

AMENDED IN ASSEMBLY JANUARY 26, 2006

AMENDED IN ASSEMBLY JANUARY 23, 2006

AMENDED IN ASSEMBLY JANUARY 4, 2006

AMENDED IN ASSEMBLY MAY 3, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 50**

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

December 6, 2004

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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, ~~3010.05, 3072, and 13887.5~~ 3072 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 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.

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

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

1 SECTION 1. This act shall be known and may be cited as the  
2 Sex Offender Management and Containment Act of 2006.  
3 SEC. 2. Section 209 of the Penal Code is amended to read:  
4 209. (a) Any person who seizes, confines, inveigles, entices,  
5 decoys, abducts, conceals, kidnaps or carries away another  
6 person by any means with intent to hold or detain, or who holds  
7 or detains, that person for ransom, reward or to commit extortion  
8 or to exact from another person any money or valuable thing, or  
9 any person who aids or abets any of those acts, is guilty of a  
10 felony. Upon conviction thereof, a person shall be punished by  
11 imprisonment in the state prison for life without possibility of  
12 parole if a victim of any of those acts suffers death or bodily  
13 harm or is intentionally confined in a manner which exposes that  
14 person to a substantial likelihood of death, or shall be punished  
15 by imprisonment in the state prison for life with the possibility of  
16 parole if the victim does not suffer death or bodily harm.  
17 (b) (1) Any person who kidnaps or carries away any  
18 individual to commit robbery, rape, spousal rape, oral copulation,  
19 sodomy, or any violation of Section 288 or 289, shall be  
20 punished by imprisonment in the state prison for life with the  
21 possibility of parole.  
22 (2) This subdivision shall only apply if the movement of the  
23 victim is beyond that merely incidental to the commission of, and  
24 increases the risk of harm to the victim over and above that  
25 necessarily present in, the intended underlying offense.  
26 (c) In all cases in which probation is granted, the court shall,  
27 except in unusual cases where the interests of justice would best  
28 be served by a lesser penalty, require as a condition of the  
29 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. 3. 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 Upon conviction thereof, that person shall be punished by a fine  
27 not exceeding two thousand five hundred dollars (\$2,500), or by  
28 imprisonment in the county jail for not more than one year, or by  
29 both fine and imprisonment in a county jail, or may be released  
30 on probation for a period not exceeding five years.

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

35 (b) (1) An adult stranger who is 21 years of age or older, who  
36 knowingly contacts or communicates with a minor who is under  
37 14 years of age, who knew or reasonably should have known that  
38 the minor is under 14 years of age, with the intent to commit an  
39 offense specified in Sections 201, 209, 261, 264.1, 273a, 286,  
40 288, 288a, 288.2, 289, 311.1, 311.2, 311.4 or 311.11 involving

1 the minor is guilty of a misdemeanor punishable by a fine not  
2 exceeding one thousand dollars (\$1,000), or by imprisonment in  
3 a county jail not exceeding one year, or both a fine and  
4 imprisonment.

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

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

11 (4) As used in this subdivision, the following terms apply:

12 (A) "Emergency situation" means a situation where the minor  
13 is threatened with imminent bodily harm, emotional harm, or  
14 psychological harm.

15 (B) "Contact" or "communication" includes, but is not limited  
16 to, the use of a telephone or the Internet, as defined in Section  
17 17538 of the Business and Professions Code.

18 (C) "Stranger" means a person of casual acquaintance with  
19 whom no substantial relationship exists, or an individual with  
20 whom a relationship has been established or promoted for the  
21 primary purpose of victimization, as defined in subdivision (e) of  
22 Section 6600 of the Welfare and Institutions Code.

23 (D) "Express consent" means oral or written permission that is  
24 positive, direct, and unequivocal, requiring no inference or  
25 implication to supply its meaning.

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

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

33 SEC. 4. Section 288 of the Penal Code is amended to read:

34 288. (a) Any person who willfully and lewdly commits any  
35 lewd or lascivious act, including any of the acts constituting other  
36 crimes provided for in Part 1, upon or with the body, or any part  
37 or member thereof, of a child who is under the age of 14 years,  
38 with the intent of arousing, appealing to, or gratifying the lust,  
39 passions, or sexual desires of that person or the child, is guilty of

1 a felony and shall be punished by imprisonment in the state  
2 prison for three, six, or eight years.

