

AMENDED IN ASSEMBLY JANUARY 23, 2006

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 *Members Leno and Cohn*
(Coauthor: Assembly Member Calderon)

December 6, 2004

An act to amend Sections 209, 272, 288, 311.2, 311.4, 311.9, *311.11*, 626.8, 667.61, 3000, 3001, and 3005 of, and to add Sections 626.75, 3006, ~~3053.6, 3053.7, 3010.05~~, 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. Sex offenders.

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 kidnapping 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~~ *contacts or communicates with a minor who is 14 years of age or younger for the purpose of persuading, luring or transporting the minor* 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, *instead, make it a misdemeanor to contact or communicate with a minor who is 14 years of age or younger with the intent to commit certain specified crimes involving the minor, and 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, the first conviction for possession of child pornography is punished as a misdemeanor.

This bill would make the punishment for a first conviction either a misdemeanor or a felony if the person possessed more than 100 items of child pornography.

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.

This bill would also make it a misdemeanor for any person convicted of committing lewd or lascivious acts upon a child, continuous sexual abuse of a child, or aggravated sexual assault of a child to be 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 the Department of Corrections and Rehabilitation to use Global Positioning System technology to supervise persons on parole.

This bill would appropriate \$8 million from the General Fund to the Department of Corrections and Rehabilitation to purchase Global Positioning System devices to monitor parolees convicted of sexual or violent offenses, as specified.

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

This bill would appropriate ~~\$20,000,000~~ *\$15 million* 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: 2/3. Appropriation: yes. 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 as the
2 Sex Offender Management and Containment Act of 2006.

3 SECTION 1.

4 SEC. 2. Section 209 of the Penal Code is amended to read:

5 209. (a) Any person who seizes, confines, inveigles, entices,
6 decoys, abducts, conceals, kidnaps or carries away another person
7 by any means with intent to hold or detain, or who holds or detains,
8 that person for ransom, reward or to commit extortion or to exact
9 from another person any money or valuable thing, or any person
10 who aids or abets any of those acts, is guilty of a felony. Upon
11 conviction thereof, a person shall be punished by imprisonment
12 in the state prison for life without possibility of parole if a victim
13 of any of those acts suffers death or bodily harm or is intentionally
14 confined in a manner which exposes that person to a substantial
15 likelihood of death, or shall be punished by imprisonment in the
16 state prison for life with the possibility of parole if the victim does
17 not suffer death or bodily harm.

18 (b) (1) Any person who kidnaps or carries away any individual
19 to commit robbery, rape, spousal rape, oral copulation, sodomy,
20 or any violation of Section 288 or 289, shall be punished by
21 imprisonment in the state prison for life with the possibility of
22 parole.

23 (2) This subdivision shall only apply if the movement of the
24 victim is beyond that merely incidental to the commission of, and
25 increases the risk of harm to the victim over and above that
26 necessarily present in, the intended underlying offense.

27 (c) In all cases in which probation is granted, the court shall,
28 except in unusual cases where the interests of justice would best
29 be served by a lesser penalty, require as a condition of the probation
30 that the person be confined in the county jail for 12 months. If the
31 court grants probation without requiring the defendant to be
32 confined in the county jail for 12 months, it shall specify its reason
33 or reasons for imposing a lesser penalty.

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

7 ~~SEC. 2.~~

8 *SEC. 3.* Section 272 of the Penal Code, as amended by Chapter
9 461 of the Statutes of 2005, is amended to read:

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

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

33 (b) (1) An adult stranger who is 21 years of age or older, who
34 knowingly contacts or communicates with a minor who is under
35 14 years of age, who knew or reasonably should have known that
36 the minor is under 14 years of age, ~~for the purpose of persuading~~
37 ~~and luring, or transporting, or attempting to persuade and lure, or~~
38 ~~transport, that minor away from the minor's home or from any~~
39 ~~location known by the minor's parent, legal guardian, or custodian,~~
40 ~~to be a place where the minor is located, for any purpose, without~~

1 the express consent of the minor’s parent or legal guardian, and
 2 with the intent to avoid the consent of the minor’s parent or legal
 3 guardian, is guilty of an infraction or a misdemeanor, subject to
 4 subdivision (d) of Section 17. *with the intent to commit an offense*
 5 *specified in Sections 201, 209, 261, 264.1, 273a, 286, 288, 288a,*
 6 *288.2, 289, 311.1, 311.2, 311.4 or 311.11 involving the minor is*
 7 *guilty of a misdemeanor punishable by a fine not exceeding one*
 8 *thousand dollars (\$1,000), or by imprisonment in a county jail not*
 9 *exceeding one year, or both a fine and imprisonment.*

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

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

16 (4) As used in this subdivision, the following terms 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 (5) This section shall not be interpreted to criminalize acts of
 32 persons contacting minors within the scope and course of their
 33 employment, or status as a volunteer of a recognized civic or
 34 charitable organization.

