

File No. 230179

Committee Item No. \_\_\_\_\_

Board Item No. 20

# COMMITTEE/BOARD OF SUPERVISORS

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Date: \_\_\_\_\_

Board of Supervisors Meeting

Date: March 14, 2023

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Prepared by: Arthur Khoo

Date: February 23, 2023

Prepared by: Jocelyn Wong

Date: March 3, 2023

1 [Urging Governor Gavin Newsom, Senator Scott Wiener, Assembly Member Matt Haney, and  
2 Assembly Member Phil Ting to Legalize Sex Work in California]

3 **Resolution urging Governor Gavin Newsom, Senator Scott Wiener, Assembly Member**  
4 **Matt Haney, and Assembly Member Phil Ting to legalize consensual adult prostitution**  
5 **in the State of California; legalization is a proven effective method to protect the health**  
6 **and safety of sex workers while reducing crime and violence.**

7  
8 WHEREAS, Prostitution is known as the world’s oldest profession with early accounts  
9 in the U.S. dating back to the early 1700s but has been criminalized in California since the late  
10 1800s; and

11 WHEREAS, Over the past decade, California has taken instrumental steps towards  
12 decriminalization; and

13 WHEREAS, In 2013, after hearing hours of testimony from sex workers who were  
14 victims of violence, the California Victim Compensation and Government Claims Board moved  
15 to repeal a regulation that previously precluded sex workers from receiving restitution from a  
16 victim compensation fund if raped and/or beaten; and

17 WHEREAS, Three years later, Senate Bill 1322 was passed into law barring the  
18 prosecution of minors who to solicit or engage in any act of prostitution recognizing that  
19 minors engaged in this work should be treated as victims as opposed to criminals; and

20 WHEREAS, In 2019, California provided immunity to sex workers to report crimes of  
21 violence and prohibited law enforcement from using condoms as evidence of prostitution, with  
22 the passage of Senate Bill 233, acknowledging that sex workers are less likely to report  
23 crimes or engage in safe sex practices due to fear of prosecution; and

24 WHEREAS, Last year, California passed the Safer Streets For All Act decriminalizing  
25 loitering in a public place with the intent to engage in sex, an offense law enforcement

1 previously used to arbitrarily stop sex workers for otherwise legal activities such as walking or  
2 standing in a specific area; and

3 WHEREAS, Decriminalization and ultimately legalization reduces violence and  
4 increases access to justice, deters the negative impacts associated with a criminal record,  
5 improves access to health services and workplace protections, and allows sex workers to be  
6 allies in the fight against human trafficking; and

7 WHEREAS, Although sex work is not intrinsically violent, because sex workers and  
8 their clients must often conduct business outside the view of law enforcement in areas that  
9 are usually isolated and dangerous, sex workers are at a high risk of violence; and

10 WHEREAS, Similarly, sex workers are less likely to report crimes due to a fear of  
11 prosecution making them targets of harm and exploitation; and

12 WHEREAS, In 2007, after Scotland criminalized solicitation of prostitution, reported  
13 cases of rape and sexual assaults doubled; and

14 WHEREAS, When Rhode Island legalized indoor prostitution from 2003-2009, the state  
15 saw a 30% decrease in reported rape cases; and

16 WHEREAS, After New Zealand passed the Prostitution Reform Act in 2003  
17 decriminalizing prostitution, sex workers can work in areas with access to security services  
18 and report crimes to law enforcement with 57% of sex workers surveyed indicated an  
19 improvement in police perception regarding their work; and

20 WHEREAS, Legalization deters the negative impacts associated with the stigma and  
21 criminalization of sex work; and

22 WHEREAS, Sex workers who have criminal records often find barriers to employment,  
23 housing, loans, and in some cases, receiving custody of their children; and

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25

1           WHEREAS, Sex work needs to be viewed as a labor issue as opposed to a moral one  
2 and would allow cities to issue and enforce workplace health and safety regulations for sex  
3 workers; and

4           WHEREAS, After New Zealand included sex work in its Health and Safety Employment  
5 Act creating guidelines which sex workers could assert with employers and clients, in 2014, a  
6 sex worker was awarded restitution after a brothel owner repeatedly harassed her; and

7           WHEREAS, With these health and safety protections, sex workers would be able to  
8 negotiate safe sex practices with clients without fear of being apprehended; and

9           WHEREAS, In the six years that indoor prostitution was decriminalized in Rhode  
10 Island, there was a 40% decrease in reported gonorrhea cases; and

11           WHEREAS, Because criminalization does not end human trafficking, legalization would  
12 allow sex workers to be allies in the fight against human trafficking; and

13           WHEREAS, Removing the stigma around sex work and allowing sex workers to  
14 organize and work with law enforcement results in effective responses to human trafficking;  
15 and

16           WHEREAS, In India, the Durbar Mahila Samanwaya Committee, a self-regulatory  
17 board run by sex workers, identified and supported women who had been sexually exploited  
18 and trafficked; and

19           WHEREAS, In 2018, the effects of legalization were studied in the context of tipple  
20 zones, designated legal street prostitution zones where soliciting and purchasing sex is  
21 permitted between specific hours; and

22           WHEREAS, The first tipple zone opened in the Hague in 1983 to deal with resident  
23 complaints and improve health and safety conditions of sex workers who often suffered from  
24 substance abuse and immigration issues, but several European countries have followed suit  
25 with sites opening in Rome 2015 and Leeds 2016; and

1           WHEREAS, Evaluations of conditions after the opening of these zones showed a  
2 positive impact in a reduction of violence and drug use; and

3           WHEREAS, The opening of a tipple zone was linked with a 30-40% decrease in sexual  
4 abuse and rape cases and a 25% decrease in city wide drug related crime; and

5           WHEREAS, Legalization is a proven effective method to protect the health and safety  
6 of sex workers while reducing crime and violence; and now therefore be it

7           RESOLVED, The Board of Supervisors urges Governor Gavin Newsom, Senator Scott  
8 Wiener, Assembly Member Matt Haney, and Assembly Member Phil Ting to legalize  
9 consensual adult prostitution in the State of California; and

10          FURTHER RESOLVED, That the Clerk of the Board to transmit copies of this  
11 Resolution to Governor Gavin Newsom, Senator Scott Wiener, Assembly Member Matt  
12 Haney, and Assembly Member Phil Ting.