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

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

15 (c) (1) Any person who commits an act described in  
16 subdivision (a) with the intent described in that subdivision, and  
17 the victim is a child of 14 or 15 years, and that person is at least  
18 10 years older than the child, is guilty of a public offense and  
19 shall be punished by imprisonment in the state prison for one,  
20 two, or three years, or by imprisonment in a county jail for not  
21 more than one year. In determining whether the person is at least  
22 10 years older than the child, the difference in age shall be  
23 measured from the birth date of the person to the birth date of the  
24 child.

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

31 (d) In any arrest or prosecution under this section or Section  
32 288.5, the peace officer, district attorney, and the court shall  
33 consider the needs of the child victim or dependent person and  
34 shall do whatever is necessary, within existing budgetary  
35 resources, and constitutionally permissible to prevent  
36 psychological harm to the child victim or to prevent  
37 psychological harm to the dependent person victim resulting  
38 from participation in the court process.

39 (e) Upon the conviction of any person for a violation of  
40 subdivision (a) or (b), the court may, in addition to any other

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

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

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

20 (1) “Caretaker” means an owner, operator, administrator,  
 21 employee, independent contractor, agent, or volunteer of any of  
 22 the following public or private facilities when the facilities  
 23 provide care for elder or dependent persons:

24 (A) Twenty-four hour health facilities, as defined in Sections  
 25 1250, 1250.2, and 1250.3 of the Health and Safety Code.

26 (B) Clinics.

27 (C) Home health agencies.

28 (D) Adult day health care centers.

29 (E) Secondary schools that serve dependent persons and  
 30 postsecondary educational institutions that serve dependent  
 31 persons or elders.

32 (F) Sheltered workshops.

33 (G) Camps.

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

38 (I) Respite care facilities.

39 (J) Foster homes.

1 (K) Regional centers for persons with developmental  
2 disabilities.

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

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

7 (N) Board and care facilities.

8 (O) Any other protective or public assistance agency that  
9 provides health services or social services to elder or dependent  
10 persons, including, but not limited to, in-home supportive  
11 services, as defined in Section 14005.14 of the Welfare and  
12 Institutions Code.

13 (P) Private residences.

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

17 (A) Bathing.

18 (B) Dressing.

19 (C) Grooming.

20 (D) Medication storage.

21 (E) Medical dispensation.

22 (F) Money management.

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

32 (g) Paragraph (2) of subdivision (b) and paragraph (2) of  
33 subdivision (c) apply to the owners, operators, administrators,  
34 employees, independent contractors, agents, or volunteers  
35 working at these public or private facilities and only to the extent  
36 that the individuals personally commit, conspire, aid, abet, or  
37 facilitate any act prohibited by paragraph (2) of subdivision (b)  
38 and paragraph (2) of subdivision (c).

39 (h) Paragraph (2) of subdivision (b) and paragraph (2) of  
40 subdivision (c) do not apply to a caretaker who is a spouse of, or

1 who is in an equivalent domestic relationship with, the dependent  
2 person under care.

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

4 311.2. (a) Every person who knowingly sends or causes to be  
5 sent, or brings or causes to be brought, into this state for sale or  
6 distribution, or in this state possesses, prepares, publishes,  
7 produces, or prints, with intent to distribute or to exhibit to  
8 others, or who offers to distribute, distributes, or exhibits to  
9 others, any obscene matter is for a first offense, guilty of a  
10 misdemeanor. If the person has previously been convicted of any  
11 violation of this section, the court may, in addition to the  
12 punishment authorized in Section 311.9, impose a fine not  
13 exceeding fifty thousand dollars (\$50,000).

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

35 (c) Every person who knowingly sends or causes to be sent, or  
36 brings or causes to be brought, into this state for sale or  
37 distribution, or in this state possesses, prepares, publishes,  
38 produces, develops, duplicates, or prints any representation of  
39 information, data, or image, including, but not limited to, any  
40 film, filmstrip, photograph, negative, slide, photocopy, videotape,

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

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

38 (e) Subdivisions (a) to (d), inclusive, do not apply to the  
39 activities of law enforcement and prosecuting agencies in the  
40 investigation and prosecution of criminal offenses, to legitimate

1 medical, scientific, or educational activities, or to lawful conduct  
2 between spouses.