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

38 ~~SEC. 3.~~

39 *SEC. 4.* 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 prison
8 for three, six, or eight years.

9 (b) (1) Any person who commits an act described in subdivision
10 (a) by use of force, violence, duress, menace, or fear of immediate
11 and unlawful bodily injury on the victim or another person, is
12 guilty of a felony and shall be punished by imprisonment in the
13 state prison for 3, 6, or 10 years.

14 (2) Any person who is a caretaker and commits an act described
15 in subdivision (a) upon a dependent person by use of force,
16 violence, duress, menace, or fear of immediate and unlawful bodily
17 injury on the victim or another person, with the intent described
18 in subdivision (a), is guilty of a felony and shall be punished by
19 imprisonment in the state prison for 3, 6, or 10 years.

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

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

35 (d) In any arrest or prosecution under this section or Section
36 288.5, the peace officer, district attorney, and the court shall
37 consider the needs of the child victim or dependent person and
38 shall do whatever is necessary, within existing budgetary resources,
39 and constitutionally permissible to prevent psychological harm to

1 the child victim or to prevent psychological harm to the dependent
2 person victim resulting from participation in the court process.

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

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

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

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

27 (A) Twenty-four hour health facilities, as defined in Sections
28 1250, 1250.2, and 1250.3 of the Health and Safety Code.

29 (B) Clinics.

30 (C) Home health agencies.

31 (D) Adult day health care centers.

32 (E) Secondary schools that serve dependent persons and
33 postsecondary educational institutions that serve dependent persons
34 or elders.

35 (F) Sheltered workshops.

36 (G) Camps.

37 (H) Community care facilities, as defined by Section 1402 of
38 the Health and Safety Code, and residential care facilities for the
39 elderly, as defined in Section 1569.2 of the Health and Safety
40 Code.

- 1 (I) Respite care facilities.
- 2 (J) Foster homes.
- 3 (K) Regional centers for persons with developmental disabilities.
- 4 (L) A home health agency licensed in accordance with Chapter
- 5 8 (commencing with Section 1725) of Division 2 of the Health
- 6 and Safety Code.
- 7 (M) An agency that supplies in-home supportive services.
- 8 (N) Board and care facilities.
- 9 (O) Any other protective or public assistance agency that
- 10 provides health services or social services to elder or dependent
- 11 persons, including, but not limited to, in-home supportive services,
- 12 as defined in Section 14005.14 of the Welfare and Institutions
- 13 Code.
- 14 (P) Private residences.
- 15 (2) “Board and care facilities” means licensed or unlicensed
- 16 facilities that provide assistance with one or more of the following
- 17 activities:
 - 18 (A) Bathing.
 - 19 (B) Dressing.
 - 20 (C) Grooming.
 - 21 (D) Medication storage.
 - 22 (E) Medical dispensation.
 - 23 (F) Money management.
- 24 (3) “Dependent person” means any person who has a physical
- 25 or mental impairment that substantially restricts his or her ability
- 26 to carry out normal activities or to protect his or her rights,
- 27 including, but not limited to, persons who have physical or
- 28 developmental disabilities or whose physical or mental abilities
- 29 have significantly diminished because of age. “Dependent person”
- 30 includes any person who is admitted as an inpatient to a 24-hour
- 31 health facility, as defined in Sections 1250, 1250.2, and 1250.3 of
- 32 the Health and Safety Code.
- 33 (g) Paragraph (2) of subdivision (b) and paragraph (2) of
- 34 subdivision (c) apply to the owners, operators, administrators,
- 35 employees, independent contractors, agents, or volunteers working
- 36 at these public or private facilities and only to the extent that the
- 37 individuals personally commit, conspire, aid, abet, or facilitate any
- 38 act prohibited by paragraph (2) of subdivision (b) and paragraph
- 39 (2) of subdivision (c).

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

5 ~~SEC. 4.~~

6 *SEC. 5.* Section 311.2 of the Penal Code is amended to read:

7 311.2. (a) Every person who knowingly sends or causes to be
8 sent, or brings or causes to be brought, into this state for sale or
9 distribution, or in this state possesses, prepares, publishes,
10 produces, or prints, with intent to distribute or to exhibit to others,
11 or who offers to distribute, distributes, or exhibits to others, any
12 obscene matter is for a first offense, guilty of a misdemeanor. If
13 the person has previously been convicted of any violation of this
14 section, the court may, in addition to the punishment authorized
15 in Section 311.9, impose a fine not exceeding fifty thousand dollars
16 (\$50,000).