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## Senate Bill No. 233

### CHAPTER 141

An act to amend Section 1162 of, and to repeal and add Section 782.1 of, the Evidence Code, and to add Section 647.3 to the Penal Code, relating to crime.

[Approved by Governor July 30, 2019. Filed with Secretary of State July 30, 2019.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 233, Wiener. Immunity from arrest.

Existing law criminalizes various aspects of sex work, including soliciting anyone to engage in, or engaging in, lewd or dissolute conduct in a public place, loitering in a public place with the intent to commit prostitution, or maintaining a public nuisance. Existing law, the California Uniform Controlled Substances Act (CUCSA), also criminalizes various offenses relating to the possession, transportation, and sale of specified controlled substances.

This bill would prohibit the arrest of a person for a misdemeanor violation of the CUCSA or specified sex work crimes, if that person is reporting that they are a victim of, or a witness to, specified crimes. The bill would also state that possession of condoms in any amount does not provide a basis for probable cause for arrest for specified sex work crimes.

Existing law specifies a procedure by which condoms may be introduced as evidence in a prosecution for various crimes, including soliciting or engaging in lewd or dissolute conduct in a public place, soliciting or engaging in acts of prostitution, loitering in or about a toilet open to the public for the purpose of engaging in or soliciting a lewd, lascivious, or unlawful act, or loitering in a public place with the intent to commit prostitution.

This bill, instead, would prohibit introducing the possession of a condom as evidence in the prosecution of a violation of soliciting or engaging in lewd or dissolute conduct in a public place, soliciting or engaging in acts of prostitution, loitering in a public place with the intent to commit prostitution, or for maintaining a public nuisance, if the offense is related to an act of prostitution.

This bill would make other conforming changes.

The California Constitution includes the Right to Truth-In-Evidence, which requires a  $\frac{2}{3}$  vote of the Legislature to pass a bill that would exclude any relevant evidence from any criminal proceeding, as specified.

Because this bill would exclude from a criminal action evidence about a person's liability for an act of prostitution that is otherwise admissible, it requires a  $\frac{2}{3}$  vote of the Legislature.

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

SECTION 1. Section 782.1 of the Evidence Code is repealed.

SEC. 2. Section 782.1 is added to the Evidence Code, to read:

782.1. The possession of a condom is not admissible as evidence in the prosecution of a violation of Section 372 of, subdivision (a) or (b) of Section 647 of, or Section 653.22 of, the Penal Code, if the offense is related to prostitution.

SEC. 3. Section 1162 of the Evidence Code is amended to read:

1162. Evidence that a victim of, or a witness to, a serious felony as defined in subdivision (c) of Section 1192.7 of, an assault in violation of subdivision (a) of Section 245 of, domestic violence in violation of Section 273.5 of, extortion in violation of Section 518 of, human trafficking in violation of Section 236.1 of, sexual battery in violation of subdivision (a) of Section 243.4 of, or stalking in violation of Section 646.9 of, the Penal Code, has engaged in an act of prostitution at or around the time they were the victim of or witness to the crime is inadmissible in a separate prosecution of that victim or witness to prove criminal liability for the act of prostitution.

SEC. 4. Section 647.3 is added to the Penal Code, to read:

647.3. (a) A person who reports being a victim of, or a witness to, a serious felony as defined in subdivision (c) of Section 1192.7, an assault in violation of subdivision (a) of Section 245, domestic violence in violation of Section 273.5, extortion in violation of Section 518, human trafficking in violation of Section 236.1, sexual battery in violation of subdivision (a) of Section 243.4, or stalking in violation of Section 646.9 shall not be arrested for any of the following offenses if that offense is related to the crime that the person is reporting or if the person was engaged in that offense at or around the time that the person was the victim of or witness to the crime they are reporting:

(1) A misdemeanor violation of the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code).

(2) A violation of Section 372, subdivision (a) or (b) of Section 647, or Section 653.22, if the offense is related to an act of prostitution.

(b) Possession of condoms in any amount shall not provide a basis for probable cause for arrest for a violation of Section 372, subdivision (a) or (b) of Section 647, or Section 653.22 if the offense is related to an act of prostitution.

## Senate Bill No. 1322

### CHAPTER 654

An act to amend Sections 647 and 653.22 of the Penal Code, relating to minors.

[Approved by Governor September 26, 2016. Filed with  
Secretary of State September 26, 2016.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1322, Mitchell. Commercial sex acts: minors.

Existing law makes it a crime to solicit or engage in any act of prostitution. Existing law makes it a crime to loiter in any public place with the intent to commit prostitution.

This bill would make the above provisions inapplicable to a child under 18 years of age who is alleged to have engaged in conduct that would, if committed by an adult, violate the above provisions. The bill would authorize the minor to be taken into temporary custody under limited circumstances.

This bill would incorporate additional changes to Section 647 of the Penal Code, proposed by SB 420, SB 1129, and AB 1708, that would become operative only if this bill and one or more of those other bills are enacted and become effective on or before January 1, 2017, and this bill is chaptered last.

This bill would incorporate additional changes to Section 653.22 of the Penal Code, proposed by AB 1771, that would become operative only if this bill and AB 1771 are enacted and become effective on or before January 1, 2017, and this bill is chaptered last.

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

SECTION 1. Section 647 of the Penal Code is amended to read:

647. Except as provided in paragraph (2) of subdivision (b) and subdivision (l), every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

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

(b) (1) Who solicits or who agrees to engage in or who engages in any act of prostitution. A person agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in prostitution. No agreement to engage in an act of prostitution



shall constitute a violation of this subdivision unless some act, in addition to the agreement, is done within this state in furtherance of the commission of an act of prostitution by the person agreeing to engage in that act. As used in this subdivision, "prostitution" includes any lewd act between persons for money or other consideration.