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

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

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

12 311.4. (a) Every person who, with knowledge that a person is  
13 a minor, or who, while in possession of any facts on the basis of  
14 which he or she should reasonably know that the person is a  
15 minor, hires, employs, or uses the minor to do or assist in doing  
16 any of the acts described in Section 311.2, for a first offense,  
17 shall be punished by imprisonment in the county jail for up to  
18 one year, or by a fine not exceeding one thousand dollars  
19 (\$1,000), or by both that fine and imprisonment, or by  
20 imprisonment in the state prison. If the person has previously  
21 been convicted of any violation of this section, the court may, in  
22 addition to the punishment authorized in Section 311.9, impose a  
23 fine not exceeding fifty thousand dollars (\$50,000).

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

1 with other persons or animals, for commercial purposes, is guilty  
2 of a felony and shall be punished by imprisonment in the state  
3 prison for three, six, or eight years.

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

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

37 (2) As used in subdivisions (b) and (c), “matter” means any  
38 film, filmstrip, photograph, negative, slide, photocopy, videotape,  
39 video laser disc, computer hardware, computer software,  
40 computer floppy disc, or any other computer-related equipment

1 or computer-generated image that contains or incorporates in any  
2 manner, any film, filmstrip, photograph, negative, slide,  
3 photocopy, videotape, or video laser disc.

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

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

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

16 311.9. (a) Every person who violates Section 311.2 or 311.5,  
17 except subdivision (b) of Section 311.2, is punishable by fine of  
18 not more than one thousand dollars (\$1,000) plus five dollars  
19 (\$5) for each additional unit of material coming within the  
20 provisions of this chapter, which is involved in the offense, not to  
21 exceed ten thousand dollars (\$10,000), or by imprisonment in the  
22 county jail for not more than six months plus one day for each  
23 additional unit of material coming within the provisions of this  
24 chapter, and which is involved in the offense, such basic  
25 maximum and additional days not to exceed 360 days in the  
26 county jail, or by both such fine and imprisonment. If the person  
27 has previously been convicted of any offense in this chapter, or  
28 of a violation of Section 313.1, a violation of Section 311.2 or  
29 311.5, except subdivision (b) of Section 311.2, is punishable as a  
30 felony.

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

38 (c) Every person who violates Section 311.7 is punishable by  
39 fine of not more than one thousand dollars (\$1,000) or by  
40 imprisonment in the county jail for not more than six months, or

1 by both such fine and imprisonment. For a second and  
2 subsequent offense he shall be punished by a fine of not more  
3 than two thousand dollars (\$2,000), or by imprisonment in the  
4 county jail for not more than one year, or by both that fine and  
5 imprisonment. If the person has been twice convicted of a  
6 violation of this chapter, a violation of Section 311.7 is  
7 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  
10 controls any matter, representation of information, data, or  
11 image, including, but not limited to, any film, filmstrip,  
12 photograph, negative, slide, photocopy, videotape, video laser  
13 disc, computer hardware, computer software, computer floppy  
14 disc, data storage media, CD-ROM, or computer-generated  
15 equipment or any other computer-generated image that contains  
16 or incorporates in any manner, any film or filmstrip, the  
17 production of which involves the use of a person under the age of  
18 18 years, knowing that the matter depicts a person under the age  
19 of 18 years personally engaging in or simulating sexual conduct,  
20 as defined in subdivision (d) of Section 311.4, is guilty of a  
21 public offense and shall be punished by imprisonment in the  
22 county jail for up to one year, or by a fine not exceeding two  
23 thousand five hundred dollars (\$2,500), or by both the fine and  
24 imprisonment. If a person possesses more than 100 items that are  
25 prohibited by this section, he or she shall be punished by  
26 imprisonment in the county jail for up to one year, or in the state  
27 prison.

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

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

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

40 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  
12 permission for entry from the chief administrative officer of that  
13 school. A violation of this provision shall be punishable as a  
14 misdemeanor.

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

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

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

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

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

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

10 (3) Has otherwise established a continued pattern of  
11 unauthorized entry.

12 This section shall not be used to impinge upon the lawful  
13 exercise of constitutionally protected rights of freedom of speech  
14 or assembly.

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

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

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

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

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

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

39 (2) "Continued pattern of unauthorized entry" means that on at  
40 least two prior occasions in the same school year the defendant

1 came into any school building or upon any school ground, or  
2 street, sidewalk, or public way adjacent thereto, without lawful  
3 business thereon, and his or her presence or acts interfered with  
4 the peaceful conduct of the activities of the school or disrupted  
5 the school or its pupils or school activities, and the defendant was  
6 asked to leave by a person specified in paragraph (1) of  
7 subdivision (a).