17 (b) Every person who knowingly sends or causes to be sent, or
18 brings or causes to be brought, into this state for sale or distribution,
19 or in this state possesses, prepares, publishes, produces, develops,
20 duplicates, or prints any representation of information, data, or
21 image, 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 or filmstrip, with intent to distribute or to exhibit
27 to, or to exchange with, others for commercial consideration, or
28 who offers to distribute, distributes, or exhibits to, or exchanges
29 with, others for commercial consideration, any obscene matter,
30 knowing that the matter depicts a person under the age of 18 years
31 personally engaging in or personally simulating sexual conduct,
32 as defined in Section 311.4, is guilty of a felony and shall be
33 punished by imprisonment in the state prison for two, three, or six
34 years, or by a fine not exceeding one hundred thousand dollars
35 (\$100,000), in the absence of a finding that the defendant would
36 be incapable of paying such a fine, or by both that fine and
37 imprisonment.

38 (c) Every person who knowingly sends or causes to be sent, or
39 brings or causes to be brought, into this state for sale or distribution,
40 or in this state possesses, prepares, publishes, produces, develops,

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

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

39 (e) Subdivisions (a) to (d), inclusive, do not apply to the
40 activities of law enforcement and prosecuting agencies in the

1 investigation and prosecution of criminal offenses, to legitimate
2 medical, scientific, or educational activities, or to lawful conduct
3 between spouses.

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

7 (g) It does not constitute a violation of this section for a
8 telephone corporation, as defined by Section 234 of the Public
9 Utilities Code, to carry or transmit messages described in this
10 chapter or to perform related activities in providing telephone
11 services.

12 ~~SEC. 5.~~

13 *SEC. 6.* Section 311.4 of the Penal Code is amended to read:

14 311.4. (a) Every person who, with knowledge that a person is
15 a minor, or who, while in possession of any facts on the basis of
16 which he or she should reasonably know that the person is a minor,
17 hires, employs, or uses the minor to do or assist in doing any of
18 the acts described in Section 311.2, for a first offense, shall be
19 punished by imprisonment in the county jail for up to one year, or
20 by a fine not exceeding one thousand dollars (\$1000), or by both
21 that fine and imprisonment, or by imprisonment in the state prison.
22 If the person has previously been convicted of any violation of
23 this section, the court may, in addition to the punishment authorized
24 in Section 311.9, impose a fine not exceeding fifty thousand dollars
25 (\$50,000).

26 (b) Every person who, with knowledge that a person is a minor
27 under the age of 18 years, or who, while in possession of any facts
28 on the basis of which he or she should reasonably know that the
29 person is a minor under the age of 18 years, knowingly promotes,
30 employs, uses, persuades, induces, or coerces a minor under the
31 age of 18 years, or any parent or guardian of a minor under the
32 age of 18 years under his or her control who knowingly permits
33 the minor, to engage in or assist others to engage in either posing
34 or modeling alone or with others for purposes of preparing any
35 representation of information, data, or image, including, but not
36 limited to, any film, filmstrip, photograph, negative, slide,
37 photocopy, videotape, video laser disc, computer hardware,
38 computer software, computer floppy disc, data storage media,
39 CD-ROM, or computer-generated equipment or any other
40 computer-generated image that contains or incorporates in any

1 manner, any film, filmstrip, or a live performance involving, sexual
2 conduct by a minor under the age of 18 years alone or with other
3 persons or animals, for commercial purposes, is guilty of a felony
4 and shall be punished by imprisonment in the state prison for three,
5 six, or eight years.

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

26 (d) (1) As used in subdivisions (b) and (c), “sexual conduct”
27 means any of the following, whether actual or simulated: sexual
28 intercourse, oral copulation, anal intercourse, anal oral copulation,
29 masturbation, bestiality, sexual sadism, sexual masochism,
30 penetration of the vagina or rectum by any object in a lewd or
31 lascivious manner, exhibition of the genitals or pubic or rectal area
32 for the purpose of sexual stimulation of the viewer, any lewd or
33 lascivious sexual act as defined in Section 288, or excretory
34 functions performed in a lewd or lascivious manner, whether or
35 not any of the above conduct is performed alone or between
36 members of the same or opposite sex or between humans and
37 animals. An act is simulated when it gives the appearance of being
38 sexual conduct.

39 (2) As used in subdivisions (b) and (c), “matter” means any
40 film, filmstrip, photograph, negative, slide, photocopy, videotape,

1 video laser disc, computer hardware, computer software, computer
2 floppy disc, or any other computer-related equipment or
3 computer-generated image that contains or incorporates in any
4 manner, any film, filmstrip, photograph, negative, slide, photocopy,
5 videotape, or video laser disc.

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

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

16 ~~SEC. 6.~~

17 *SEC. 7.* Section 311.9 of the Penal Code is amended to read:

18 311.9. (a) Every person who violates Section 311.2 or 311.5,
19 except subdivision (b) of Section 311.2, is punishable by fine of
20 not more than one thousand dollars (\$1,000) plus five dollars (\$5)
21 for each additional unit of material coming within the provisions
22 of this chapter, which is involved in the offense, not to exceed ten
23 thousand dollars (\$10,000), or by imprisonment in the county jail
24 for not more than six months plus one day for each additional unit
25 of material coming within the provisions of this chapter, and which
26 is involved in the offense, such basic maximum and additional
27 days not to exceed 360 days in the county jail, or by both such fine
28 and imprisonment. If the person has previously been convicted of
29 any offense in this chapter, or of a violation of Section 313.1, a
30 violation of Section 311.2 or 311.5, except subdivision (b) of
31 Section 311.2, is punishable as a felony.