(2) Notwithstanding paragraph (1), this subdivision does not apply to a child under 18 years of age who is alleged to have engaged in conduct to receive money or other consideration that would, if committed by an adult, violate this subdivision. A commercially exploited child under this paragraph may be adjudged a dependent child of the court pursuant to paragraph (2) of subdivision (b) of Section 300 of the Welfare and Institutions Code and may be taken into temporary custody pursuant to subdivision (a) of Section 305 of the Welfare and Institutions Code, if the conditions allowing temporary custody without warrant are met.

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

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

(e) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.

(f) Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, controlled substance, or toluene, in a condition that he or she is unable to exercise care for his or her own safety or the safety of others, or by reason of his or her being under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, or toluene, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way.

(g) When a person has violated subdivision (f), a peace officer, if he or she is reasonably able to do so, shall place the person, or cause him or her to be placed, in civil protective custody. The person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force which would be lawful were he or she effecting an arrest for a misdemeanor without a warrant. A person who has been placed in civil protective custody shall not thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to this placement. This subdivision shall not apply to the following persons:

(1) Any person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.

(2) Any person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f).

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

(h) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant. As used in this subdivision, “loiter” means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.

(i) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of any inhabited building or structure, without visible or lawful business with the owner or occupant.

(j) (1) Any person who looks through a hole or opening, into, or otherwise views, by means of any instrumentality, including, but not limited to, a periscope, telescope, binoculars, camera, motion picture camera, camcorder, or mobile phone, the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person or persons inside. This subdivision shall not apply to those areas of a private business used to count currency or other negotiable instruments.

(2) Any person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person under or through the clothing being worn by that other person, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy.

(3) (A) Any person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person.

(B) Neither of the following is a defense to the crime specified in this paragraph:

(i) The defendant was a cohabitant, landlord, tenant, cotenant, employer, employee, or business partner or associate of the victim, or an agent of any of these.

(ii) The victim was not in a state of full or partial undress.

(4) (A) Any person who intentionally distributes the image of the intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual intercourse, sodomy, oral copulation,

sexual penetration, or an image of masturbation by the person depicted or in which the person depicted participates, under circumstances in which the persons agree or understand that the image shall remain private, the person distributing the image knows or should know that distribution of the image will cause serious emotional distress, and the person depicted suffers that distress.

(B) A person intentionally distributes an image described in subparagraph (A) when he or she personally distributes the image, or arranges, specifically requests, or intentionally causes another person to distribute that image.

(C) As used in this paragraph, “intimate body part” means any portion of the genitals, the anus and in the case of a female, also includes any portion of the breasts below the top of the areola, that is either uncovered or clearly visible through clothing.

(D) It shall not be a violation of this paragraph to distribute an image described in subparagraph (A) if any of the following applies:

(i) The distribution is made in the course of reporting an unlawful activity.

(ii) The distribution is made in compliance with a subpoena or other court order for use in a legal proceeding.

(iii) The distribution is made in the course of a lawful public proceeding.

(5) This subdivision shall not preclude punishment under any section of law providing for greater punishment.

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

In any accusatory pleading charging a violation of subdivision (b), if the defendant has been previously convicted two or more times of a violation of that subdivision, each of these previous convictions shall be charged in the accusatory pleading. If two or more of these previous convictions are found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or are admitted by the defendant, the defendant shall be imprisoned in a county jail for a period of not less than 90 days and shall not be eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 90 days in a county jail. In all cases in which probation is granted, the court shall require as a condition thereof that the person be confined in a county jail for at least 90 days. In no event does the court have

the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in a county jail.

In addition to any punishment prescribed by this section, a court may suspend, for not more than 30 days, the privilege of the person to operate a motor vehicle pursuant to Section 13201.5 of the Vehicle Code for any violation of subdivision (b) that was committed within 1,000 feet of a private residence and with the use of a vehicle. In lieu of the suspension, the court may order a person's privilege to operate a motor vehicle restricted, for not more than six months, to necessary travel to and from the person's place of employment or education. If driving a motor vehicle is necessary to perform the duties of the person's employment, the court may also allow the person to drive in that person's scope of employment.

(l) (1) A second or subsequent violation of subdivision (j) is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

(2) If the victim of a violation of subdivision (j) was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

(m) (1) If a crime is committed in violation of subdivision (b) and the person who was solicited was a minor at the time of the offense, and if the defendant knew or should have known that the person who was solicited was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail for not less than two days and not more than one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both that fine and imprisonment.

(2) The court may, in unusual cases, when the interests of justice are best served, reduce or eliminate the mandatory two days of imprisonment in a county jail required by this subdivision. If the court reduces or eliminates the mandatory two days' imprisonment, the court shall specify the reason on the record.

SEC. 1.1. Section 647 of the Penal Code is amended to read:

647. Except as provided in paragraph (5) of subdivision (b) and subdivision (l), every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) An individual who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.

(b) (1) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with the intent to receive compensation, money, or anything of value from another person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation by another person to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.

(2) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person who is 18 years of age or older in exchange for the individual providing compensation, money, or anything of value to the other person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation by another person who is 18 years of age or older to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.

(3) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person who is a minor in exchange for the individual providing compensation, money, or anything of value to the minor. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation by someone who is a minor to so engage, regardless of whether the offer or solicitation was made by a minor who also possessed the specific intent to engage in an act of prostitution.

(4) A manifestation of acceptance of an offer or solicitation to engage in an act of prostitution does not constitute a violation of this subdivision unless some act, in addition to the manifestation of acceptance is done within this state in furtherance of the commission of the act of prostitution by the person manifesting an acceptance of an offer or solicitation to engage in that act. As used in this subdivision, “prostitution” includes any lewd act between persons for money or other consideration.