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

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

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

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

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

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

30 (1) A violation of paragraph (2) of subdivision (a) of Section  
31 261.

32 (2) A violation of paragraph (1) of subdivision (a) of Section  
33 262.

34 (3) A violation of Section 264.1.

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

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

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

38 (7) Sodomy or oral copulation in violation of Section 286 or  
39 288a by force, violence, duress, menace, or fear of immediate  
40 and unlawful bodily injury on the victim or another person.

1 (8) A violation of subdivision (a) of Section 288, unless the  
2 defendant qualifies for probation under subdivision (c) of Section  
3 1203.066.

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

6 (1) The defendant has been previously convicted of an offense  
7 specified in subdivision (c), including an offense committed in  
8 another jurisdiction that includes all of the elements of an offense  
9 specified in subdivision (c).

10 (2) The defendant kidnapped the victim of the present offense  
11 and the movement of the victim substantially increased the risk  
12 of harm to the victim over and above that level of risk necessarily  
13 inherent in the underlying offense in subdivision (c).

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

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

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

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

26 (2) Except as provided in paragraph (4) of subdivision (d), the  
27 defendant committed the present offense during the commission  
28 of a burglary, as defined in subdivision (a) of Section 460, or  
29 during the commission of a burglary of a building, including any  
30 commercial establishment, which was then closed to the public,  
31 in violation of Section 459.

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

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

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

1 (6) The defendant engaged in the tying or binding of the  
2 victim or another person in the commission of the present  
3 offense.

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

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

22 (g) The term specified in subdivision (a) or (b) shall be  
23 imposed on the defendant once for any offense or offenses  
24 committed against a single victim during a single occasion. If  
25 there are multiple victims during a single occasion, the term  
26 specified in subdivision (a) or (b) shall be imposed on the  
27 defendant once for each separate victim. Terms for other offenses  
28 committed during a single occasion shall be imposed as  
29 authorized under any other law, including Section 667.6, if  
30 applicable.

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

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

39 (j) Article 2.5 (commencing with Section 2930) of Chapter 7  
40 of Title 1 of Part 3 shall apply to reduce the minimum term of 25

1 years in the state prison imposed pursuant to subdivision (a) or  
2 15 years in the state prison imposed pursuant to subdivision (b).  
3 However, in no case shall the minimum term of 25 or 15 years be  
4 reduced by more than 15 percent for credits granted pursuant to  
5 Section 2933, 4019, or any other law providing for conduct credit  
6 reduction. In no case shall any person who is punished under this  
7 section be released on parole prior to serving at least 85 percent  
8 of the minimum term of 25 or 15 years in the state prison.

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

10 3000. (a) (1) The Legislature finds and declares that the  
11 period immediately following incarceration is critical to  
12 successful reintegration of the offender into society and to  
13 positive citizenship. It is in the interest of public safety for the  
14 state to provide for the supervision of and surveillance of  
15 parolees, including the judicious use of revocation actions, and to  
16 provide educational, vocational, family and personal counseling  
17 necessary to assist parolees in the transition between  
18 imprisonment and discharge. A sentence pursuant to Section  
19 1168 or 1170 shall include a period of parole, unless waived, as  
20 provided in this section.

21 (2) The Legislature finds and declares that it is not the intent  
22 of this section to diminish resources allocated to the Department  
23 of Corrections and Rehabilitation for parole functions for which  
24 the department is responsible. It is also not the intent of this  
25 section to diminish the resources allocated to the Board of Parole  
26 Hearings to execute its duties with respect to parole functions for  
27 which the board is responsible.

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

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

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

1 (1) (A) At the expiration of a term of imprisonment of one  
2 year and one day, or a term of imprisonment imposed pursuant to  
3 Section 1170 or at the expiration of a term reduced pursuant to  
4 Section 2931 or 2933, if applicable, the inmate shall be released  
5 on parole for a period not exceeding three years, except that any  
6 inmate sentenced for an offense specified in paragraph (3), (4),  
7 (5), (11), or (18) of subdivision (c) of Section 667.5 shall be  
8 released on parole for a period not exceeding five years, unless in  
9 either case the parole authority for good cause waives parole and  
10 discharges the inmate from the custody of the department.