32 (b) Every person who violates Section 311.4 is punishable by
33 fine of not more than two thousand dollars (\$2,000) or by
34 imprisonment in the county jail for not more than one year, or by
35 both such fine and imprisonment, or by imprisonment in the state
36 prison. If the person has been previously convicted of a violation
37 of former Section 311.3 or Section 311.4 he is punishable by
38 imprisonment in the state prison.

39 (c) Every person who violates Section 311.7 is punishable by
40 fine of not more than one thousand dollars (\$1,000) or by

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

8 *SEC. 8. Section 311.11 of the Penal Code is amended to read:*

9 311.11. (a) Every person who knowingly possesses or controls
10 any matter, representation of information, data, or image, including,
11 but not limited to, any film, filmstrip, photograph, negative, slide,
12 photocopy, videotape, video laser disc, computer hardware,
13 computer software, computer floppy disc, data storage media,
14 CD-ROM, or computer-generated equipment or any other
15 computer-generated image that contains or incorporates in any
16 manner, any film or filmstrip, the production of which involves
17 the use of a person under the age of 18 years, knowing that the
18 matter depicts a person under the age of 18 years personally
19 engaging in or simulating sexual conduct, as defined in subdivision
20 (d) of Section 311.4, is guilty of a public offense and shall be
21 punished by imprisonment in the county jail for up to one year, or
22 by a fine not exceeding two thousand five hundred dollars (\$2,500),
23 or by both the fine and imprisonment. *If a person possesses more*
24 *than 100 items that are prohibited by this section, he or she shall*
25 *be punished by imprisonment in the county jail for up to one year,*
26 *or in the state prison.*

27 (b) If a person has been previously convicted of a violation of
28 this section, or of a violation of subdivision (b) of Section 311.2,
29 or subdivision (b) of Section 311.4, he or she is guilty of a felony
30 and shall be punished by imprisonment for two, four, or six years.

31 (c) It is not necessary to prove that the matter is obscene in order
32 to establish a violation of this section.

33 (d) This section does not apply to drawings, figurines, statues,
34 or any film rated by the Motion Picture Association of America,
35 nor does it apply to live or recorded telephone messages when
36 transmitted, disseminated, or distributed as part of a commercial
37 transaction.

38 ~~SEC. 7:~~

39 *SEC. 9. Section 626.75 is added to the Penal Code, to read:*

1 626.75. (a) It is unlawful for any person who is 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 (c), (d), or (f) of Section 286, or of subdivision (c),
 5 (d), or (f) of Section 288a, or of an attempt to commit a violation
 6 of any of those sections, to knowingly be present in any school
 7 building, on real property comprising any public or private
 8 elementary, vocational, junior high, or high school during hours
 9 that the school is open for classes or school-related programs,
 10 unless that person is a parent or guardian of a child attending that
 11 school, or is a student at the school or has prior written permission
 12 for entry from the chief administrative officer of that school. A
 13 violation of this provision shall be punishable as a misdemeanor.

14 (b) *It is unlawful for any person who is required to register*
 15 *pursuant to Section 290, who has been convicted of a violation of*
 16 *Section 288, 288.5, or 269 or of attempting to commit a violation*
 17 *of any of those sections, to be knowingly present in any school*
 18 *building, on real property comprising any public or private*
 19 *elementary, vocational, junior high, or high school during hours*
 20 *that the school is open for classes or school-related programs,*
 21 *unless that person is a parent or guardian of a child attending that*
 22 *school, or is a student at the school or has prior written permission*
 23 *for entry from the chief administrative officer of the school. A*
 24 *violation of this provision shall be punished by imprisonment in*
 25 *the county jail not to exceed one year, by a fine not to exceed one*
 26 *thousand dollars (\$1,000), or by both a fine and imprisonment.*

27 (c) Nothing in this section shall be construed to infringe upon
 28 the constitutional right of such a person to be present in a school
 29 building that is used as a polling place for the purpose of voting.

30 ~~SEC. 8.~~

31 *SEC. 10.* Section 626.8 of the Penal Code is amended to read:

32 626.8. (a) Any person who comes into any school building or
 33 upon any school ground, or street, sidewalk, or public way adjacent
 34 thereto, without lawful business thereon, and whose presence or
 35 acts interfere with the peaceful conduct of the activities of the
 36 school or disrupt the school or its pupils or school activities, is
 37 guilty of a misdemeanor if he or she does any of the following:

38 (1) Remains there after being asked to leave by the chief
 39 administrative official of that school or his or her designated
 40 representative, or by a person employed as a member of a security

1 or police department of a school district pursuant to Section 39670
2 of the Education Code, or a city police officer, or sheriff or deputy
3 sheriff, or a Department of the California Highway Patrol peace
4 officer.