(5) Notwithstanding paragraphs (1) to (3), inclusive, this subdivision does not apply to a child under 18 years of age who is alleged to have engaged in conduct to receive money or other consideration that would, if committed by an adult, violate this subdivision. A commercially exploited child under this paragraph may be adjudged a dependent child of the court pursuant to paragraph (2) of subdivision (b) of Section 300 of the Welfare and Institutions Code and may be taken into temporary custody pursuant to subdivision (a) of Section 305 of the Welfare and Institutions Code, if the conditions allowing temporary custody without warrant are met.

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

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

(e) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.

(f) Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, controlled substance, or toluene, in a condition that he or she is unable to exercise care for his or her own safety or the safety of others, or by reason of his or her being under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, or toluene, interferes with or

obstructs or prevents the free use of any street, sidewalk, or other public way.

(g) When a person has violated subdivision (f), a peace officer, if he or she is reasonably able to do so, shall place the person, or cause him or her to be placed, in civil protective custody. The person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force which would be lawful were he or she effecting an arrest for a misdemeanor without a warrant. A person who has been placed in civil protective custody shall not thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to this placement. This subdivision shall not apply to the following persons:

(1) Any person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.

(2) Any person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f).

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

(h) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant. As used in this subdivision, "loiter" means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.

(i) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of any inhabited building or structure, without visible or lawful business with the owner or occupant.

(j) (1) Any person who looks through a hole or opening, into, or otherwise views, by means of any instrumentality, including, but not limited to, a periscope, telescope, binoculars, camera, motion picture camera, camcorder, or mobile phone, the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person or persons inside. This subdivision does not apply to those areas of a private business used to count currency or other negotiable instruments.

(2) Any person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person under or through the clothing being worn by that other person, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy.

(3) (A) Any person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person.

(B) Neither of the following is a defense to the crime specified in this paragraph:

(i) The defendant was a cohabitant, landlord, tenant, cotenant, employer, employee, or business partner or associate of the victim, or an agent of any of these.

(ii) The victim was not in a state of full or partial undress.

(4) (A) Any person who intentionally distributes the image of the intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or an image of masturbation by the person depicted or in which the person depicted participates, under circumstances in which the persons agree or understand that the image shall remain private, the person distributing the image knows or should know that distribution of the image will cause serious emotional distress, and the person depicted suffers that distress.

(B) A person intentionally distributes an image described in subparagraph (A) when he or she personally distributes the image, or arranges, specifically requests, or intentionally causes another person to distribute that image.

(C) As used in this paragraph, “intimate body part” means any portion of the genitals, the anus and in the case of a female, also includes any portion of the breasts below the top of the areola, that is either uncovered or clearly visible through clothing.

(D) It shall not be a violation of this paragraph to distribute an image described in subparagraph (A) if any of the following applies:

(i) The distribution is made in the course of reporting an unlawful activity.

(ii) The distribution is made in compliance with a subpoena or other court order for use in a legal proceeding.

(iii) The distribution is made in the course of a lawful public proceeding.

(5) This subdivision shall not preclude punishment under any section of law providing for greater punishment.

(k) (1) In any accusatory pleading charging a violation of subdivision (b), if the defendant has been once previously convicted of a violation of that subdivision, the previous conviction shall be charged in the accusatory pleading. If the previous conviction is found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the defendant, the defendant shall be imprisoned in a county jail for a period of not less than 45 days and shall not be eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on

any other basis until he or she has served a period of not less than 45 days in a county jail. In all cases in which probation is granted, the court shall require as a condition thereof that the person be confined in a county jail for at least 45 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 45 days in confinement in a county jail.

(2) In any accusatory pleading charging a violation of subdivision (b), if the defendant has been previously convicted two or more times of a violation of that subdivision, each of these previous convictions shall be charged in the accusatory pleading. If two or more of these previous convictions are found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or are admitted by the defendant, the defendant shall be imprisoned in a county jail for a period of not less than 90 days and shall not be eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 90 days in a county jail. In all cases in which probation is granted, the court shall require as a condition thereof that the person be confined in a county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in a county jail.

(3) In addition to any punishment prescribed by this section, a court may suspend, for not more than 30 days, the privilege of the person to operate a motor vehicle pursuant to Section 13201.5 of the Vehicle Code for any violation of subdivision (b) that was committed within 1,000 feet of a private residence and with the use of a vehicle. In lieu of the suspension, the court may order a person's privilege to operate a motor vehicle restricted, for not more than six months, to necessary travel to and from the person's place of employment or education. If driving a motor vehicle is necessary to perform the duties of the person's employment, the court may also allow the person to drive in that person's scope of employment.

(l) (1) A second or subsequent violation of subdivision (j) is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

(2) If the victim of a violation of subdivision (j) was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

(m) (1) If a crime is committed in violation of subdivision (b) and the person who was solicited was a minor at the time of the offense, and if the defendant knew or should have known that the person who was solicited was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail for not less than two days and not more than one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both that fine and imprisonment.



(2) The court may, in unusual cases, when the interests of justice are best served, reduce or eliminate the mandatory two days of imprisonment in a county jail required by this subdivision. If the court reduces or eliminates the mandatory two days' imprisonment, the court shall specify the reason on the record.

SEC. 1.2. Section 647 of the Penal Code is amended to read:

647. Except as provided in paragraph (2) of subdivision (b) and subdivision (l), every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

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

(b) (1) Who solicits or who agrees to engage in or who engages in any act of prostitution. A person agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in prostitution. An agreement to engage in an act of prostitution does not constitute a violation of this subdivision unless some act, in addition to the agreement, is done within this state in furtherance of the commission of an act of prostitution by the person agreeing to engage in that act. As used in this subdivision, "prostitution" includes any lewd act between persons for money or other consideration.

(2) Notwithstanding paragraph (1), this subdivision does not apply to a child under 18 years of age who is alleged to have engaged in conduct to receive money or other consideration that would, if committed by an adult, violate this subdivision. A commercially exploited child under this paragraph may be adjudged a dependent child of the court pursuant to paragraph (2) of subdivision (b) of Section 300 of the Welfare and Institutions Code and may be taken into temporary custody pursuant to subdivision (a) of Section 305 of the Welfare and Institutions Code, if the conditions allowing temporary custody without warrant are met.

