

AMENDED IN ASSEMBLY JANUARY 4, 2006

AMENDED IN ASSEMBLY MAY 3, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 50**

**Introduced by Assembly Member Leno**

December 6, 2004

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~~An act to amend Sections 667 and 1170.12 of, and to add Section 1170.05 to, the Penal Code, relating to sentencing. An act to amend Sections 209, 272, 288, 311.2, 311.4, 311.9, 626.8, 667.61, 3000, 3001, and 3005 of, and to add Sections 626.75, 3006, 3053.6, 3053.7, 3072, and 13887.5 to, the Penal Code, relating to crimes and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 50, as amended, Leno. ~~Crimes—Sex offenders.~~

~~Existing law, including 2 initiatives, requires that if a defendant has been convicted of a felony and it has been pled and proved that the defendant has one or more prior serious or violent felony convictions, as defined, then the court must adhere to specified sentence enhancements to be served consecutively and follow other specified sentencing restrictions. Upon a 2nd felony conviction, a defendant shall be punished for twice the term, as specified, and upon a 3rd felony conviction shall be punished for 25 years to life. The initiatives provide that their provisions may be amended by a 2/3 vote of each house of the Legislature.~~

~~This bill would prevent a defendant with 2 prior qualifying serious or violent felony convictions whose current offense is neither a serious or violent felony as defined, from receiving a Third Strike sentence of 25 years to life unless the current offense is a specified controlled~~

~~substance offense, a felony sex offense, as specified, or possession of a firearm or deadly weapon. By imposing additional duties on prosecutors, the bill would impose a state-mandated local program.~~

~~This bill would also permit a defendant who meets specified criteria, and who was previously sentenced to at least 25 years to life, to make a motion for resentencing in accordance with these provisions.~~

*Under existing law, the punishment for a person who kidnaps an individual in order to commit robbery, rape, oral copulation, sodomy, or sexual penetration is imprisonment for life with the possibility of parole.*

*This bill would add kidnaping in order to commit lewd and lascivious acts to that provision.*

*Under existing law, an adult who knowingly persuades, lures, or transports a minor who is 12 years of age or younger away from the minor's home or other location without the express consent of the minor's parent or legal guardian is guilty of an infraction or misdemeanor.*

*This bill would increase the punishment for that crime to a misdemeanor or felony if the person has a previous conviction for certain sex offenses.*

*Under existing law, the punishment for lewd and lascivious acts with a minor or upon a dependent person by a caretaker by force, violence, duress, menace or fear, is 3, 6, or 8 years.*

*This bill would increase that punishment to 3, 6, or 10 years.*

*Under existing law, a person who possesses, prepares, publishes, produces, develops, duplicates, or prints any data or image with the intent to distribute, exhibit, or exchange the data or image with a person 18 years of age or older, knowing the data or image depicts a person under 18 years of age personally engaging in or personally simulating sexual conduct is guilty of a misdemeanor.*

*This bill would increase the punishment for that crime to a misdemeanor or felony.*

*Under existing law, a person who uses a minor to assist in the distribution of child pornography is guilty of a misdemeanor upon a first offense.*

*This bill would increase the punishment for the first conviction of that crime to a misdemeanor or felony.*

*Under existing law, a person who enters school grounds or remains upon any public way adjacent to a school who does not have lawful business at the school and whose presence disrupts the school or*

*pupils therein, is guilty of a misdemeanor if he or she has previously been asked to leave the school or otherwise has established a pattern of unauthorized activity, is guilty of a misdemeanor.*

*This bill would make it a misdemeanor for any person who is required to register as a sex offender who has been convicted of specified sex offenses from being present on any school property, as specified.*

*Under existing law, the parole period for an inmate sentenced for committing lewd and lascivious acts on a child or continuous sexual abuse of a child is no more than 5 years.*

*This bill would increase the possible parole period for a person convicted of either of those crimes to 10 years, but would require the person to be discharged from parole after 6 years, except under certain circumstances.*

*Under existing law, the Department of Corrections and Rehabilitation is required to develop a plan, subject to the appropriation of funds therefor, for the implementation of relapse prevention treatment programs and services for high-risk sex offenders.*

*This bill would require the department to study the effects of this plan on the recidivism rates of those parolees, and to report to the Legislature thereon.*

*The bill would authorize the department to establish and operate a specialized sex offender treatment programs for inmates and parolees whom the department deems pose a high risk to the public of committing violent sex crimes. The bill would impose certain conditions of parole on sex offenders.*

*Existing law authorizes counties to establish sexual assault felony enforcement (SAFE) teams.*

*This bill would appropriate \$20,000,000 from the General Fund to the Controller for distribution to regional SAFE team programs, in accordance with the proportionate share of sex offender registrants residing within any given jurisdiction. Local agencies would have to submit a report to the Department of Finance as a condition of the receipt of funds.*

*Because the bill would increase penalties for some crimes and create new crimes, the bill would impose a state-mandated local program.*

*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:  $\frac{2}{3}$ . Appropriation: ~~no~~yes. Fiscal committee: yes.  
 State-mandated local program: yes.

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

1     SECTION 1. Section 209 of the Penal Code is amended to  
 2     read:  
 3     209. (a) Any person who seizes, confines, inveigles, entices,  
 4     decoys, abducts, conceals, kidnaps or carries away another  
 5     person by any means ~~whatsoever~~ with intent to hold or detain, or  
 6     who holds or detains, that person for ransom, reward or to  
 7     commit extortion or to exact from another person any money or  
 8     valuable thing, or any person who aids or abets any ~~such act of~~  
 9     those acts, is guilty of a felony, ~~and upon~~. Upon conviction  
 10    thereof, a person shall be punished by imprisonment in the state  
 11    prison for life without possibility of parole ~~in cases in which any~~  
 12    person ~~subjected to any such act if a victim of any of those acts~~  
 13    suffers death or bodily harm; or is intentionally confined in a  
 14    manner which exposes that person to a substantial likelihood of  
 15    death, or shall be punished by imprisonment in the state prison  
 16    for life with the possibility of parole ~~in cases where no such~~  
 17    person ~~suffers if the victim does not suffer~~ death or bodily harm.  
 18    (b) (1) Any person who kidnaps or carries away any  
 19    individual to commit robbery, rape, spousal rape, oral copulation,  
 20    sodomy, or ~~sexual penetration in violation of Section any~~  
 21    violation of Section 288 or 289, shall be punished by  
 22    imprisonment in the state prison for life with *the* possibility of  
 23    parole.  
 24    (2) This subdivision shall only apply if the movement of the  
 25    victim is beyond that merely incidental to the commission of, and  
 26    increases the risk of harm to the victim over and above that  
 27    necessarily present in, the intended underlying offense.  
 28    (c) In all cases in which probation is granted, the court shall,  
 29    except in unusual cases where the interests of justice would best  
 30    be served by a lesser penalty, require as a condition of the  
 31    probation that the person be confined in the county jail for 12

1 months. If the court grants probation without requiring the  
2 defendant to be confined in the county jail for 12 months, it shall  
3 specify its reason or reasons for imposing a lesser penalty.

4 (d) Subdivision (b) shall not be construed to supersede or  
5 affect Section 667.61. A person may be charged with a violation  
6 of subdivision (b) and Section 667.61. However, a person may  
7 not be punished under subdivision (b) and Section 667.61 for the  
8 same act that constitutes a violation of both subdivision (b) and  
9 Section 667.61.