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

7 (3) Has otherwise established a continued pattern of
8 unauthorized entry.

9 This section shall not be used to impinge upon the lawful exercise
10 of constitutionally protected rights of freedom of speech or
11 assembly.

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

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

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

24 (3) If the defendant has been previously convicted two or more
25 times of a violation of any offense defined in this chapter or Section
26 415.5, by imprisonment in the county jail for a period of not less
27 than 90 days or more than six months, or by both imprisonment
28 and a fine of not exceeding five hundred dollars (\$500), and shall
29 not be released on probation, parole, or any other basis until he or
30 she has served not less than 90 days.

31 (c) As used in this section, the following definitions apply:

32 (1) "Lawful business" means a reason for being present upon
33 school property which is not otherwise prohibited by statute, by
34 ordinance, or by any regulation adopted pursuant to statute or
35 ordinance.

36 (2) "Continued pattern of unauthorized entry" means that on at
37 least two prior occasions in the same school year the defendant
38 came into any school building or upon any school ground, or street,
39 sidewalk, or public way adjacent thereto, without lawful business
40 thereon, and his or her presence or acts interfered with the peaceful

1 conduct of the activities of the school or disrupted the school or
2 its pupils or school activities, and the defendant was asked to leave
3 by a person specified in paragraph (1) of subdivision (a).

4 (3) "School" means any preschool or school having any of
5 grades kindergarten through 12.

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

10 ~~SEC. 9.~~

11 *SEC. 11.* Section 667.61 of the Penal Code is amended to read:

12 667.61. (a) A person who is convicted of an offense specified
13 in subdivision (c) under one or more of the circumstances specified
14 in subdivision (d) or under two or more of the circumstances
15 specified in subdivision (e) shall be punished by imprisonment in
16 the state prison for life and shall not be eligible for release on
17 parole for 25 years except as provided in subdivision (j).

18 (b) Except as provided in subdivision (a), a person who is
19 convicted of an offense specified in subdivision (c) under one of
20 the circumstances specified in subdivision (e) shall be punished
21 by imprisonment in the state prison for life and shall not be eligible
22 for release on parole for 15 years except as provided in subdivision
23 (j).

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

25 (1) A violation of paragraph (2) of subdivision (a) of Section
26 261.

27 (2) A violation of paragraph (1) of subdivision (a) of Section
28 262.

29 (3) A violation of Section 264.1.

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

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

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

33 (7) Sodomy or oral copulation in violation of Section 286 or
34 288a by force, violence, duress, menace, or fear of immediate and
35 unlawful bodily injury on the victim or another person.

36 (8) A violation of subdivision (a) of Section 288, unless the
37 defendant qualifies for probation under subdivision (c) of Section
38 1203.066.

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

1 (1) The defendant has been previously convicted of an offense
2 specified in subdivision (c), including an offense committed in
3 another jurisdiction that includes all of the elements of an offense
4 specified in subdivision (c).

5 (2) The defendant kidnapped the victim of the present offense
6 and the movement of the victim substantially increased the risk of
7 harm to the victim over and above that level of risk necessarily
8 inherent in the underlying offense in subdivision (c).

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

12 (4) The defendant committed the present offense during the
13 commission of a burglary, as defined in subdivision (a) of Section
14 460, with intent to commit an offense specified in subdivision (c).

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

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

20 (2) Except as provided in paragraph (4) of subdivision (d), the
21 defendant committed the present offense during the commission
22 of a burglary, as defined in subdivision (a) of Section 460, or during
23 the commission of a burglary of a building, including any
24 commercial establishment, which was then closed to the public,
25 in violation of Section 459.

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

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

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

35 (6) The defendant engaged in the tying or binding of the victim
36 or another person in the commission of the present offense.

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

1 (f) If only the minimum number of circumstances specified in
2 subdivision (d) or (e) which are required for the punishment
3 provided in subdivision (a) or (b) to apply have been pled and
4 proved, that circumstance or those circumstances shall be used as
5 the basis for imposing the term provided in subdivision (a) or (b)
6 rather than being used to impose the punishment authorized under
7 any other law, unless another law provides for a greater penalty.
8 However, if any additional circumstance or circumstances specified
9 in subdivision (d) or (e) have been pled and proved, the minimum
10 number of circumstances shall be used as the basis for imposing
11 the term provided in subdivision (a), and any other additional
12 circumstance or circumstances shall be used to impose any
13 punishment or enhancement authorized under any other law.
14 Notwithstanding any other law, the court shall not strike any of
15 the circumstances specified in subdivision (d) or (e).

