18 for his or her presence when requested by any peace
19 officer so to do, if the surrounding circumstances ~~are such~~
20 ~~as to~~ *would* indicate to a reasonable person that the public
21 safety demands this identification.

22 ~~(f)~~

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

35 ~~(g)~~

36 (7) When a person has violated *paragraph (6) of*
37 ~~subdivision (f) of this section~~ (a), a peace officer, if he or
38 she is reasonably able to do so, shall place the person, or
39 cause him or her to be placed, in civil protective custody.
40 The person shall be taken to a facility, designated



1 pursuant to Section 5170 of the Welfare and Institutions
2 Code, for the 72-hour treatment and evaluation of
3 inebriates. A peace officer may place a person in civil
4 protective custody with that kind and degree of force
5 which would be lawful were he or she effecting an arrest
6 for a misdemeanor without a warrant. No person who has
7 been placed in civil protective custody shall thereafter be
8 subject to any criminal prosecution or juvenile court
9 proceeding based on the facts giving rise to this
10 placement. This subdivision shall not apply to the
11 following persons:

12 (1)

13 (A) Any person who is under the influence of any
14 drug, or under the combined influence of intoxicating
15 liquor and any drug.

16 (2)

17 (B) Any person who a peace officer has probable cause
18 to believe has committed any felony, or who has
19 committed any misdemeanor in addition to subdivision
20 (f) of this section.

21 (3)

22 (C) Any person who a peace officer in good faith
23 believes will attempt escape or will be unreasonably
24 difficult for medical personnel to control.

25 (4)

26 (8) Who loiters, prowls, or wanders upon the private
27 property of another, at any time, without visible or lawful
28 business with the owner or occupant ~~thereof~~. As used in
29 this ~~subdivision~~ *paragraph*, “loiter” means to delay or
30 linger without a lawful purpose for being on the property
31 and for the purpose of committing a crime as opportunity
32 may be discovered.

33 (5)

34 (9) Who, while loitering, prowling, or wandering upon
35 the private property of another, at any time, peeks in the
36 door or window of any inhabited building or structure
37 ~~located thereon~~, without visible or lawful business with
38 the owner or occupant ~~thereof~~.

39 (6)



1 (10) Who lodges in any building, structure, vehicle, or
2 place, whether public or private, without the permission
3 of the owner or person entitled to the possession or in
4 control thereof of it.

5 (k)

6 (11) Anyone who looks through a hole into a bathroom
7 with the intent to invade the privacy of persons therein
8 inside.

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

27 ~~In any accusatory pleading charging a violation of~~
28 ~~subdivision (b), if the defendant has been previously~~
29 ~~convicted two or more times of a violation of that~~
30 ~~subdivision, each such previous conviction shall be~~
31 ~~charged in the accusatory pleading. If two or more of~~
32 ~~these previous convictions are found to be true by the~~
33 ~~jury, upon a jury trial, or by the court, upon a court trial,~~
34 ~~or are admitted by the defendant, the defendant shall be~~
35 ~~imprisoned in the county jail for a period of not less than~~
36 ~~90 days and shall not be eligible for release upon~~
37 ~~completion of sentence, on probation, on parole, on work~~
38 ~~furlough or work release, or on any other basis until he or~~
39 ~~she has served a period of not less than 90 days in the~~
40 ~~county jail. In all cases in which probation is granted, the~~



1 ~~court shall require as a condition thereof that the person~~
2 ~~be confined in the county jail for at least 90 days. In no~~
3 ~~event does the court have the power to absolve a person~~
4 ~~who violates this subdivision from the obligation of~~
5 ~~spending at least 90 days in confinement in the county jail.~~

6 *(b) A person convicted of a violation of paragraph (2)*
7 *of subdivision (a) shall be punished as follows:*

8 *(1) Upon a first conviction, by imprisonment in a*
9 *county jail for a period of not less than three months but*
10 *not more than one year.*

11 *(2) If the person has been convicted previously of this*
12 *provision, by imprisonment in the state prison for a*
13 *period of not less than one year. A second conviction of*
14 *this provision is a felony for the purposes of Sections 667*
15 *and 1170.23.*

16 *(3) If the violation of this provision occurred within*
17 *1,500 feet of a home, school, church, park, or business, by*
18 *a period of one year in addition to the punishment*
19 *prescribed by paragraph (1) or (2).*