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

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

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

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

4 (5) Upon successful completion of parole, or at the end of the  
5 maximum statutory period of parole specified for the inmate  
6 under paragraph (1), (2), or (3), as the case may be, whichever is  
7 earlier, the inmate shall be discharged from custody. The date of  
8 the maximum statutory period of parole under this subdivision  
9 and paragraphs (1), (2), and (3) shall be computed from the date  
10 of initial parole or from the date of extension of parole pursuant  
11 to paragraph (3) and shall be a period chronologically  
12 determined. Time during which parole is suspended because the  
13 inmate has absconded or has been returned to custody as a parole  
14 violator shall not be credited toward any period of parole unless  
15 the inmate is found not guilty of the parole violation. However,  
16 except as provided in Section 3064, an inmate subject to three  
17 years on parole shall not be retained under parole supervision or  
18 in custody for a period longer than four years from the date of his  
19 or her initial parole, and, except as provided in Section 3064, an  
20 inmate subject to five years on parole shall not be retained under  
21 parole supervision or in custody for a period longer than seven  
22 years from the date of his or her initial parole or from the date of  
23 extension of parole pursuant to paragraph (3).

24 (6) The Department of Corrections and Rehabilitation shall  
25 meet with each inmate at least 30 days prior to his or her good  
26 time release date and shall provide, under guidelines specified by  
27 the parole authority, the conditions of parole and the length of  
28 parole up to the maximum period of time provided by law. The  
29 inmate has the right to reconsideration of the length of parole and  
30 conditions thereof by the parole authority. The department or the  
31 Board of Parole Hearings may impose as a condition of parole  
32 that an inmate make payments on the inmate's outstanding  
33 restitution fines or orders imposed pursuant to subdivision (a) or  
34 (c) of Section 13967 of the Government Code, as operative prior  
35 to September 28, 1994, or subdivision (b) or (f) of Section  
36 1202.4.

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

39 (8) The sole authority to issue warrants for the return to actual  
40 custody of any state prisoner released on parole rests with the

1 Board of Parole Hearings, except for any escaped state inmate or  
2 any state inmate released prior to his or her scheduled release  
3 date who should be returned to custody, and Section 3060 shall  
4 apply.

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

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

10 3001. (a) Notwithstanding any other provision of law, when  
11 any person referred to in paragraph (1) of subdivision (b) of  
12 Section 3000 who was not imprisoned for committing a violent  
13 felony, as defined in subdivision (c) of Section 667.5, has been  
14 released on parole from the state prison, and has been on parole  
15 continuously for one year since release from confinement, within  
16 30 days, that person shall be discharged from parole, unless the  
17 Department of Corrections and Rehabilitation recommends to the  
18 Board of Parole Hearings that the person be retained on parole  
19 and the board, for good cause, determines that the person will be  
20 retained. Notwithstanding any other provision of law, when any  
21 person referred to in paragraph (1) of subdivision (b) of Section  
22 3000 who was imprisoned for committing a violent felony, as  
23 defined in subdivision (c) of Section 667.5, has been released on  
24 parole from the state prison for a period not exceeding three  
25 years and has been on parole continuously for two years since  
26 release from confinement, or has been released on parole from  
27 the state prison for a period not exceeding five years and has  
28 been on parole continuously for three years since release from  
29 confinement, the department shall discharge, within 30 days, that  
30 person from parole, unless the department recommends to the  
31 board that the person be retained on parole and the board, for  
32 good cause, determines that the person will be retained. The  
33 board shall make a written record of its determination and the  
34 department shall transmit a copy thereof to the parolee.

35 (b) Notwithstanding any other provision of law, when any  
36 person referred to in paragraph (2) or (3) of subdivision (b) of  
37 Section 3000 has been released on parole from the state prison,  
38 and has been on parole continuously for three years since release  
39 from confinement or since extension of parole, the board shall  
40 discharge, within 30 days, the person from parole, unless the

1 board, for good cause, determines that the person will be retained  
2 on parole. The board shall make a written record of its  
3 determination and the department shall transmit a copy thereof to  
4 the parolee.

5 (c) Notwithstanding any other provision of law, when any  
6 person referred to in subparagraph (B) of paragraph (1) of  
7 subdivision (b) of Section 3000 has been released on parole from  
8 the state prison, and has been on parole continuously for six  
9 years since release from confinement, the board shall discharge,  
10 within 30 days, the person from parole, unless the board, for  
11 good cause, determines that the person will be retained on parole.  
12 The board shall make a written record of its determination and  
13 the department shall transmit a copy thereof to the parolee.