16 (g) The term specified in subdivision (a) or (b) shall be imposed
17 on the defendant once for any offense or offenses committed
18 against a single victim during a single occasion. If there are
19 multiple victims during a single occasion, the term specified in
20 subdivision (a) or (b) shall be imposed on the defendant once for
21 each separate victim. Terms for other offenses committed during
22 a single occasion shall be imposed as authorized under any other
23 law, including Section 667.6, if applicable.

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

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

32 (j) Article 2.5 (commencing with Section 2930) of Chapter 7
33 of Title 1 of Part 3 shall apply to reduce the minimum term of 25
34 years in the state prison imposed pursuant to subdivision (a) or 15
35 years in the state prison imposed pursuant to subdivision (b).
36 However, in no case shall the minimum term of 25 or 15 years be
37 reduced by more than 15 percent for credits granted pursuant to
38 Section 2933, 4019, or any other law providing for conduct credit
39 reduction. In no case shall any person who is punished under this

1 section be released on parole prior to serving at least 85 percent
2 of the minimum term of 25 or 15 years in the state prison.

3 ~~SEC. 10.~~

4 *SEC. 12.* Section 3000 of the Penal Code is amended to read:

5 3000. (a) (1) The Legislature finds and declares that the period
6 immediately following incarceration is critical to successful
7 reintegration of the offender into society and to positive citizenship.
8 It is in the interest of public safety for the state to provide for the
9 supervision of and surveillance of parolees, including the judicious
10 use of revocation actions, and to provide educational, vocational,
11 family and personal counseling necessary to assist parolees in the
12 transition between imprisonment and discharge. A sentence
13 pursuant to Section 1168 or 1170 shall include a period of parole,
14 unless waived, as provided in this section.

15 (2) The Legislature finds and declares that it is not the intent of
16 this section to diminish resources allocated to the Department of
17 Corrections and Rehabilitation for parole functions for which the
18 department is responsible. It is also not the intent of this section
19 to diminish the resources allocated to the Board of Parole Hearings
20 to execute its duties with respect to parole functions for which the
21 board is responsible.

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

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

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

34 (1) (A) At the expiration of a term of imprisonment of one year
35 and one day, or a term of imprisonment imposed pursuant to
36 Section 1170 or at the expiration of a term reduced pursuant to
37 Section 2931 or 2933, if applicable, the inmate shall be released
38 on parole for a period not exceeding three years, except that any
39 inmate sentenced for an offense specified in paragraph (3), (4),
40 (5), (11), or (18) of subdivision (c) of Section 667.5 shall be

1 released on parole for a period not exceeding five years, unless in
2 either case the parole authority for good cause waives parole and
3 discharges the inmate from the custody of the department.

4 (B) Notwithstanding subparagraph (A), any inmate sentenced
5 for an offense specified in paragraph (6) or (16) of subdivision (c)
6 of Section 667.5 shall be released on parole for a period not
7 exceeding 10 years, unless the parole authority for good cause
8 waives parole and discharges the inmate from the custody of the
9 department.

10 (2) For an inmate sentenced under Section 1168, the period of
11 parole shall not exceed five years in the case of an inmate
12 imprisoned for any offense other than first or second degree murder
13 for which the inmate has received a life sentence, and shall not
14 exceed three years in the case of any other inmate, unless in either
15 case the parole authority for good cause waives parole and
16 discharges the inmate from custody of the department. This
17 subdivision shall also be applicable to inmates who committed
18 crimes prior to July 1, 1977, to the extent specified in Section
19 1170.2.

20 (3) Notwithstanding paragraphs (1) and (2), for an offense for
21 which the inmate has received a life sentence pursuant to Section
22 667.61 or 667.71, the period of parole shall be five years. Upon
23 the request of the Department of Corrections and Rehabilitation,
24 and on the grounds that the paroled inmate may pose a substantial
25 danger to public safety, the Board of Parole Hearings shall conduct
26 a hearing to determine if the parolee shall be subject to a single
27 additional five-year period of parole. The board shall conduct the
28 hearing pursuant to the procedures and standards governing parole
29 revocation. The request for parole extension shall be made no less
30 than 180 days prior to the expiration of the initial five-year period
31 of parole.

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

34 (5) Upon successful completion of parole, or at the end of the
35 maximum statutory period of parole specified for the inmate under
36 paragraph (1), (2), or (3), as the case may be, whichever is earlier,
37 the inmate shall be discharged from custody. The date of the
38 maximum statutory period of parole under this subdivision and
39 paragraphs (1), (2), and (3) shall be computed from the date of
40 initial parole or from the date of extension of parole pursuant to

1 paragraph (3) and shall be a period chronologically determined.
2 Time during which parole is suspended because the inmate has
3 absconded or has been returned to custody as a parole violator
4 shall not be credited toward any period of parole unless the inmate
5 is found not guilty of the parole violation. However, except as
6 provided in Section 3064, an inmate subject to three years on parole
7 shall not be retained under parole supervision or in custody for a
8 period longer than four years from the date of his or her initial
9 parole, and, except as provided in Section 3064, an inmate subject
10 to five years on parole shall not be retained under parole
11 supervision or in custody for a period longer than seven years from
12 the date of his or her initial parole or from the date of extension
13 of parole pursuant to paragraph (3).