20 SEC. 8. Section 647f of the Penal Code is amended to
21 read:

22 647f. In any accusatory pleading charging a violation
23 of *paragraph (2) of subdivision (b) (a)* of Section 647, if
24 the defendant has been previously convicted one or more
25 times of a violation of that ~~subdivision~~ *paragraph* or of any
26 other offense listed in subdivision (d) of Section 1202.1,
27 and in connection with one or more of those convictions
28 a blood test was administered pursuant to Section 1202.1
29 or 1202.6 with positive test results, of which the defendant
30 was informed, the previous conviction and positive blood
31 test results, of which the defendant was informed, shall be
32 charged in the accusatory pleading. If the previous
33 conviction and informed test results are found to be true
34 by the trier of fact or are admitted by the defendant, the
35 defendant is guilty of a felony.

36 SEC. 9. Section 647.1 of the Penal Code is amended to
37 read:

38 647.1. *(a)* In addition to any fine assessed under
39 Section 647, the judge may assess a fine not to exceed
40 seventy dollars (\$70) against any person who violates



1 *paragraph (1) or (2) of subdivision (a) or ~~(b)~~ of Section*
2 *647, or, if the offense involves intravenous use of a*
3 *controlled substance, ~~paragraph (6) of subdivision (a)~~ (a)*
4 *of Section 647, with the proceeds of this fine to be used in*
5 *accordance with Section 1463.23.*

6 *(b) In addition to any fine assessed under Section 647,*
7 *the judge may assess a fine not to exceed five hundred*
8 *dollars (\$500) against a person first convicted of a*
9 *violation of paragraph (2) of subdivision (a) of Section*
10 *647. This fine shall be paid to the arresting law*
11 *enforcement agency.*

12 *(c) In addition to any fine assessed under Section 647,*
13 *the judge may assess a fine not to exceed one thousand*
14 *dollars (\$1,000) against a person suffering a repeat*
15 *conviction of a violation of paragraph (2) of subdivision*
16 *(a) of Section 647. This fine shall be paid to the arresting*
17 *law enforcement agency.*

18 *(d) The court shall, however, take into consideration*
19 *the defendant's ability to pay and no defendant shall be*
20 *denied probation because of his or her inability to pay the*
21 *fine permitted under this section.*

22 SEC. 10. Section 653.22 of the Penal Code is amended
23 to read:

24 653.22. (a) It is unlawful for any person to loiter in
25 any public place with the intent to commit prostitution.
26 This intent is evidenced by acting in a manner and under
27 circumstances which openly demonstrate the purpose of
28 inducing, enticing, or soliciting prostitution, or procuring
29 another to commit prostitution.

30 (b) Among the circumstances that may be considered
31 in determining whether a person loiters with the intent
32 to commit prostitution are that the person:

33 (1) Repeatedly beckons to, stops, engages in
34 conversations with, or attempts to stop or engage in
35 conversations with passersby, indicative of soliciting for
36 prostitution.

37 (2) Repeatedly stops or attempts to stop motor
38 vehicles by hailing the drivers, waving arms, or making
39 any other bodily gestures, or engages or attempts to



1 engage the drivers or passengers of the motor vehicles in
2 conversation, indicative of soliciting for prostitution.

3 (3) Has been convicted of violating this section,
4 *paragraph (1) or (2) of* subdivision (a) ~~or (b)~~ of Section
5 647, or any other offense relating to or involving
6 prostitution, within five years of the arrest under this
7 section.

8 (4) Circles an area in a motor vehicle and repeatedly
9 beckons to, contacts, or attempts to contact or stop
10 pedestrians or other motorists, indicative of soliciting for
11 prostitution.

12 (5) Has engaged, within six months prior to the arrest
13 under this section, in any behavior described in this
14 subdivision, with the exception of paragraph (3), or in
15 any other behavior indicative of prostitution activity.

16 (c) The list of circumstances set forth in subdivision
17 (b) is not exclusive. The circumstances set forth in
18 subdivision (b) should be considered particularly salient
19 if they occur in an area that is known for prostitution
20 activity. Any other relevant circumstances may be
21 considered in determining whether a person has the
22 requisite intent. Moreover, no one circumstance or
23 combination of circumstances is in itself determinative of
24 intent. Intent must be determined based on an evaluation
25 of the particular circumstances of each case.