10 *SEC. 2. Section 272 of the Penal Code, as amended by*  
11 *Chapter 461 of the Statutes of 2005, is amended to read:*

12 272. (a) (1) Every person who commits any act or omits the  
13 performance of any duty, which act or omission causes or tends  
14 to cause or encourage any person under the age of 18 years to  
15 come within the provisions of Section 300, 601, or 602 of the  
16 Welfare and Institutions Code or which act or omission  
17 contributes thereto, or any person who, by any act or omission, or  
18 by threats, commands, or persuasion, induces or endeavors to  
19 induce any person under the age of 18 years or any ward or  
20 dependent child of the juvenile court to fail or refuse to conform  
21 to a lawful order of the juvenile court, or to do or to perform any  
22 act or to follow any course of conduct or to so live as would  
23 cause or manifestly tend to cause that person to become or to  
24 remain a person within the provisions of Section 300, 601, or 602  
25 of the Welfare and Institutions Code, is guilty of a misdemeanor  
26 ~~and upon~~. Upon conviction thereof, *that person* shall be punished  
27 by a fine not exceeding two thousand five hundred dollars  
28 (\$2,500), or by imprisonment in the county jail for not more than  
29 one year, or by both fine and imprisonment in a county jail, or  
30 may be released on probation for a period not exceeding five  
31 years.

32 (2) For purposes of this subdivision, a parent or legal guardian  
33 to any person under the age of 18 years shall have the duty to  
34 exercise reasonable care, supervision, protection, and control  
35 over their minor child.

36 (b) (1) An adult stranger who is 21 years of age or older, who  
37 knowingly contacts or communicates with a minor who is under  
38 14 years of age, who knew or reasonably should have known that  
39 the minor is under 14 years of age, for the purpose of persuading  
40 and luring, or transporting, or attempting to persuade and lure, or

1 transport, that minor away from the minor’s home or from any  
2 location known by the minor’s parent, legal guardian, or  
3 custodian, to be a place where the minor is located, for any  
4 purpose, without the express consent of the minor’s parent or  
5 legal guardian, and with the intent to avoid the consent of the  
6 minor’s parent or legal guardian, is guilty of an infraction or a  
7 misdemeanor, subject to subdivision (d) of Section 17.

8 (2) *Any person convicted of violating this subdivision who has*  
9 *a previous conviction for a violation of Section 288 or 288.5*  
10 *shall be punished by imprisonment in a county jail for a period*  
11 *not to exceed one year, or in the state prison for 16 months, or*  
12 *two or three years.*

13 (3) This subdivision shall not apply in an emergency situation.

14 ~~(3)~~

15 (4) As used in this subdivision, the following terms ~~are~~  
16 ~~defined to mean~~ *apply*:

17 (A) “Emergency situation” means a situation where the minor  
18 is threatened with imminent bodily harm, emotional harm, or  
19 psychological harm.

20 (B) “Contact” or “communication” includes, but is not limited  
21 to, the use of a telephone or the Internet, as defined in Section  
22 17538 of the Business and Professions Code.

23 (C) “Stranger” means a person of casual acquaintance with  
24 whom no substantial relationship exists, or an individual with  
25 whom a relationship has been established or promoted for the  
26 primary purpose of victimization, as defined in subdivision (e) of  
27 Section 6600 of the Welfare and Institutions Code.

28 (D) “Express consent” means oral or written permission that is  
29 positive, direct, and unequivocal, requiring no inference or  
30 implication to supply its meaning.

31 ~~(4)~~

32 (5) This section shall not be interpreted to criminalize acts of  
33 persons contacting minors within the scope and course of their  
34 employment, or status as a volunteer of a recognized civic or  
35 charitable organization.

36 ~~(5)~~

37 (6) This section is intended to protect minors and to help  
38 parents and legal guardians exercise reasonable care, supervision,  
39 protection, and control over minor children.

40 *SEC. 3. Section 288 of the Penal Code is amended to read:*

1 288. (a) Any person who willfully and lewdly commits any  
2 lewd or lascivious act, including any of the acts constituting other  
3 crimes provided for in Part 1, upon or with the body, or any part  
4 or member thereof, of a child who is under the age of 14 years,  
5 with the intent of arousing, appealing to, or gratifying the lust,  
6 passions, or sexual desires of that person or the child, is guilty of  
7 a felony and shall be punished by imprisonment in the state  
8 prison for three, six, or eight years.

9 (b) (1) Any person who commits an act described in  
10 subdivision (a) by use of force, violence, duress, menace, or fear  
11 of immediate and unlawful bodily injury on the victim or another  
12 person, is guilty of a felony and shall be punished by  
13 imprisonment in the state prison for three, six, or ~~eight~~ 10 years.

14 (2) Any person who is a caretaker and commits an act  
15 described in subdivision (a) upon a dependent person by use of  
16 force, violence, duress, menace, or fear of immediate and  
17 unlawful bodily injury on the victim or another person, with the  
18 intent described in subdivision (a), is guilty of a felony and shall  
19 be punished by imprisonment in the state prison for three, six, or  
20 ~~eight~~ 10 years.

21 (c) (1) Any person who commits an act described in  
22 subdivision (a) with the intent described in that subdivision, and  
23 the victim is a child of 14 or 15 years, and that person is at least  
24 10 years older than the child, is guilty of a public offense and  
25 shall be punished by imprisonment in the state prison for one,  
26 two, or three years, or by imprisonment in a county jail for not  
27 more than one year. In determining whether the person is at least  
28 10 years older than the child, the difference in age shall be  
29 measured from the birth date of the person to the birth date of the  
30 child.

31 (2) Any person who is a caretaker and commits an act  
32 described in subdivision (a) upon a dependent person, with the  
33 intent described in subdivision (a), is guilty of a public offense  
34 and shall be punished by imprisonment in the state prison for  
35 one, two, or three years, or by imprisonment in a county jail for  
36 not more than one year.

37 (d) In any arrest or prosecution under this section or Section  
38 288.5, the peace officer, district attorney, and the court shall  
39 consider the needs of the child victim or dependent person and  
40 shall do whatever is necessary, within existing budgetary

1 resources, and constitutionally permissible to prevent  
2 psychological harm to the child victim or to prevent  
3 psychological harm to the dependent person victim resulting  
4 from participation in the court process.

5 (e) Upon the conviction of any person for a violation of  
6 subdivision (a) or (b), the court may, in addition to any other  
7 penalty or fine imposed, order the defendant to pay an additional  
8 fine not to exceed ten thousand dollars (\$10,000). In setting the  
9 amount of the fine, the court shall consider any relevant factors,  
10 including, but not limited to, the seriousness and gravity of the  
11 offense, the circumstances of its commission, whether the  
12 defendant derived any economic gain as a result of the crime, and  
13 the extent to which the victim suffered economic losses as a  
14 result of the crime. Every fine imposed and collected under this  
15 section shall be deposited in the Victim-Witness Assistance Fund  
16 to be available for appropriation to fund child sexual exploitation  
17 and child sexual abuse victim counseling centers and prevention  
18 programs pursuant to Section 13837.

19 If the court orders a fine imposed pursuant to this subdivision,  
20 the actual administrative cost of collecting that fine, not to  
21 exceed 2 percent of the total amount paid, may be paid into the  
22 general fund of the county treasury for the use and benefit of the  
23 county.

24 (f) For purposes of paragraph (2) of subdivision (b) and  
25 paragraph (2) of subdivision (c), the following definitions apply:

26 (1) "Caretaker" means an owner, operator, administrator,  
27 employee, independent contractor, agent, or volunteer of any of  
28 the following public or private facilities when the facilities  
29 provide care for elder or dependent persons:

30 (A) Twenty-four hour health facilities, as defined in Sections  
31 1250, 1250.2, and 1250.3 of the Health and Safety Code.

32 (B) Clinics.

33 (C) Home health agencies.

34 (D) Adult day health care centers.

35 (E) Secondary schools that serve dependent persons and  
36 postsecondary educational institutions that serve dependent  
37 persons or elders.

38 (F) Sheltered workshops.

39 (G) Camps.