14 (6) The Department of Corrections and Rehabilitation shall meet
15 with each inmate at least 30 days prior to his or her good time
16 release date and shall provide, under guidelines specified by the
17 parole authority, the conditions of parole and the length of parole
18 up to the maximum period of time provided by law. The inmate
19 has the right to reconsideration of the length of parole and
20 conditions thereof by the parole authority. The department or the
21 Board of Parole Hearings may impose as a condition of parole that
22 an inmate make payments on the inmate's outstanding restitution
23 fines or orders imposed pursuant to subdivision (a) or (c) of Section
24 13967 of the Government Code, as operative prior to September
25 28, 1994, or subdivision (b) or (f) of Section 1202.4.

26 (7) For purposes of this chapter, the Board of Parole Hearings
27 shall be considered the parole authority.

28 (8) The sole authority to issue warrants for the return to actual
29 custody of any state prisoner released on parole rests with the
30 Board of Parole Hearings, except for any escaped state inmate or
31 any state inmate released prior to his or her scheduled release date
32 who should be returned to custody, and Section 3060 shall apply.

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

37 ~~SEC. 11.~~

38 *SEC. 13.* Section 3001 of the Penal Code is amended to read:

39 3001. (a) Notwithstanding any other provision of law, when
40 any person referred to in paragraph (1) of subdivision (b) of Section

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

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

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

1 written record of its determination and the department shall
2 transmit a copy thereof to the parolee.

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

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

11 ~~SEC. 12.~~

12 *SEC. 14.* Section 3005 of the Penal Code, as amended by
13 Chapter 55 of the Statutes of 2005, is amended to read:

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

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

27 (c) The department shall study the effects of the specialized
28 supervision caseload and of any plan implemented pursuant to this
29 section on recidivism rates of parolees. The study should pay
30 particular attention to the effectiveness of different treatment
31 models. The study shall be a two-year analysis completed by
32 January 1, 2009, with an initial report to the Legislature on or
33 before January 1, 2010, and a final report on or before January 1,
34 2012.

35 ~~SEC. 13.~~

36 *SEC. 15.* Section 3006 is added to the Penal Code, to read:

37 3006. (a) The Department of Corrections and Rehabilitation,
38 subject to the legislative appropriation of the necessary funds, may
39 establish and operate, after January 1, 2007, a specialized sex

1 offender treatment program for parolees the department deems to
2 pose a high risk to the public of committing violent sex crimes.

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

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

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

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

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

20 *SEC. 16. Section 3010.05 is added to the Penal Code, to read:*

21 *3010.05. (a) The sum of eight million dollars (\$8,000,000) is*
22 *hereby appropriated from the General Fund to the Department of*
23 *Corrections and Rehabilitation for use in 2006–07 fiscal year to*
24 *add 500 Global Positioning System devices to track and monitor*
25 *the parolees who pose the highest risk to public safety and who*
26 *have been convicted of sexual or violent offenses and are assessed*
27 *to be a high-risk to reoffend.*

28 *(b) There shall be a three-year plan to add 2,000 Global*
29 *Positioning System devices, bringing the total number of Global*
30 *Positioning System devices available for parolee monitoring up*
31 *to 2,500 by 2008, subject to the legislative appropriation of the*
32 *necessary funds.*

33 *(c) Parole agents supervising offenders with Global Positioning*
34 *System devices shall have no more than 20 active cases requiring*
35 *supervision.*

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

37 ~~3053.6. A person who has been convicted of any offense that~~
38 ~~requires him or her to register as a sex offender pursuant to Section~~
39 ~~290 shall have the following conditions of parole:~~

1 ~~(a) No contact or communication with the victim or any of the~~
2 ~~victim's families without the prior written approval of the parole~~
3 ~~agent. This includes visiting or frequenting the place of their~~
4 ~~residence, work, or crime scene whether or not that person is~~
5 ~~present.~~

6 ~~(b) No possession of cameras, video camera recorders, movie~~
7 ~~cameras, viewers, or any type of video or camera equipment~~
8 ~~without prior approval of the parole agent.~~

9 ~~(c) No viewing of television shows, motion pictures, or~~
10 ~~videotapes that act as a stimulus to arouse.~~

11 ~~(d) No viewing, purchase, access to, possession or use of any~~
12 ~~type of sexually stimulating, or sexually oriented material,~~
13 ~~including, but not limited to, pictures, magazines, videotapes or~~
14 ~~movies.~~