26 SEC. 11. Section 784 of the Penal Code is amended to
27 read:

28 784. The jurisdiction of a criminal action:

29 (a) For forcibly and without lawful authority seizing
30 and confining another, or inveigling or kidnapping
31 another, with intent, against his or her will, to cause him
32 or her to be secretly confined or imprisoned in this state,
33 or to be sent out of the state, or from one county to
34 another, or to be sold as a slave, or in any way held to
35 service;

36 (b) For inveigling, enticing, or taking away any person
37 for the purpose of concubinage or prostitution, as defined
38 in *paragraph (2) of* subdivision ~~(b)~~ (a) of Section 647;

39 Is in any competent court within the jurisdictional
40 territory in which the offense was committed, or in the



1 jurisdictional territory out of which the person upon
2 whom the offense was committed was taken or within the
3 jurisdictional territory in which an act was done by the
4 defendant in instigating, procuring, promoting, or aiding
5 in the commission of the offense, or in abetting the parties
6 concerned therein.

7 SEC. 12. Section 1001.10 of the Penal Code is
8 amended to read:

9 1001.10. (a) The judge shall require any person
10 described in subdivision (b), as a condition of either
11 placing the person on probation or of permitting the
12 person to participate in a drug diversion program to
13 agree to participate in an AIDS education program.
14 Testing for AIDS antibodies shall be offered but no person
15 described in subdivision (b) shall be required to be
16 tested.

17 (b) This section shall apply to any person who has
18 either been placed on probation or granted diversion for,
19 any of the following:

20 (1) A violation of subdivision (a) of Section 11350 of
21 the Health and Safety Code, subdivision (a) of Section
22 11377 of the Health and Safety Code, Section 11550 of the
23 Health and Safety Code, Section 4143 or 4149 of the
24 Business and Professions Code, or of subdivision (f) of
25 Section 647 if the offense involves intravenous use of a
26 controlled substance.

27 (2) A violation of *paragraph (1) or (2) of* subdivision
28 (a) ~~or (b)~~ of Section 647.

29 SEC. 13. Section 1202.6 of the Penal Code is amended
30 to read:

31 1202.6. (a) Notwithstanding Sections 199.20, 199.21,
32 and 199.22 of the Health and Safety Code, upon the first
33 conviction of any person for a violation of *paragraph (2)*
34 *of* subdivision ~~(b)~~ (a) of Section 647, the court shall,
35 before sentencing or as a condition of probation, order
36 the defendant to complete instruction in the causes and
37 consequences of acquired immune deficiency syndrome
38 (AIDS) pursuant to subdivision (d) and shall order the
39 defendant to submit to testing for AIDS in accordance
40 with subdivision (e). In addition, the court shall refer a



1 defendant, where appropriate, to a program under
2 Article 3.2 (commencing with Section 11320) of Chapter
3 2 of Part 3 of Division 9 of the Welfare and Institutions
4 Code or to any drug diversion program, or both.

5 (b) Upon a second or subsequent conviction of a
6 violation of *paragraph (2) of* subdivision—~~(b)~~ (a) of
7 Section 647, the court shall, before sentencing, order the
8 defendant to submit to testing for AIDS in accordance
9 with subdivision (e).

10 (c) At the sentencing hearing of a defendant ordered
11 to submit to testing for AIDS pursuant to subdivision (a)
12 or (b), the court shall furnish the defendant with a copy
13 of the report submitted pursuant to subdivision (e) and
14 shall direct the clerk to note the receipt of the report by
15 the defendant in the records of the case.

16 If the results of the test described in the report are
17 positive, the court shall make certain that the defendant
18 understands the nature and meaning of the contents of
19 the report and shall further advise the defendant of the
20 penalty established in Section 647f for a subsequent
21 violation of *paragraph (2) of* subdivision ~~(b)~~ (a) of
22 Section 647.

23 (d) The county health officer in each county shall
24 select an agency, or agencies, in the county that shall
25 provide AIDS prevention education. The county health
26 officer shall endeavor to select an agency, or agencies,
27 that currently provide AIDS prevention education
28 programs to substance abusers or prostitutes. If no agency
29 is currently providing this education, the county agency
30 responsible for substance abuse shall develop an AIDS
31 prevention education program either within the agency
32 or under contract with a community-based, nonprofit
33 organization in the county. The county health officer shall
34 forward to the courts a list of agencies selected for
35 purposes of referral.