1 (H) Community care facilities, as defined by Section 1402 of  
2 the Health and Safety Code, and residential care facilities for the  
3 elderly, as defined in Section 1569.2 of the Health and Safety  
4 Code.

5 (I) Respite care facilities.

6 (J) Foster homes.

7 (K) Regional centers for persons with developmental  
8 disabilities.

9 (L) A home health agency licensed in accordance with  
10 Chapter 8 (commencing with Section 1725) of Division 2 of the  
11 Health and Safety Code.

12 (M) An agency that supplies in-home supportive services.

13 (N) Board and care facilities.

14 (O) Any other protective or public assistance agency that  
15 provides health services or social services to elder or dependent  
16 persons, including, but not limited to, in-home supportive  
17 services, as defined in Section 14005.14 of the Welfare and  
18 Institutions Code.

19 (P) Private residences.

20 (2) “Board and care facilities” means licensed or unlicensed  
21 facilities that provide assistance with one or more of the  
22 following activities:

23 (A) Bathing.

24 (B) Dressing.

25 (C) Grooming.

26 (D) Medication storage.

27 (E) Medical dispensation.

28 (F) Money management.

29 (3) “Dependent person” means any person who has a physical  
30 or mental impairment that substantially restricts his or her ability  
31 to carry out normal activities or to protect his or her rights,  
32 including, but not limited to, persons who have physical or  
33 developmental disabilities or whose physical or mental abilities  
34 have significantly diminished because of age. “Dependent  
35 person” includes any person who is admitted as an inpatient to a  
36 24-hour health facility, as defined in Sections 1250, 1250.2, and  
37 1250.3 of the Health and Safety Code.

38 (g) Paragraph (2) of subdivision (b) and paragraph (2) of  
39 subdivision (c) apply to the owners, operators, administrators,  
40 employees, independent contractors, agents, or volunteers

1 working at these public or private facilities and only to the extent  
2 that the individuals personally commit, conspire, aid, abet, or  
3 facilitate any act prohibited by paragraph (2) of subdivision (b)  
4 and paragraph (2) of subdivision (c).

5 (h) Paragraph (2) of subdivision (b) and paragraph (2) of  
6 subdivision (c) do not apply to a caretaker who is a spouse of, or  
7 who is in an equivalent domestic relationship with, the dependent  
8 person under care.

9 *SEC. 4. Section 311.2 of the Penal Code is amended to read:*

10 311.2. (a) Every person who knowingly sends or causes to be  
11 sent, or brings or causes to be brought, into this state for sale or  
12 distribution, or in this state possesses, prepares, publishes,  
13 produces, or prints, with intent to distribute or to exhibit to  
14 others, or who offers to distribute, distributes, or exhibits to  
15 others, any obscene matter is for a first offense, guilty of a  
16 misdemeanor. If the person has previously been convicted of any  
17 violation of this section, the court may, in addition to the  
18 punishment authorized in Section 311.9, impose a fine not  
19 exceeding fifty thousand dollars (\$50,000).

20 (b) Every person who knowingly sends or causes to be sent, or  
21 brings or causes to be brought, into this state for sale or  
22 distribution, or in this state possesses, prepares, publishes,  
23 produces, develops, duplicates, or prints any representation of  
24 information, data, or image, including, but not limited to, any  
25 film, filmstrip, photograph, negative, slide, photocopy, videotape,  
26 video laser disc, computer hardware, computer software,  
27 computer floppy disc, data storage media, CD-ROM, or  
28 computer-generated equipment or any other computer-generated  
29 image that contains or incorporates in any manner, any film or  
30 filmstrip, with intent to distribute or to exhibit to, or to exchange  
31 with, others for commercial consideration, or who offers to  
32 distribute, distributes, or exhibits to, or exchanges with, others  
33 for commercial consideration, any obscene matter, knowing that  
34 the matter depicts a person under the age of 18 years personally  
35 engaging in or personally simulating sexual conduct, as defined  
36 in Section 311.4, is guilty of a felony and shall be punished by  
37 imprisonment in the state prison for two, three, or six years, or by  
38 a fine not exceeding one hundred thousand dollars (\$100,000), in  
39 the absence of a finding that the defendant would be incapable of  
40 paying such a fine, or by both that fine and imprisonment.

1 (c) Every person who knowingly sends or causes to be sent, or  
2 brings or causes to be brought, into this state for sale or  
3 distribution, or in this state possesses, prepares, publishes,  
4 produces, develops, duplicates, or prints any representation of  
5 information, data, or image, including, but not limited to, any  
6 film, filmstrip, photograph, negative, slide, photocopy, videotape,  
7 video laser disc, computer hardware, computer software,  
8 computer floppy disc, data storage media, CD-ROM, or  
9 computer-generated equipment or any other computer-generated  
10 image that contains or incorporates in any manner, any film or  
11 filmstrip, with intent to distribute or exhibit to, or to exchange  
12 with, a person 18 years of age or older, or who offers to  
13 distribute, distributes, or exhibits to, or exchanges with, a person  
14 18 years of age or older any matter, knowing that the matter  
15 depicts a person under the age of 18 years personally engaging in  
16 or personally simulating sexual conduct, as defined in Section  
17 311.4, ~~is guilty of a misdemeanor and~~ shall be punished by  
18 imprisonment in the county jail for up to one year, or by a fine  
19 not exceeding two thousand dollars (\$2,000), or by both that fine  
20 and imprisonment, *or by imprisonment in the state prison*. It is  
21 not necessary to prove commercial consideration or that the  
22 matter is obscene in order to establish a violation of this  
23 subdivision. If a person has been previously convicted of a  
24 violation of this subdivision, he or she is guilty of a felony.

25 (d) Every person who knowingly sends or causes to be sent, or  
26 brings or causes to be brought, into this state for sale or  
27 distribution, or in this state possesses, prepares, publishes,  
28 produces, develops, duplicates, or prints any representation of  
29 information, data, or image, including, but not limited to, any  
30 film, filmstrip, photograph, negative, slide, photocopy, videotape,  
31 video laser disc, computer hardware, computer software,  
32 computer floppy disc, data storage media, CD-ROM, or  
33 computer-generated equipment or any other computer-generated  
34 image that contains or incorporates in any manner, any film or  
35 filmstrip, with intent to distribute or exhibit to, or to exchange  
36 with, a person under 18 years of age, or who offers to distribute,  
37 distributes, or exhibits to, or exchanges with, a person under 18  
38 years of age any matter, knowing that the matter depicts a person  
39 under the age of 18 years personally engaging in or personally  
40 simulating sexual conduct, as defined in Section 311.4, is guilty

1 of a felony. It is not necessary to prove commercial consideration  
2 or that the matter is obscene in order to establish a violation of  
3 this subdivision.

4 (e) Subdivisions (a) to (d), inclusive, do not apply to the  
5 activities of law enforcement and prosecuting agencies in the  
6 investigation and prosecution of criminal offenses, to legitimate  
7 medical, scientific, or educational activities, or to lawful conduct  
8 between spouses.

9 (f) This section does not apply to matter that depicts a legally  
10 emancipated child under the age of 18 years or to lawful conduct  
11 between spouses when one or both are under the age of 18 years.

12 (g) It does not constitute a violation of this section for a  
13 telephone corporation, as defined by Section 234 of the Public  
14 Utilities Code, to carry or transmit messages described in this  
15 chapter or to perform related activities in providing telephone  
16 services.

17 *SEC. 5. Section 311.4 of the Penal Code is amended to read:*

18 311.4. (a) Every person who, with knowledge that a person is  
19 a minor, or who, while in possession of any facts on the basis of  
20 which he or she should reasonably know that the person is a  
21 minor, hires, employs, or uses the minor to do or assist in doing  
22 any of the acts described in Section 311.2, ~~is, for a first offense,~~  
23 ~~guilty of a misdemeanor~~ *shall be punished by imprisonment in*  
24 *the county jail for up to one year, or by a fine not exceeding one*  
25 *thousand dollars (\$1000), or by both that fine and imprisonment,*  
26 *or by imprisonment in the state prison.* If the person has  
27 previously been convicted of any violation of this section, the  
28 court may, in addition to the punishment authorized in Section  
29 311.9, impose a fine not exceeding fifty thousand dollars  
30 (\$50,000).