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

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

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

24 3005. (a) The Department of Corrections and Rehabilitation,  
25 to the maximum extent practicable and feasible, and subject to  
26 legislative appropriation of necessary funds, shall ensure that all  
27 parolees under active supervision and deemed to pose a high risk  
28 to the public of committing violent sex crimes shall be placed on  
29 an intensive and specialized parole supervision caseload.

30 (b) The department shall develop and, at the discretion of the  
31 director and subject to an appropriation of the necessary funds,  
32 may implement a plan for the implementation of relapse  
33 prevention treatment programs and the provision of other  
34 services deemed necessary by the department, in conjunction  
35 with intensive and specialized parole supervision, to reduce the  
36 recidivism of high-risk sex offenders.

37 (c) The department shall study the effects of the specialized  
38 supervision caseload and of any plan implemented pursuant to  
39 this section on recidivism rates of parolees. The study should pay  
40 particular attention to the effectiveness of different treatment

1 models. The study shall be a two-year analysis completed by  
2 January 1, 2009, with an initial report to the Legislature on or  
3 before January 1, 2010, and a final report on or before January 1,  
4 2012.

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

6 3006. (a) The Department of Corrections and Rehabilitation,  
7 subject to the legislative appropriation of the necessary funds,  
8 may establish and operate, after January 1, 2007, a specialized  
9 sex offender treatment program for parolees the department  
10 deems to pose a high risk to the public of committing violent sex  
11 crimes.

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

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

19 (3) The department may include other appropriate offenders in  
20 the treatment program if doing so facilitates the effectiveness of  
21 the treatment program.

22 (c) Except as otherwise required under Section 645, the  
23 department may provide medication treatments for selected  
24 offenders as determined by medical protocols and only on a  
25 voluntary basis and with the offender’s informed consent.

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

29 ~~SEC. 16. Section 3010.05 is added to the Penal Code, to read:~~

30 ~~3010.05. (a) The sum of eight million dollars (\$8,000,000) is~~  
31 ~~hereby appropriated from the General Fund to the Department of~~  
32 ~~Corrections and Rehabilitation for use in 2006-07 fiscal year to~~  
33 ~~add 500 Global Positioning System devices to track and monitor~~  
34 ~~the parolees who pose the highest risk to public safety and who~~  
35 ~~have been convicted of sexual or violent offenses and are~~  
36 ~~assessed to be a high-risk to reoffend.~~

37 ~~(b) There shall be a three-year plan to add 2,000 Global~~  
38 ~~Positioning System devices, bringing the total number of Global~~  
39 ~~Positioning System devices available for parolee monitoring up~~

1 to 2,500 by 2008, subject to the legislative appropriation of the  
2 necessary funds.

3 (e) Parole agents supervising offenders with Global  
4 Positioning System devices shall have no more than 20 active  
5 cases requiring supervision.

6 ~~SEC. 17.~~

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. 18. Section 13887.5 is added to the Penal Code, to read:~~  
25 ~~13887.5. (a) The sum of fifteen million dollars (\$15,000,000)~~  
26 ~~is hereby appropriated from the General Fund to the Controller~~  
27 ~~for distribution to regional SAFE team programs.~~

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

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

35 ~~(d) By accepting the funds provided by this act, local entities~~  
36 ~~agree to report in writing to the Department of Finance on or~~  
37 ~~before August 15, 2007. The Department of Finance shall make~~  
38 ~~the report available to the Legislature. The report shall include,~~  
39 ~~but not be limited to, the data measuring the objectives identified~~  
40 ~~in Section 13887.3 of the Penal Code.~~

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

6 *SEC. 17. No reimbursement is required by this act pursuant*  
 7 *to Section 6 of Article XIII B of the California Constitution*  
 8 *because the only costs that may be incurred by a local agency or*  
 9 *school district will be incurred because this act creates a new*  
 10 *crime or infraction, eliminates a crime or infraction, or changes*  
 11 *the penalty for a crime or infraction, within the meaning of*  
 12 *Section 17556 of the Government Code, or changes the definition*  
 13 *of a crime within the meaning of Section 6 of Article XIII B of the*  
 14 *California Constitution.*

15  
 16 \_\_\_\_\_  
 17 **CORRECTIONS:**  
 18 **Heading - Line 1.**  
 19 **Digest - Page 1.**  
 20 **Text - Page 12.**  
 21 \_\_\_\_\_