36 An AIDS prevention education program providing
37 services, at a minimum, shall include details about the
38 transmission of human immunodeficiency virus (HIV),
39 the etiologic agent for AIDS, symptoms of AIDS or
40 AIDS-related conditions, prevention through avoidance



1 or cleaning of needles, sexual practices which constitute
2 high risk, low risk, and no risk (including abstinence), and
3 resources for assistance if the person decides to take a test
4 for the etiologic agent for AIDS and receives a positive
5 test result. The program also shall include other relevant
6 medical and prevention information as it becomes
7 available.

8 (e) The court shall order testing of every defendant as
9 ordered pursuant to subdivision (a) or (b) for evidence
10 of antibodies to the probable causative agent of acquired
11 immune deficiency syndrome. Notwithstanding Section
12 199.21 of the Health and Safety Code, written copies of
13 the report on the test shall be furnished to both of the
14 following:

15 (1) The court in which the defendant is to be
16 sentenced.

17 (2) The State Department of Health Services.

18 (f) Except as provided in subdivisions (c) and (g), the
19 reports required by subdivision (e) shall be confidential.

20 (g) The State Department of Health Services shall
21 maintain the confidentiality of the reports received
22 pursuant to subdivision (e), except that the department
23 shall furnish copies of any such report to a district
24 attorney upon request.

25 SEC. 14. Section 22659.5 of the Vehicle Code is
26 amended to read:

27 22659.5. (a) Notwithstanding any other provision of
28 law, the County of Alameda, any city in that county, the
29 County of Contra Costa, any city in that county, *the*
30 *County of Kern, any city in that county*, the County of San
31 Diego, any city in that county, the County of Sacramento,
32 any city in that county, the City and County of San
33 Francisco, the City of Signal Hill, the City of Long Beach,
34 and the City of Los Angeles with respect to that portion
35 of that city situated in the San Fernando Valley statistical
36 area, as described in subdivision (c) of Section 11093 of
37 the Government Code, may adopt an ordinance
38 establishing a five-year pilot program which implements
39 procedures for declaring any motor vehicle a public
40 nuisance when the vehicle is used in the commission of an



1 act in violation of Section 266h or 266i of the Penal Code
 2 or *paragraph (2) of subdivision (b) (a)* of Section 647 of
 3 that code, and there is a conviction of Section 266h or 266i
 4 of the Penal Code or *paragraph (2) of subdivision (b) (a)*
 5 of Section 647 of that code, or a provision involving any
 6 lesser included offense to which the defendant enters a
 7 plea of guilty or nolo contendere as part of a plea
 8 agreement subsequent to the defendant having been
 9 charged with a violation of Section 266h or 266i of the
 10 Penal Code or *paragraph (2) of subdivision (b) (a)* of
 11 Section 647 of that code.

12 (b) In addition to the authority provided by
 13 subdivision (h) of Section 22651, the ordinance may also
 14 include procedures to enjoin and abate the declared
 15 nuisance by ordering the defendant not to use the vehicle
 16 again for purposes of violating Section 266h or 266i of the
 17 Penal Code or *paragraph (2) of subdivision (b) (a)* of
 18 Section 647 of that code and authorizing the temporary
 19 impoundment of the vehicle that the court has declared
 20 a nuisance if the defendant violates the order. The
 21 impoundment shall not exceed 48 hours.

22 (c) The only action that may be taken to enjoin and
 23 abate the declared nuisance are those actions specified in
 24 subdivision (b).

25 (d) Any procedures implemented pursuant to this
 26 section shall ensure that no vehicle shall be declared a
 27 nuisance if the vehicle is stolen, unless it is not possible to
 28 reasonably ascertain the identity of any owner of the
 29 vehicle.

30 (e) This section shall remain in effect only until
 31 January 1, 1999, and as of that date is repealed, unless a
 32 later enacted statute, which is enacted before January 1,
 33 1999, deletes or extends that date.

34 SEC. 15. No reimbursement is required by this act
 35 pursuant to Section 6 of Article XIII B of the California
 36 Constitution because the only costs that may be incurred
 37 by a local agency or school district will be incurred
 38 because this act creates a new crime or infraction,
 39 eliminates a crime or infraction, or changes the penalty
 40 for a crime or infraction, within the meaning of Section



1 17556 of the Government Code, or changes the definition
2 of a crime within the meaning of Section 6 of Article
3 XIII B of the California Constitution.

4 Notwithstanding Section 17580 of the Government
5 Code, unless otherwise specified, the provisions of this act
6 shall become operative on the same date that the act
7 takes effect pursuant to the California Constitution.

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