31 (b) Every person who, with knowledge that a person is a minor  
32 under the age of 18 years, or who, while in possession of any  
33 facts on the basis of which he or she should reasonably know that  
34 the person is a minor under the age of 18 years, knowingly  
35 promotes, employs, uses, persuades, induces, or coerces a minor  
36 under the age of 18 years, or any parent or guardian of a minor  
37 under the age of 18 years under his or her control who knowingly  
38 permits the minor, to engage in or assist others to engage in  
39 either posing or modeling alone or with others for purposes of  
40 preparing any representation of information, data, or image,

1 including, but not limited to, any film, filmstrip, photograph,  
2 negative, slide, photocopy, videotape, video laser disc, computer  
3 hardware, computer software, computer floppy disc, data storage  
4 media, CD-ROM, or computer-generated equipment or any other  
5 computer-generated image that contains or incorporates in any  
6 manner, any film, filmstrip, or a live performance involving,  
7 sexual conduct by a minor under the age of 18 years alone or  
8 with other persons or animals, for commercial purposes, is guilty  
9 of a felony and shall be punished by imprisonment in the state  
10 prison for three, six, or eight years.

11 (c) Every person who, with knowledge that a person is a minor  
12 under the age of 18 years, or who, while in possession of any  
13 facts on the basis of which he or she should reasonably know that  
14 the person is a minor under the age of 18 years, knowingly  
15 promotes, employs, uses, persuades, induces, or coerces a minor  
16 under the age of 18 years, or any parent or guardian of a minor  
17 under the age of 18 years under his or her control who knowingly  
18 permits the minor, to engage in or assist others to engage in  
19 either posing or modeling alone or with others for purposes of  
20 preparing any representation of information, data, or image,  
21 including, but not limited to, any film, filmstrip, photograph,  
22 negative, slide, photocopy, videotape, video laser disc, computer  
23 hardware, computer software, computer floppy disc, data storage  
24 media, CD-ROM, or computer-generated equipment or any other  
25 computer-generated image that contains or incorporates in any  
26 manner, any film, filmstrip, or a live performance involving,  
27 sexual conduct by a minor under the age of 18 years alone or  
28 with other persons or animals, is guilty of a felony. It is not  
29 necessary to prove commercial purposes in order to establish a  
30 violation of this subdivision.

31 (d) (1) As used in subdivisions (b) and (c), “sexual conduct”  
32 means any of the following, whether actual or simulated: sexual  
33 intercourse, oral copulation, anal intercourse, anal oral  
34 copulation, masturbation, bestiality, sexual sadism, sexual  
35 masochism, penetration of the vagina or rectum by any object in  
36 a lewd or lascivious manner, exhibition of the genitals or pubic  
37 or rectal area for the purpose of sexual stimulation of the viewer,  
38 any lewd or lascivious sexual act as defined in Section 288, or  
39 excretory functions performed in a lewd or lascivious manner,  
40 whether or not any of the above conduct is performed alone or

1 between members of the same or opposite sex or between  
2 humans and animals. An act is simulated when it gives the  
3 appearance of being sexual conduct.

4 (2) As used in subdivisions (b) and (c), “matter” means any  
5 film, filmstrip, photograph, negative, slide, photocopy, videotape,  
6 video laser disc, computer hardware, computer software,  
7 computer floppy disc, or any other computer-related equipment  
8 or computer-generated image that contains or incorporates in any  
9 manner, any film, filmstrip, photograph, negative, slide,  
10 photocopy, videotape, or video laser disc.

11 (e) This section does not apply to a legally emancipated minor  
12 or to lawful conduct between spouses if one or both are under the  
13 age of 18.

14 (f) In every prosecution under this section involving a minor  
15 under the age of 14 years at the time of the offense, the age of the  
16 victim shall be pled and proven for the purpose of the enhanced  
17 penalty provided in Section 647.6. Failure to plead and prove that  
18 the victim was under the age of 14 years at the time of the  
19 offense is not a bar to prosecution under this section if it is  
20 proven that the victim was under the age of 18 years at the time  
21 of the offense.

22 *SEC. 6. Section 311.9 of the Penal Code is amended to read:*

23 311.9. (a) Every person who violates Section 311.2 or 311.5,  
24 except subdivision (b) of Section 311.2, is punishable by fine of  
25 not more than one thousand dollars (\$1,000) plus five dollars  
26 (\$5) for each additional unit of material coming within the  
27 provisions of this chapter, which is involved in the offense, not to  
28 exceed ten thousand dollars (\$10,000), or by imprisonment in the  
29 county jail for not more than six months plus one day for each  
30 additional unit of material coming within the provisions of this  
31 chapter, and which is involved in the offense, such basic  
32 maximum and additional days not to exceed 360 days in the  
33 county jail, or by both such fine and imprisonment. ~~If such the~~  
34 person has previously been convicted of any offense in this  
35 chapter, or of a violation of Section 313.1, a violation of Section  
36 311.2 or 311.5, except subdivision (b) of Section 311.2, is  
37 punishable as a felony.

38 (b) Every person who violates Section 311.4 is punishable by  
39 fine of not more than two thousand dollars (\$2,000) or by  
40 imprisonment in the county jail for not more than one year, or by

1 both such fine and ~~such~~ imprisonment, *or by imprisonment in the*  
2 *state prison.* If ~~such~~ the person has been previously convicted of  
3 a violation of former Section 311.3 or Section 311.4 he is  
4 punishable by imprisonment in the state prison.

5 (c) Every person who violates Section 311.7 is punishable by  
6 fine of not more than one thousand dollars (\$1,000) or by  
7 imprisonment in the county jail for not more than six months, or  
8 by both such fine and imprisonment. For a second and  
9 subsequent offense he shall be punished by a fine of not more  
10 than two thousand dollars (\$2,000), or by imprisonment in the  
11 county jail for not more than one year, or by both ~~such~~ that fine  
12 and imprisonment. If ~~such~~ the person has been twice convicted of  
13 a violation of this chapter, a violation of Section 311.7 is  
14 punishable as a felony.

15 *SEC. 7. Section 626.75 is added to the Penal Code, to read:*

16 626.75. (a) *It is unlawful for any person who is required to*  
17 *register pursuant to Section 290, who has been convicted of a*  
18 *violation of Section 220, 261, 266, 267, 272, 288, or 289, or of*  
19 *subdivision (c), (d), or (f) of Section 286, or of subdivision (c),*  
20 *(d), or (f) of Section 288a, or of an attempt to commit a violation*  
21 *of any of those sections, to knowingly be present in any school*  
22 *building, on real property comprising any public or private*  
23 *elementary, vocational, junior high, or high school during hours*  
24 *that the school is open for classes or school-related programs,*  
25 *unless that person is a parent or guardian of a child attending*  
26 *that school, or is a student at the school or has prior written*  
27 *permission for entry from the chief administrative officer of that*  
28 *school. A violation of this provision shall be punishable as a*  
29 *misdemeanor.*

30 (b) *Nothing in this section shall be construed to infringe upon*  
31 *the constitutional right of such a person to be present in a school*  
32 *building that is used as a polling place for the purpose of voting.*

33 *SEC. 8. Section 626.8 of the Penal Code is amended to read:*

34 626.8. (a) Any person who comes into any school building or  
35 upon any school ground, or street, sidewalk, or public way  
36 adjacent thereto, without lawful business thereon, and whose  
37 presence or acts interfere with the peaceful conduct of the  
38 activities of the school or disrupt the school or its pupils or  
39 school activities, ~~or any specified sex offender who comes into~~  
40 ~~any school building or upon any school ground, or street,~~

1 sidewalk, or public way adjacent thereto, unless the person is a  
2 parent or guardian of a child attending that school, or is a student  
3 at the school or has prior written permission for the entry from  
4 the chief administrative officer of that school, is guilty of a  
5 misdemeanor if he or she does any of the following:

6 (1) Remains there after being asked to leave by the chief  
7 administrative official of that school or his or her designated  
8 representative, or by a person employed as a member of a  
9 security or police department of a school district pursuant to  
10 Section 39670 of the Education Code, or a city police officer, or  
11 sheriff or deputy sheriff, or a Department of the California  
12 Highway Patrol peace officer.