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

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

(e) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.

(f) Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, controlled substance, or toluene, in a condition that he or she is unable to exercise care for his or her own safety or the safety of others, or by reason of his or her being under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, or toluene, interferes with or

obstructs or prevents the free use of any street, sidewalk, or other public way.

(g) If a person has violated subdivision (f), a peace officer, if he or she is reasonably able to do so, shall place the person, or cause him or her to be placed, in civil protective custody. The person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force that would be lawful were he or she effecting an arrest for a misdemeanor without a warrant. A person who has been placed in civil protective custody shall not thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to this placement. This subdivision does not apply to the following persons:

(1) A person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.

(2) A person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f).

(3) A person who a peace officer in good faith believes will attempt escape or will be unreasonably difficult for medical personnel to control.

(h) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant. As used in this subdivision, “loiter” means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.

(i) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of any inhabited building or structure, without visible or lawful business with the owner or occupant.

(j) (1) A person who looks through a hole or opening, into, or otherwise views, by means of any instrumentality, including, but not limited to, a periscope, telescope, binoculars, camera, motion picture camera, camcorder, or mobile phone, the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person or persons inside. This subdivision does not apply to those areas of a private business used to count currency or other negotiable instruments.

(2) A person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person under or through the clothing being worn by that other person, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy.

(3) (A) A person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person.

(B) Neither of the following is a defense to the crime specified in this paragraph:

(i) The defendant was a cohabitant, landlord, tenant, cotenant, employer, employee, or business partner or associate of the victim, or an agent of any of these.

(ii) The victim was not in a state of full or partial undress.

(4) (A) A person who intentionally distributes the image of the intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or an image of masturbation by the person depicted or in which the person depicted participates, under circumstances in which the persons agree or understand that the image shall remain private, the person distributing the image knows or should know that distribution of the image will cause serious emotional distress, and the person depicted suffers that distress.

(B) A person intentionally distributes an image described in subparagraph (A) when he or she personally distributes the image, or arranges, specifically requests, or intentionally causes another person to distribute that image.

(C) As used in this paragraph, “intimate body part” means any portion of the genitals, the anus and in the case of a female, also includes any portion of the breasts below the top of the areola, that is either uncovered or clearly visible through clothing.

(D) It shall not be a violation of this paragraph to distribute an image described in subparagraph (A) if any of the following applies:

(i) The distribution is made in the course of reporting an unlawful activity.

(ii) The distribution is made in compliance with a subpoena or other court order for use in a legal proceeding.

(iii) The distribution is made in the course of a lawful public proceeding.

(5) This subdivision does not preclude punishment under any section of law providing for greater punishment.

(k) In addition to any punishment prescribed by this section, a court may suspend, for not more than 30 days, the privilege of the person to operate a motor vehicle pursuant to Section 13201.5 of the Vehicle Code for any violation of subdivision (b) that was committed within 1,000 feet of a private residence and with the use of a vehicle. In lieu of the suspension, the court may order a person’s privilege to operate a motor vehicle restricted, for not more than six months, to necessary travel to and from the person’s place of employment or education. If driving a motor vehicle is necessary to perform

the duties of the person's employment, the court may also allow the person to drive in that person's scope of employment.

(l) (1) A second or subsequent violation of subdivision (j) is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

(2) If the victim of a violation of subdivision (j) was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

(m) (1) If a crime is committed in violation of subdivision (b) and the person who was solicited was a minor at the time of the offense, and if the defendant knew or should have known that the person who was solicited was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail for not less than two days and not more than one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both that fine and imprisonment.

(2) The court may, in unusual cases, when the interests of justice are best served, reduce or eliminate the mandatory two days of imprisonment in a county jail required by this subdivision. If the court reduces or eliminates the mandatory two days' imprisonment, the court shall specify the reason on the record.

SEC. 1.3. Section 647 of the Penal Code is amended to read:

647. Except as provided in paragraph (8) of subdivision (b) and subdivision (l), a person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) An individual who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.

(b) (1) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person with the intent to receive compensation, money, or anything of value, and with the specific intent to so engage.

(2) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person who is 18 years of age or older in exchange for the individual providing compensation, money, or anything of value to the other person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation by another person who is 18 years of age or older to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.

(3) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person who is a minor in exchange for the individual providing compensation, money, or anything of value to the minor. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance

of an offer or solicitation by someone who is a minor to so engage, regardless of whether the offer or solicitation was made by a minor who also possessed the specific intent to engage in an act of prostitution.

(4) A manifestation of acceptance of an offer or solicitation to engage in an act of prostitution does not constitute a violation of this subdivision unless some act, in addition to the manifestation of acceptance, is done within this state in furtherance of the commission of the act of prostitution by the person manifesting an acceptance of an offer or solicitation to engage in that act. As used in this subdivision, “prostitution” includes any lewd act between persons for money or other consideration.

(5) Except as provided in paragraph (6) and subdivision (k), a violation of paragraph (2) or (3) is punishable by imprisonment in a county jail for not less than 72 hours and not more than six months and by a fine of not less than two hundred fifty dollars (\$250) but not exceeding one thousand dollars (\$1,000). An amount of two hundred fifty dollars (\$250) of the fine shall be deposited in the treasury of the county in which the offense occurred and used by the county to fund services for victims of human trafficking. Upon a violation of paragraph (2) or (3), a person is not eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 24 continuous hours in a county jail. In all cases in which probation is granted, the court shall require as a condition of probation that the person be confined in a county jail for at least 24 hours. The court shall order that a person punished under this subdivision, who is to be punished by imprisonment in the county jail, be imprisoned on days other than days of regular employment of the person, as determined by the court. If the court determines that 24 hours of continuous imprisonment would interfere with the person’s work schedule, the court shall allow the person to serve the imprisonment whenever the person is normally scheduled for time off from work. The court may make this determination based upon a representation from the defendant’s attorney or upon an affidavit or testimony from the defendant.