15 ~~(e) No patronizing or frequenting of areas of sexual or~~
16 ~~pornographic activity, including, but not limited to, adult~~
17 ~~bookstores, massage parlors, topless bars, sex toy or novelties~~
18 ~~shops, or other similar places.~~

19 ~~(f) No use of any "pay for call" telephone service that is~~
20 ~~specifically oriented to sexual discussion. The parolee shall agree~~
21 ~~to have a phone block installed on his or her residential phone to~~
22 ~~prevent those types of calls.~~

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

26 ~~(h) No possession of binding restraints, handcuffs or other~~
27 ~~similar devices.~~

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

29 3053.7. (a) In addition to the conditions listed in Section
30 3053.6, a person who has been convicted of a sex offense involving
31 a minor shall have the following conditions of parole:

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

1 ~~(2) The parolee shall not reside in an apartment complex or~~
2 ~~other residential setting, or in neighborhoods with, large numbers~~
3 ~~of children, nor reside in any neighborhood near a park, school or~~
4 ~~children's playground area.~~

5 ~~(3) The parolee shall not enter into the premises, nor loiter, or~~
6 ~~frequent places where minors congregate including, but not limited~~
7 ~~to, playgrounds, schools, video arcades and swimming pools, nor~~
8 ~~knowingly enter any area that is within 100 yards of the perimeter~~
9 ~~of any public or private school without the prior written permission~~
10 ~~of the parole agent.~~

11 ~~(4) The parolee shall immediately notify the parole agent about~~
12 ~~any unintentional contact with any minor.~~

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

17 ~~(6) The parolee shall not possess children's clothing, toys, or~~
18 ~~games, without the prior written approval of the parole agent.~~

19 ~~(b) These conditions do not apply to contact with the parolee's~~
20 ~~children unless the children were the victims of the parolee's crime.~~

21 ~~(c) The parole authority may waive any of these requirements~~
22 ~~in the interests of justice, and shall document the reasons for doing~~
23 ~~so in the parolee's file.~~

24 ~~SEC. 16.~~

25 ~~SEC. 17.~~ Section 3072 is added to the Penal Code, to read:

26 3072. (a) The Department of Corrections and Rehabilitation,
27 subject to the legislative appropriation of the necessary funds, may
28 establish and operate, after January 1, 2007, a specialized sex
29 offender treatment pilot program for inmates the department deems
30 to pose a high risk to the public of committing violent sex crimes.

31 (b) (1) The program shall be based upon the relapse prevention
32 model and shall include referral to specialized services, such as
33 substance abuse treatment, for offenders needing those specialized
34 services.

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

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

1 (A) The offender is within two years of being released on parole.

2 (B) The offender has been clinically assessed.

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

6 (D) The offender, based on his or her clinical assessment, may
7 be amenable to treatment.

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

11 (d) The program under this section shall be established with the
12 assistance and supervision of the staff of the department primarily
13 by obtaining the services of specially trained sex offender treatment
14 provider, as best determined by the secretary of the department
15 and the Director of the Department of Mental Health.

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

19 (2) To the maximum extent that is practical and feasible,
20 offenders participating in the pilot program shall be held in a
21 separate portion of a prison facility segregated from any non-sex
22 offenders held at the same prison, and treatment in the pilot
23 program shall be provided in program space segregated to the
24 maximum extent that is practical and feasible from program space
25 for any non-sex offenders held at the same prison.

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

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

33 (3) In conducting its evaluation, the Department of Mental
34 Health shall consider the effects of treatment of offenders while
35 in prison and while subsequently on parole.

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

39 ~~SEC. 17.~~

40 *SEC. 18.* Section 13887.5 is added to the Penal Code, to read:

1 13887.5. (a) The sum of ~~twenty million dollars (\$20,000,000)~~
2 *fifteen million dollars (\$15,000,000)* is hereby appropriated from
3 the General Fund to the Controller for distribution to regional
4 SAFE team programs.

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

7 (c) The funds appropriated by this act shall be allocated by the
8 Controller to regional SAFE team programs in accordance with
9 the proportionate share of sex offender registrants residing within
10 a SAFE team jurisdiction, as determined by the Department of
11 Justice.

12 (d) By accepting the funds provided by this act, local entities
13 agree to report in writing to the Department of Finance on or before
14 August 15, 2007. The Department of Finance shall make the report
15 available to the Legislature. The report shall include, but not be
16 limited to, the data measuring the objectives identified in Section
17 13887.3 of the Penal Code.

18 (e) Local entities that receive funds pursuant to this act and that
19 either do not agree to the reporting requirements or do not report
20 within the specified time shall return the grant money provided by
21 the Controller within 30 days after the due date of the report. Any
22 returned funds shall revert to the General Fund.

23
24 _____
25 **CORRECTIONS:**
26 **Heading — Line 1.**
27 **Digest — Page 1.**
28 **Text — Pages 6, 16, 17, & 26.**
29 _____