13 (2) Reenters or comes upon that place within seven days of  
14 being asked to leave by a person specified in paragraph (1).

15 (3) Has otherwise established a continued pattern of  
16 unauthorized entry.

17 This section shall not be ~~utilized~~ *used* to impinge upon the  
18 lawful exercise of constitutionally protected rights of freedom of  
19 speech or assembly.

20 (b) Punishment for violation of this section shall be as follows:

21 (1) Upon a first conviction by a fine of not exceeding five  
22 hundred dollars (\$500), by imprisonment in the county jail for a  
23 period of not more than six months, or by both the fine and  
24 imprisonment.

25 (2) If the defendant has been previously convicted once of a  
26 violation of any offense defined in this chapter or Section 415.5,  
27 by imprisonment in the county jail for a period of not less than 10  
28 days or more than six months, or by both imprisonment and a  
29 fine of not exceeding five hundred dollars (\$500), and shall not  
30 be released on probation, parole, or any other basis until he or  
31 she has served not less than 10 days.

32 (3) If the defendant has been previously convicted two or more  
33 times of a violation of any offense defined in this chapter or  
34 Section 415.5, by imprisonment in the county jail for a period of  
35 not less than 90 days or more than six months, or by both  
36 imprisonment and a fine of not exceeding five hundred dollars  
37 (\$500), and shall not be released on probation, parole, or any  
38 other basis until he or she has served not less than 90 days.

39 (c) As used in this section, the following definitions ~~govern~~  
40 ~~the meaning of the following words and phrases~~ *apply*:

1     ~~(1) “Specified sex offender” means any person required to~~  
2 ~~register pursuant to Section 290, who has been convicted of a~~  
3 ~~violation of Section 220, 261, 266, 267, 272, 288, or 289, or of~~  
4 ~~subdivision (e), (d), or (f) of Section 286, or of subdivision (e),~~  
5 ~~(d), or (f) of Section 288a, or of an attempt to commit any of~~  
6 ~~these offenses.~~

7     ~~(2) “Lawful business” means a reason for being present upon~~  
8 ~~school property which is not otherwise prohibited by statute, by~~  
9 ~~ordinance, or by any regulation adopted pursuant to statute or~~  
10 ~~ordinance.~~

11     ~~(3)~~

12     (2) “Continued pattern of unauthorized entry” means that on at  
13 least two prior occasions in the same school year the defendant  
14 came into any school building or upon any school ground, or  
15 street, sidewalk, or public way adjacent thereto, without lawful  
16 business thereon, and his or her presence or acts interfered with  
17 the peaceful conduct of the activities of the school or disrupted  
18 the school or its pupils or school activities, and the defendant was  
19 asked to leave by a person specified in paragraph (1) of  
20 subdivision (a).

21     ~~(4) In the case of a specified sex offender, “continued pattern~~  
22 ~~of unauthorized entry” means that on at least two prior occasions~~  
23 ~~in the same school year the defendant came into any school~~  
24 ~~building or upon any school ground, or street, sidewalk, or public~~  
25 ~~way adjacent thereto, and the defendant was asked to leave by a~~  
26 ~~person specified in paragraph (1) of subdivision (a).~~

27     ~~(5)~~

28     (3) “School” means any preschool or school having any of  
29 grades kindergarten through 12.

30     (d) When a person is directed to leave pursuant to paragraph  
31 (1) of subdivision (a), the person directing him or her to leave  
32 shall inform the person that if he or she reenters the place within  
33 seven days he or she will be guilty of a crime.

34     *SEC. 9. Section 667.61 of the Penal Code is amended to*  
35 *read:*

36     667.61. (a) A person who is convicted of an offense specified  
37 in subdivision (c) under one or more of the circumstances  
38 specified in subdivision (d) or under two or more of the  
39 circumstances specified in subdivision (e) shall be punished by  
40 imprisonment in the state prison for life and shall not be eligible

1 for release on parole for 25 years except as provided in  
2 subdivision (j).

3 (b) Except as provided in subdivision (a), a person who is  
4 convicted of an offense specified in subdivision (c) under one of  
5 the circumstances specified in subdivision (e) shall be punished  
6 by imprisonment in the state prison for life and shall not be  
7 eligible for release on parole for 15 years except as provided in  
8 subdivision (j).

9 (c) This section shall apply to any of the following offenses:

10 (1) A violation of paragraph (2) of subdivision (a) of Section  
11 261.

12 (2) A violation of paragraph (1) of subdivision (a) of Section  
13 262.

14 (3) A violation of Section 264.1.

15 (4) A violation of subdivision (b) of Section 288.

16 (5) A violation of subdivision (a) of Section 288.5.

17 (6) A violation of subdivision (a) of Section 289.

18 ~~(6)~~

19 (7) Sodomy or oral copulation in violation of Section 286 or  
20 288a by force, violence, duress, menace, or fear of immediate  
21 and unlawful bodily injury on the victim or another person.

22 ~~(7)~~

23 (8) A violation of subdivision (a) of Section 288, unless the  
24 defendant qualifies for probation under subdivision (c) of Section  
25 1203.066.

26 (d) The following circumstances shall apply to the offenses  
27 specified in subdivision (c):

28 (1) The defendant has been previously convicted of an offense  
29 specified in subdivision (c), including an offense committed in  
30 another jurisdiction that includes all of the elements of an offense  
31 specified in subdivision (c).

32 (2) The defendant kidnapped the victim of the present offense  
33 and the movement of the victim substantially increased the risk  
34 of harm to the victim over and above that level of risk necessarily  
35 inherent in the underlying offense in subdivision (c).

36 (3) The defendant inflicted aggravated mayhem or torture on  
37 the victim or another person in the commission of the present  
38 offense in violation of Section 205 or 206.

39 (4) The defendant committed the present offense during the  
40 commission of a burglary, as defined in subdivision (a) of

1 Section 460, with intent to commit an offense specified in  
2 subdivision (c).

3 (e) The following circumstances shall apply to the offenses  
4 specified in subdivision (c):

5 (1) Except as provided in paragraph (2) of subdivision (d), the  
6 defendant kidnapped the victim of the present offense in  
7 violation of Section 207, 209, or 209.5.

8 (2) Except as provided in paragraph (4) of subdivision (d), the  
9 defendant committed the present offense during the commission  
10 of a burglary, as defined in subdivision (a) of Section 460, or  
11 during the commission of a burglary of a building, including any  
12 commercial establishment, which was then closed to the public,  
13 in violation of Section 459.

14 (3) The defendant personally inflicted great bodily injury on  
15 the victim or another person in the commission of the present  
16 offense in violation of Section 12022.53, 12022.7, or 12022.8.

17 (4) The defendant personally used a dangerous or deadly  
18 weapon or firearm in the commission of the present offense in  
19 violation of Section 12022, 12022.3, 12022.5, or 12022.53.

20 (5) The defendant has been convicted in the present case or  
21 cases of committing an offense specified in subdivision (c)  
22 against more than one victim.