(6) If a defendant violates paragraph (3) and knew or should have known that the person who was solicited was a minor at the time of the offense, or if a defendant violates paragraph (2) and the person who was solicited was a person posing as a minor and the defendant had specific intent to solicit a minor, the violation is punishable by imprisonment in a county jail for not less than 72 hours and not more than one year and by a fine of not less than one thousand dollars (\$1,000) but not exceeding ten thousand dollars (\$10,000). The fine imposed shall be deposited in the treasury of the county in which the offense occurred and used by the county to fund services for victims of human trafficking. Upon a violation of this paragraph, a person is not eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 48 continuous hours in a county jail. In all cases in which probation is granted, the court shall require as a condition of probation that the person be confined in a county jail for at

least 48 hours. The court shall order that a person punished under this paragraph, who is to be punished by imprisonment in the county jail, be imprisoned on days other than days of regular employment of the person, as determined by the court. If the court determines that 48 hours of continuous imprisonment would interfere with the person's work schedule, the court shall allow the person to serve the imprisonment whenever the person is normally scheduled for time off from work. The court may make this determination based upon a representation from the defendant's attorney or upon an affidavit or testimony from the defendant.

(7) This subdivision does not prohibit prosecution under any other law.

(8) Notwithstanding paragraphs (1) to (3), inclusive, this subdivision does not apply to a child under 18 years of age who is alleged to have engaged in conduct to receive money or other consideration that would, if committed by an adult, violate this subdivision. A commercially exploited child under this paragraph may be adjudged a dependent child of the court pursuant to paragraph (2) of subdivision (b) of Section 300 of the Welfare and Institutions Code and may be taken into temporary custody pursuant to subdivision (a) of Section 305 of the Welfare and Institutions Code, if the conditions allowing temporary custody without warrant are met.

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

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

(e) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.

(f) Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, controlled substance, or toluene, in a condition that he or she is unable to exercise care for his or her own safety or the safety of others, or by reason of his or her being under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, or toluene, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way.

(g) When a person has violated subdivision (f), a peace officer, if he or she is reasonably able to do so, shall place the person, or cause him or her to be placed, in civil protective custody. The person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force which would be lawful were he or she effecting an arrest for a misdemeanor without a warrant. A person who has been placed in civil protective custody shall not thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to this placement. This subdivision shall not apply to the following persons:

(1) Any person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.

(2) Any person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f).

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

(h) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant. As used in this subdivision, “loiters” means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.

(i) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of any inhabited building or structure, without visible or lawful business with the owner or occupant.

(j) (1) Any person who looks through a hole or opening, into, or otherwise views, by means of any instrumentality, including, but not limited to, a periscope, telescope, binoculars, camera, motion picture camera, camcorder, or mobile phone, the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person or persons inside. This subdivision shall not apply to those areas of a private business used to count currency or other negotiable instruments.

(2) Any person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person under or through the clothing being worn by that other person, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy.

(3) (A) Any person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person.

(B) Neither of the following is a defense to the crime specified in this paragraph:

(i) The defendant was a cohabitant, landlord, tenant, cotenant, employer, employee, or business partner or associate of the victim, or an agent of any of these.

(ii) The victim was not in a state of full or partial undress.

(4) (A) Any person who intentionally distributes the image of the intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or an image of masturbation by the person depicted or in which the person depicted participates, under circumstances in which the persons agree or understand that the image shall remain private, the person distributing the image knows or should know that distribution of the image will cause serious emotional distress, and the person depicted suffers that distress.

(B) A person intentionally distributes an image described in subparagraph (A) when he or she personally distributes the image, or arranges, specifically requests, or intentionally causes another person to distribute that image.

(C) As used in this paragraph, “intimate body part” means any portion of the genitals, the anus and in the case of a female, also includes any portion of the breasts below the top of the areola, that is either uncovered or clearly visible through clothing.

(D) It shall not be a violation of this paragraph to distribute an image described in subparagraph (A) if any of the following applies:

(i) The distribution is made in the course of reporting an unlawful activity.

(ii) The distribution is made in compliance with a subpoena or other court order for use in a legal proceeding.

(iii) The distribution is made in the course of a lawful public proceeding.

(5) This subdivision shall not preclude punishment under any section of law providing for greater punishment.

(k) In any accusatory pleading charging a violation of subdivision (b), if the defendant has been once previously convicted of a violation of that subdivision, the previous conviction shall be charged in the accusatory pleading. If the previous conviction is found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the defendant, the defendant shall be imprisoned in a county jail for a period of not less than 45 days and is not eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 45 days in a county jail. In all cases in which probation is granted, the court shall require as a condition thereof that the person be confined in a county jail for at least 45 days. The court shall not absolve a person who violates this subdivision from the obligation of spending at least 45 days in confinement in a county jail.

In any accusatory pleading charging a violation of subdivision (b), if the defendant has been previously convicted two or more times of a violation of that subdivision, each of these previous convictions shall be charged in the accusatory pleading. If two or more of these previous convictions are found to be true by the jury, upon a jury trial, or by the court, upon a court



trial, or are admitted by the defendant, the defendant shall be imprisoned in a county jail for a period of not less than 90 days and is not eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 90 days in a county jail. In all cases in which probation is granted, the court shall require as a condition thereof that the person be confined in a county jail for at least 90 days. The court shall not absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in a county jail.

In addition to any punishment prescribed by this section, a court may suspend, for not more than 30 days, the privilege of the person to operate a motor vehicle pursuant to Section 13201.5 of the Vehicle Code for any violation of subdivision (b) that was committed within 1,000 feet of a private residence and with the use of a vehicle. In lieu of the suspension, the court may order a person's privilege to operate a motor vehicle restricted, for not more than six months, to necessary travel to and from the person's place of employment or education. If driving a motor vehicle is necessary to perform the duties of the person's employment, the court may also allow the person to drive in that person's scope of employment.

(l) (1) A second or subsequent violation of subdivision (j) is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

(2) If the victim of a violation of subdivision (j) was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

SEC. 1.4. Section 647 of the Penal Code is amended to read:

647. Except as provided in paragraph (5) of subdivision (b) and subdivision (l), every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) An individual who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.