23 (6) The defendant engaged in the tying or binding of the  
24 victim or another person in the commission of the present  
25 offense.

26 (7) The defendant administered a controlled substance to the  
27 victim by force, violence, or fear in the commission of the  
28 present offense in violation of Section 12022.75.

29 (f) If only the minimum number of circumstances specified in  
30 subdivision (d) or (e) which are required for the punishment  
31 provided in subdivision (a) or (b) to apply have been pled and  
32 proved, that circumstance or those circumstances shall be used as  
33 the basis for imposing the term provided in subdivision (a) or (b)  
34 rather than being used to impose the punishment authorized  
35 under any other law, unless another law provides for a greater  
36 penalty. However, if any additional circumstance or  
37 circumstances specified in subdivision (d) or (e) have been pled  
38 and proved, the minimum number of circumstances shall be used  
39 as the basis for imposing the term provided in subdivision (a),  
40 and any other additional circumstance or circumstances shall be

1 used to impose any punishment or enhancement authorized under  
2 any other law. Notwithstanding any other law, the court shall not  
3 strike any of the circumstances specified in subdivision (d) or (e).

4 (g) The term specified in subdivision (a) or (b) shall be  
5 imposed on the defendant once for any offense or offenses  
6 committed against a single victim during a single occasion. If  
7 there are multiple victims during a single occasion, the term  
8 specified in subdivision (a) or (b) shall be imposed on the  
9 defendant once for each separate victim. Terms for other offenses  
10 committed during a single occasion shall be imposed as  
11 authorized under any other law, including Section 667.6, if  
12 applicable.

13 (h) Probation shall not be granted to, nor shall the execution or  
14 imposition of sentence be suspended for, any person who is  
15 subject to punishment under this section for any offense specified  
16 in paragraphs (1) to (6), inclusive, of subdivision (c).

17 (i) For the penalties provided in this section to apply, the  
18 existence of any fact required under subdivision (d) or (e) shall  
19 be alleged in the accusatory pleading and either admitted by the  
20 defendant in open court or found to be true by the trier of fact.

21 (j) Article 2.5 (commencing with Section 2930) of Chapter 7  
22 of Title 1 of Part 3 shall apply to reduce the minimum term of 25  
23 years in the state prison imposed pursuant to subdivision (a) or  
24 15 years in the state prison imposed pursuant to subdivision (b).  
25 However, in no case shall the minimum term of 25 or 15 years be  
26 reduced by more than 15 percent for credits granted pursuant to  
27 Section 2933, 4019, or any other law providing for conduct credit  
28 reduction. In no case shall any person who is punished under this  
29 section be released on parole prior to serving at least 85 percent  
30 of the minimum term of 25 or 15 years in the state prison.

31 *SEC. 10. Section 3000 of the Penal Code is amended to read:*

32 3000. (a) (1) The Legislature finds and declares that the  
33 period immediately following incarceration is critical to  
34 successful reintegration of the offender into society and to  
35 positive citizenship. It is in the interest of public safety for the  
36 state to provide for the supervision of and surveillance of  
37 parolees, including the judicious use of revocation actions, and to  
38 provide educational, vocational, family and personal counseling  
39 necessary to assist parolees in the transition between  
40 imprisonment and discharge. A sentence pursuant to Section

1 1168 or 1170 shall include a period of parole, unless waived, as  
2 provided in this section.

3 (2) The Legislature finds and declares that it is not the intent  
4 of this section to diminish resources allocated to the Department  
5 of Corrections *and Rehabilitation* for parole functions for which  
6 the department is responsible. It is also not the intent of this  
7 section to diminish the resources allocated to the Board of ~~Prison~~  
8 ~~Terms Parole Hearings~~ to execute its duties with respect to  
9 parole functions for which the board is responsible.

10 (3) The Legislature finds and declares that diligent effort must  
11 be made to ensure that parolees are held accountable for their  
12 criminal behavior, including, but not limited to, the satisfaction  
13 of restitution fines and orders.

14 (4) Any finding made pursuant to Article 4 (commencing with  
15 Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare  
16 and Institutions Code, that a person is a sexually violent predator  
17 shall not toll, discharge, or otherwise affect that person's period  
18 of parole.

19 (b) Notwithstanding any provision to the contrary in Article 3  
20 (commencing with Section 3040) of this chapter, the following  
21 shall apply:

22 (1) (A) At the expiration of a term of imprisonment of one  
23 year and one day, or a term of imprisonment imposed pursuant to  
24 Section 1170 or at the expiration of a term reduced pursuant to  
25 Section 2931 or 2933, if applicable, the inmate shall be released  
26 on parole for a period not exceeding three years, except that any  
27 inmate sentenced for an offense specified in paragraph (3), (4),  
28 (5), ~~(6)~~, (11), ~~(16)~~, or (18) of subdivision (c) of Section 667.5  
29 shall be released on parole for a period not exceeding five years,  
30 unless in either case the parole authority for good cause waives  
31 parole and discharges the inmate from the custody of the  
32 department.

33 (B) *Notwithstanding subparagraph (A), any inmate sentenced*  
34 *for an offense specified in paragraph (6) or (16) of subdivision*  
35 *(c) of Section 667.5 shall be released on parole for a period not*  
36 *exceeding 10 years, unless the parole authority for good cause*  
37 *waives parole and discharges the inmate from the custody of the*  
38 *department.*

39 (2) ~~In the case of any~~ For an inmate sentenced under Section  
40 1168, the period of parole shall not exceed five years in the case

1 of an inmate imprisoned for any offense other than first or second  
2 degree murder for which the inmate has received a life sentence,  
3 and shall not exceed three years in the case of any other inmate,  
4 unless in either case the parole authority for good cause waives  
5 parole and discharges the inmate from custody of the department.  
6 This subdivision shall also be applicable to inmates who  
7 committed crimes prior to July 1, 1977, to the extent specified in  
8 Section 1170.2.

9 (3) Notwithstanding paragraphs (1) and (2), ~~in the case of any~~  
10 *for an* offense for which the inmate has received a life sentence  
11 pursuant to Section 667.61 or 667.71, the period of parole shall  
12 be five years. Upon the request of the Department of Corrections  
13 *and Rehabilitation*, and on the grounds that the paroled inmate  
14 may pose a substantial danger to public safety, the Board of  
15 ~~Prison Terms Parole Hearings~~ shall conduct a hearing to  
16 determine if the parolee shall be subject to a single additional  
17 five-year period of parole. The board shall conduct the hearing  
18 pursuant to the procedures and standards governing parole  
19 revocation. The request for parole extension shall be made no  
20 less than 180 days prior to the expiration of the initial five-year  
21 period of parole.

22 (4) The parole authority shall consider the request of any  
23 inmate regarding the length of his or her parole and the  
24 conditions thereof.

25 (5) Upon successful completion of parole, or at the end of the  
26 maximum statutory period of parole specified for the inmate  
27 under paragraph (1), (2), or (3), as the case may be, whichever is  
28 earlier, the inmate shall be discharged from custody. The date of  
29 the maximum statutory period of parole under this subdivision  
30 and paragraphs (1), (2), and (3) shall be computed from the date  
31 of initial parole or from the date of extension of parole pursuant  
32 to paragraph (3) and shall be a period chronologically  
33 determined. Time during which parole is suspended because the  
34 ~~prisoner~~ *inmate* has absconded or has been returned to custody as  
35 a parole violator shall not be credited toward any period of parole  
36 unless the ~~prisoner~~ *inmate* is found not guilty of the parole  
37 violation. However, ~~in no case~~, except as provided in Section  
38 3064, ~~may a prisoner~~ *an inmate* subject to three years on parole  
39 *shall not* be retained under parole supervision or in custody for a  
40 period longer than four years from the date of his or her initial

1 parole, and, except as provided in Section 3064, ~~in no case may~~  
2 ~~a prisoner~~ *an inmate* subject to five years on parole *shall not* be  
3 retained under parole supervision or in custody for a period  
4 longer than seven years from the date of his or her initial parole  
5 or from the date of extension of parole pursuant to paragraph (3).

6 (6) The Department of Corrections *and Rehabilitation* shall  
7 meet with each inmate at least 30 days prior to his or her good  
8 time release date and shall provide, under guidelines specified by  
9 the parole authority, the conditions of parole and the length of  
10 parole up to the maximum period of time provided by law. The  
11 inmate has the right to reconsideration of the length of parole and  
12 conditions thereof by the parole authority. ~~The Department of~~  
13 ~~Corrections or the Board of Prison Terms~~ *department or the*  
14 *Board of Parole Hearings* may impose as a condition of parole  
15 that ~~a prisoner~~ *an inmate* make payments on the ~~prisoner's~~  
16 *inmate's* outstanding restitution fines or orders imposed pursuant  
17 to subdivision (a) or (c) of Section 13967 of the Government  
18 Code, as operative prior to September 28, 1994, or subdivision  
19 (b) or (f) of Section 1202.4.

20 (7) For purposes of this chapter, the Board of ~~Prison Terms~~  
21 *Parole Hearings* shall be considered the parole authority.

22 (8) The sole authority to issue warrants for the return to actual  
23 custody of any state prisoner released on parole rests with the  
24 Board of ~~Prison Terms~~ *Parole Hearings*, except for any escaped  
25 state ~~prisoner~~ *inmate* or any state ~~prisoner~~ *inmate* released prior  
26 to his or her scheduled release date who should be returned to  
27 custody, and Section 3060 shall apply.

28 (9) It is the intent of the Legislature that efforts be made with  
29 respect to persons who are subject to subparagraph (C) of  
30 paragraph (1) of subdivision (a) of Section 290 who are on parole  
31 to engage them in treatment.

32 *SEC. 11. Section 3001 of the Penal Code is amended to read:*

33 3001. (a) Notwithstanding any other provision of law, when  
34 any person referred to in paragraph (1) of subdivision (b) of  
35 Section 3000 who was not imprisoned for committing a violent  
36 felony, as defined in subdivision (c) of Section 667.5, has been  
37 released on parole from the state prison, and has been on parole  
38 continuously for one year since release from confinement, within  
39 30 days, that person shall be discharged from parole, unless the  
40 Department of Corrections *and Rehabilitation* recommends to the

1 Board of ~~Prison Terms~~ *Parole Hearings* that the person be  
2 retained on parole and the board, for good cause, determines that  
3 the person will be retained. Notwithstanding any other provision  
4 of law, when any person referred to in paragraph (1) of  
5 subdivision (b) of Section 3000 who was imprisoned for  
6 committing a violent felony, as defined in subdivision (c) of  
7 Section 667.5, has been released on parole from the state prison  
8 for a period not exceeding three years and has been on parole  
9 continuously for two years since release from confinement, or  
10 has been released on parole from the state prison for a period not  
11 exceeding five years and has been on parole continuously for  
12 three years since release from confinement, the department shall  
13 discharge, within 30 days, that person from parole, unless the  
14 department recommends to the board that the person be retained  
15 on parole and the board, for good cause, determines that the  
16 person will be retained. The board shall make a written record of  
17 its determination and the department shall transmit a copy thereof  
18 to the parolee.

19 (b) Notwithstanding any other provision of law, when any  
20 person referred to in paragraph (2) or (3) of subdivision (b) of  
21 Section 3000 has been released on parole from the state prison,  
22 and has been on parole continuously for three years since release  
23 from confinement or since extension of parole, the board shall  
24 discharge, within 30 days, the person from parole, unless the  
25 board, for good cause, determines that the person will be retained  
26 on parole. The board shall make a written record of its  
27 determination and the department shall transmit a copy thereof to  
28 the parolee.

29 (c) *Notwithstanding any other provision of law, when any*  
30 *person referred to in subparagraph (B) of paragraph (1) of*  
31 *subdivision (b) of Section 3000 has been released on parole from*  
32 *the state prison, and has been on parole continuously for six*  
33 *years since release from confinement, the board shall discharge,*  
34 *within 30 days, the person from parole, unless the board, for*  
35 *good cause, determines that the person will be retained on*  
36 *parole. The board shall make a written record of its*  
37 *determination and the department shall transmit a copy thereof*  
38 *to the parolee.*

1 (d) In the event of a retention on parole, the parolee shall be  
2 entitled to a review by the parole authority each year thereafter  
3 until the maximum statutory period of parole has expired.

4 ~~(d)~~

5 (e) The amendments to this section made during the 1987–88  
6 Regular Session of the Legislature shall only be applied  
7 prospectively and shall not extend the parole period for any  
8 person whose eligibility for discharge from parole was fixed as  
9 of the effective date of those amendments.

10 *SEC. 12. Section 3005 of the Penal Code, as amended by*  
11 *Chapter 55 of the Statutes of 2005, is amended to read:*

12 3005. (a) The Department of Corrections *and Rehabilitation*,  
13 to the maximum extent practicable and feasible, and subject to  
14 legislative appropriation of necessary funds, shall ensure, ~~by July~~  
15 ~~1, 2001~~, that all parolees under active supervision and deemed to  
16 pose a high risk to the public of committing violent sex crimes  
17 shall be placed on an intensive and specialized parole supervision  
18 caseload.

19 (b) ~~The Department of Corrections~~ *department* shall develop  
20 and, at the discretion of the director; and subject to an  
21 appropriation of the necessary funds, may implement a plan for  
22 the implementation of relapse prevention treatment programs;  
23 and the provision of other services deemed necessary by the  
24 department, in conjunction with intensive and specialized parole  
25 supervision, to reduce the recidivism of high-risk sex offenders.

26 (c) *The department shall study the effects of the specialized*  
27 *supervision caseload and of any plan implemented pursuant to*  
28 *this section on recidivism rates of parolees. The study should pay*  
29 *particular attention to the effectiveness of different treatment*  
30 *models. The study shall be a two-year analysis completed by*  
31 *January 1, 2009, with an initial report to the Legislature on or*  
32 *before January 1, 2010, and a final report on or before January*  
33 *1, 2012.*

34 *SEC. 13. Section 3006 is added to the Penal Code, to read:*

35 3006. (a) *The Department of Corrections and Rehabilitation,*  
36 *subject to the legislative appropriation of the necessary funds,*  
37 *may establish and operate, after January 1, 2007, a specialized*  
38 *sex offender treatment program for parolees the department*  
39 *deems to pose a high risk to the public of committing violent sex*  
40 *crimes.*

1 (b) (1) The program shall be based upon a relapse prevention  
2 model, targeted primarily for the same offenders receiving more  
3 intensive and specialized supervision under Section 3005, and  
4 shall include referral to specialized services such as substance  
5 abuse treatment, for offenders needing those specialized services.

6 (2) Parole agents may conduct group counseling sessions as  
7 part of the program.

8 (3) The department may include other appropriate offenders in  
9 the treatment program if doing so facilitates the effectiveness of  
10 the treatment program.

11 (c) Except as otherwise required under Section 645, the  
12 department may provide medication treatments for selected  
13 offenders as determined by medical protocols and only on a  
14 voluntary basis and with the offender's informed consent.

15 (d) The program shall be established with the assistance and  
16 supervision of the staff of the department primarily by obtaining  
17 the services of specially trained sex offender treatment providers.

18 SEC. 14. Section 3053.6 is added to the Penal Code, to read:

19 3053.6. A person who has been convicted of any offense that  
20 requires him or her to register as a sex offender pursuant to  
21 Section 290 shall have the following conditions of parole:

22 (a) No contact or communication with the victim or any of the  
23 victim's families without the prior written approval of the parole  
24 agent. This includes visiting or frequenting the place of their  
25 residence, work, or crime scene whether or not that person is  
26 present.