(b) (1) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with the intent to receive compensation, money, or anything of value from another person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation by another person to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.

(2) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person who is 18 years of age or older in exchange for the individual providing compensation, money, or anything of value to the other person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, he or she

manifests an acceptance of an offer or solicitation by another person who is 18 years of age or older to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.

(3) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person who is a minor in exchange for the individual providing compensation, money, or anything of value to the minor. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation by someone who is a minor to so engage, regardless of whether the offer or solicitation was made by a minor who also possessed the specific intent to engage in an act of prostitution.

(4) A manifestation of acceptance of an offer or solicitation to engage in an act of prostitution does not constitute a violation of this subdivision unless some act, in addition to the manifestation of acceptance, is done within this state in furtherance of the commission of the act of prostitution by the person manifesting an acceptance of an offer or solicitation to engage in that act. As used in this subdivision, “prostitution” includes any lewd act between persons for money or other consideration.

(5) Notwithstanding paragraphs (1) to (3), inclusive, this subdivision does not apply to a child under 18 years of age who is alleged to have engaged in conduct to receive money or other consideration that would, if committed by an adult, violate this subdivision. A commercially exploited child under this paragraph may be adjudged a dependent child of the court pursuant to paragraph (2) of subdivision (b) of Section 300 of the Welfare and Institutions Code and may be taken into temporary custody pursuant to subdivision (a) of Section 305 of the Welfare and Institutions Code, if the conditions allowing temporary custody without warrant are met.

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

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

(e) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.

(f) Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, controlled substance, or toluene, in a condition that he or she is unable to exercise care for his or her own safety or the safety of others, or by reason of his or her being under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, or toluene, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way.

(g) If a person has violated subdivision (f), a peace officer, if he or she is reasonably able to do so, shall place the person, or cause him or her to be placed, in civil protective custody. The person shall be taken to a facility,

designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force that would be lawful were he or she effecting an arrest for a misdemeanor without a warrant. A person who has been placed in civil protective custody shall not thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to this placement. This subdivision does not apply to the following persons:

(1) A person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.

(2) A person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f).

(3) A person who a peace officer in good faith believes will attempt escape or will be unreasonably difficult for medical personnel to control.

(h) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant. As used in this subdivision, “loiter” means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.

(i) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of any inhabited building or structure, without visible or lawful business with the owner or occupant.

(j) (1) A person who looks through a hole or opening, into, or otherwise views, by means of any instrumentality, including, but not limited to, a periscope, telescope, binoculars, camera, motion picture camera, camcorder, or mobile phone, the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person or persons inside. This subdivision does not apply to those areas of a private business used to count currency or other negotiable instruments.

(2) A person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person under or through the clothing being worn by that other person, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy.

(3) (A) A person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent

or knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person.

(B) Neither of the following is a defense to the crime specified in this paragraph:

(i) The defendant was a cohabitant, landlord, tenant, cotenant, employer, employee, or business partner or associate of the victim, or an agent of any of these.

(ii) The victim was not in a state of full or partial undress.

(4) (A) A person who intentionally distributes the image of the intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or an image of masturbation by the person depicted or in which the person depicted participates, under circumstances in which the persons agree or understand that the image shall remain private, the person distributing the image knows or should know that distribution of the image will cause serious emotional distress, and the person depicted suffers that distress.

(B) A person intentionally distributes an image described in subparagraph (A) when he or she personally distributes the image, or arranges, specifically requests, or intentionally causes another person to distribute that image.

(C) As used in this paragraph, “intimate body part” means any portion of the genitals, the anus and in the case of a female, also includes any portion of the breasts below the top of the areola, that is either uncovered or clearly visible through clothing.

(D) It shall not be a violation of this paragraph to distribute an image described in subparagraph (A) if any of the following applies:

(i) The distribution is made in the course of reporting an unlawful activity.

(ii) The distribution is made in compliance with a subpoena or other court order for use in a legal proceeding.

(iii) The distribution is made in the course of a lawful public proceeding.

(5) This subdivision does not preclude punishment under any section of law providing for greater punishment.

(k) In addition to any punishment prescribed by this section, a court may suspend, for not more than 30 days, the privilege of the person to operate a motor vehicle pursuant to Section 13201.5 of the Vehicle Code for any violation of subdivision (b) that was committed within 1,000 feet of a private residence and with the use of a vehicle. In lieu of the suspension, the court may order a person’s privilege to operate a motor vehicle restricted, for not more than six months, to necessary travel to and from the person’s place of employment or education. If driving a motor vehicle is necessary to perform the duties of the person’s employment, the court may also allow the person to drive in that person’s scope of employment.

(l) (1) A second or subsequent violation of subdivision (j) is punishable by imprisonment in a county jail not exceeding one year, or by a fine not

exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

(2) If the victim of a violation of subdivision (j) was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

(m) (1) If a crime is committed in violation of subdivision (b) and the person who was solicited was a minor at the time of the offense, and if the defendant knew or should have known that the person who was solicited was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail for not less than two days and not more than one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both that fine and imprisonment.

(2) The court may, in unusual cases, when the interests of justice are best served, reduce or eliminate the mandatory two days of imprisonment in a county jail required by this subdivision. If the court reduces or eliminates the mandatory two days' imprisonment, the court shall specify the reason on the record.

SEC. 1.5. Section 647 of the Penal Code is amended to read:

647. Except as provided in paragraph (8) of subdivision (b) and subdivision (l), a person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) An individual who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.

(b) (1) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with the intent to receive compensation, money, or anything of value from another person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation by another person to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.

(2) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person who is 18 years of age or older in exchange for the individual providing compensation, money, or anything of value to the other person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation by another person who is 18 years of age or older to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.

(3) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person who is a minor in exchange for the individual providing compensation, money, or anything of value to the minor. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance

of an offer or solicitation by someone who is a minor to so engage, regardless of whether the offer or solicitation was made by a minor who also possessed the specific intent to engage in an act of prostitution.