27 (b) No possession of cameras, video camera recorders, movie  
28 cameras, viewers, or any type of video or camera equipment  
29 without prior approval of the parole agent.

30 (c) No viewing of television shows, motion pictures, or video  
31 tapes that act as a stimulus to arouse.

32 (d) No viewing, purchase, access to, possession or use of any  
33 type of sexually stimulating, or sexually oriented material,  
34 including, but not limited to, pictures, magazines, video tapes or  
35 movies.

36 (e) No patronizing or frequenting of areas of sexual or  
37 pornographic activity, including, but not limited to, adult  
38 bookstores, massage parlors, topless bars, sex toy or novelties  
39 shops, or other similar places.

1 (f) No use of any “pay for call” telephone service that is  
2 specifically oriented to sexual discussion. The parolee shall  
3 agree to have a phone block installed on his or her residential  
4 phone to prevent those types of calls.

5 (g) Being fully and appropriately clothed at all times. This  
6 includes the wearing of undergarments and clothing in places  
7 where another person may be expected to view him or her.

8 (h) No possession of binding restraints, handcuffs or other  
9 similar devices.

10 SEC. 15. Section 3053.7 is added to the Penal Code, to read:

11 3053.7. (a) In addition to the conditions listed in Section  
12 3053.6, a person who has been convicted of a sex offense  
13 involving a minor shall have the following conditions of parole:

14 (1) The parolee shall not initiate, establish, or maintain  
15 contact with any minor without prior written permission from his  
16 or her parole agent. The offender may have no direct or indirect  
17 contact with any minor whether personally, by telephone,  
18 Internet, letter, or through another person. This includes any  
19 attempted contact with an adult when the offender is reasonably  
20 aware of the possibility that a minor is likely to be present, as  
21 well as my being in the immediate proximity of any minor.

22 (2) The parolee shall not reside in an apartment complex or  
23 other residential setting, or in neighborhoods with large  
24 numbers of children, nor reside in any neighborhood near a  
25 park, school or children’s playground area.

26 (3) The parolee shall not enter into the premises, nor loiter, or  
27 frequent places where minors congregate including, but not  
28 limited to, playgrounds, schools, video arcades and swimming  
29 pools, nor knowingly enter any area that is within 100 yards of  
30 the perimeter of any public or private school without the prior  
31 written permission of the parole agent.

32 (4) The parolee shall immediately notify the parole agent  
33 about any unintentional contact with any minor.

34 (5) The parolee shall not knowingly date, have a romantic  
35 interest in, sexual relationship or socialize with, any person who  
36 has physical custody of any minor without the prior written  
37 authorization of the parole agent.

38 (6) The parolee shall not possess children’s clothing, toys, or  
39 games, without the prior written approval of the parole agent.

1     **(b)** *These conditions do not apply to contact with the parolee's*  
2 *children unless the children were the victims of the parolee's*  
3 *crime.*

4     **(c)** *The parole authority may waive any of these requirements*  
5 *in the interests of justice, and shall document the reasons for*  
6 *doing so in the parolee's file.*

7     SEC. 16. *Section 3072 is added to the Penal Code, to read:*

8     3072. **(a)** *The Department of Corrections and Rehabilitation,*  
9 *subject to the legislative appropriation of the necessary funds,*  
10 *may establish and operate, after January 1, 2007, a specialized*  
11 *sex offender treatment pilot program for inmates the department*  
12 *deems to pose a high risk to the public of committing violent sex*  
13 *crimes.*

14     **(b)** **(1)** *The program shall be based upon the relapse*  
15 *prevention model and shall include referral to specialized*  
16 *services, such as substance abuse treatment, for offenders*  
17 *needing those specialized services.*

18     **(2)** *Except as otherwise required under Section 645, the*  
19 *department may provide medication treatments for selected*  
20 *offenders as determined by medical protocols and only on a*  
21 *voluntary basis and with the offender's informed consent.*

22     **(c)** **(1)** *The program shall be targeted primarily at adult sex*  
23 *offenders who meet the following conditions:*

24     **(A)** *The offender is within two years of being released on*  
25 *parole.*

26     **(B)** *The offender has been clinically assessed.*

27     **(C)** *A review of the offender's criminal history indicates that*  
28 *the offender poses a high risk of committing new sex offenses*  
29 *upon his or her release on parole.*

30     **(D)** *The offender, based on his or her clinical assessment, may*  
31 *be amenable to treatment.*

32     **(2)** *The department may include other appropriate offenders in*  
33 *the treatment program if doing so facilitates the effectiveness of*  
34 *the treatment program.*

35     **(d)** *The program under this section shall be established with*  
36 *the assistance and supervision of the staff of the department*  
37 *primarily by obtaining the services of specially trained sex*  
38 *offender treatment provider, as best determined by the secretary*  
39 *of the department and the Director of the Department of Mental*  
40 *Health.*

1 (e) (1) *The program under this section, upon full*  
2 *implementation, shall provide for the treatment of 500 adult sex*  
3 *offenders at any given time.*

4 (2) *To the maximum extent that is practical and feasible,*  
5 *offenders participating in the pilot program shall be held in a*  
6 *separate portion of a prison facility segregated from any non-sex*  
7 *offenders held at the same prison, and treatment in the pilot*  
8 *program shall be provided in program space segregated to the*  
9 *maximum extent that is practical and feasible from program*  
10 *space for any non-sex offenders held at the same prison.*

11 (f) (1) *The Department of Mental Health, by January 1, 2012,*  
12 *shall provide a report evaluating the pilot program to the fiscal*  
13 *and public safety policy committees of both houses of the*  
14 *Legislature, and to the Joint Legislative Budget Committee.*

15 (2) *The report shall initially evaluate if the program under this*  
16 *section is operating effectively, is having a positive clinical effect*  
17 *on participating sex offenders, and is cost-effective for the state.*

18 (3) *In conducting its evaluation, the Department of Mental*  
19 *Health shall consider the effects of treatment of offenders while*  
20 *in prison and while subsequently on parole.*

21 (4) *The Department of Mental Health shall advise the*  
22 *Legislature as to whether the program should be continued past*  
23 *its expiration date, expanded, or concluded.*

24 SEC. 17. *Section 13887.5 is added to the Penal Code, to*  
25 *read:*

26 13887.5. (a) *The sum of twenty million dollars (\$20,000,000)*  
27 *is hereby appropriated from the General Fund to the Controller*  
28 *for distribution to regional SAFE team programs.*

29 (b) *A county may not use funds provided pursuant to this act to*  
30 *supplant any other sources of funding.*

31 (c) *The funds appropriated by this act shall be allocated by the*  
32 *Controller to regional SAFE team programs in accordance with*  
33 *the proportionate share of sex offender registrants residing*  
34 *within a SAFE team jurisdiction, as determined by the*  
35 *Department of Justice.*

36 (d) *By accepting the funds provided by this act, local entities*  
37 *agree to report in writing to the Department of Finance on or*  
38 *before August 15, 2007. The Department of Finance shall make*  
39 *the report available to the Legislature. The report shall include,*

1 *but not be limited to, the data measuring the objectives identified*  
2 *in Section 13887.3 of the Penal Code.*  
3 *(e) Local entities that receive funds pursuant to this act and*  
4 *that either do not agree to the reporting requirements or do not*  
5 *report within the specified time shall return the grant money*  
6 *provided by the Controller within 30 days after the due date of*  
7 *the report. Any returned funds shall revert to the General Fund.*

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**All matter omitted in this version of the bill  
appears in the bill as amended in Assembly,  
May 3, 2005 (JR11)**

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