(4) A manifestation of acceptance of an offer or solicitation to engage in an act of prostitution does not constitute a violation of this subdivision unless some act, in addition to the manifestation of acceptance, is done within this state in furtherance of the commission of the act of prostitution by the person manifesting an acceptance of an offer or solicitation to engage in that act. As used in this subdivision, “prostitution” includes any lewd act between persons for money or other consideration.

(5) Except as provided in paragraph (6) and subdivision (k), a violation of paragraph (2) or (3) is punishable by imprisonment in a county jail for not less than 72 hours and not more than six months and by a fine of not less than two hundred fifty dollars (\$250) but not exceeding one thousand dollars (\$1,000). An amount of two hundred fifty dollars (\$250) of the fine shall be deposited in the treasury of the county in which the offense occurred and used by the county to fund services for victims of human trafficking. Upon a violation of paragraph (2) or (3), a person is not eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 24 continuous hours in a county jail. In all cases in which probation is granted, the court shall require as a condition of probation that the person be confined in a county jail for at least 24 hours. The court shall order that a person punished under this subdivision, who is to be punished by imprisonment in the county jail, be imprisoned on days other than days of regular employment of the person, as determined by the court. If the court determines that 24 hours of continuous imprisonment would interfere with the person’s work schedule, the court shall allow the person to serve the imprisonment whenever the person is normally scheduled for time off from work. The court may make this determination based upon a representation from the defendant’s attorney or upon an affidavit or testimony from the defendant.

(6) If a defendant violates paragraph (3) and knew or should have known that the person who was solicited was a minor at the time of the offense, or if a defendant violates paragraph (2) and the person who was solicited was a person posing as a minor and the defendant had specific intent to solicit a minor, the violation is punishable by imprisonment in a county jail for not less than 72 hours and not more than one year and by a fine of not less than one thousand dollars (\$1,000) but not exceeding ten thousand dollars (\$10,000). The fine imposed shall be deposited in the treasury of the county in which the offense occurred and used by the county to fund services for victims of human trafficking. Upon a violation of this paragraph, a person is not eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 48 continuous hours in a county jail. In all cases in which probation is granted, the court shall require as a condition of probation that the person be confined in a county jail for at

least 48 hours. The court shall order that a person punished under this paragraph, who is to be punished by imprisonment in the county jail, be imprisoned on days other than days of regular employment of the person, as determined by the court. If the court determines that 48 hours of continuous imprisonment would interfere with the person's work schedule, the court shall allow the person to serve the imprisonment whenever the person is normally scheduled for time off from work. The court may make this determination based upon a representation from the defendant's attorney or upon an affidavit or testimony from the defendant.

(7) This subdivision does not prohibit prosecution under any other law.

(8) Notwithstanding paragraphs (1) to (3), inclusive, this subdivision does not apply to a child under 18 years of age who is alleged to have engaged in conduct to receive money or other consideration that would, if committed by an adult, violate this subdivision. A commercially exploited child under this paragraph may be adjudged a dependent child of the court pursuant to paragraph (2) of subdivision (b) of Section 300 of the Welfare and Institutions Code and may be taken into temporary custody pursuant to subdivision (a) of Section 305 of the Welfare and Institutions Code, if the conditions allowing temporary custody without warrant are met.

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

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

(e) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.

(f) Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, controlled substance, or toluene, in a condition that he or she is unable to exercise care for his or her own safety or the safety of others, or by reason of his or her being under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, or toluene, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way.

(g) When a person has violated subdivision (f), a peace officer, if he or she is reasonably able to do so, shall place the person, or cause him or her to be placed, in civil protective custody. The person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force which would be lawful were he or she effecting an arrest for a misdemeanor without a warrant. A person who has been placed in civil protective custody shall not thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to this placement. This subdivision shall not apply to the following persons:

(1) Any person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.

(2) Any person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f).

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

(h) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant. As used in this subdivision, “loiter” means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.

(i) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of any inhabited building or structure, without visible or lawful business with the owner or occupant.

(j) (1) Any person who looks through a hole or opening, into, or otherwise views, by means of any instrumentality, including, but not limited to, a periscope, telescope, binoculars, camera, motion picture camera, camcorder, or mobile phone, the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person or persons inside. This subdivision shall not apply to those areas of a private business used to count currency or other negotiable instruments.

(2) Any person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person under or through the clothing being worn by that other person, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy.

(3) (A) Any person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person.

(B) Neither of the following is a defense to the crime specified in this paragraph:



(i) The defendant was a cohabitant, landlord, tenant, cotenant, employer, employee, or business partner or associate of the victim, or an agent of any of these.

(ii) The victim was not in a state of full or partial undress.

(4) (A) Any person who intentionally distributes the image of the intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or an image of masturbation by the person depicted or in which the person depicted participates, under circumstances in which the persons agree or understand that the image shall remain private, the person distributing the image knows or should know that distribution of the image will cause serious emotional distress, and the person depicted suffers that distress.

(B) A person intentionally distributes an image described in subparagraph (A) when he or she personally distributes the image, or arranges, specifically requests, or intentionally causes another person to distribute that image.

(C) As used in this paragraph, “intimate body part” means any portion of the genitals, the anus and in the case of a female, also includes any portion of the breasts below the top of the areola, that is either uncovered or clearly visible through clothing.

(D) It shall not be a violation of this paragraph to distribute an image described in subparagraph (A) if any of the following applies:

(i) The distribution is made in the course of reporting an unlawful activity.

(ii) The distribution is made in compliance with a subpoena or other court order for use in a legal proceeding.

(iii) The distribution is made in the course of a lawful public proceeding.

(5) This subdivision shall not preclude punishment under any section of law providing for greater punishment.

(k) (1) In any accusatory pleading charging a violation of subdivision (b), if the defendant has been once previously convicted of a violation of that subdivision, the previous conviction shall be charged in the accusatory pleading. If the previous conviction is found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the defendant, the defendant shall be imprisoned in a county jail for a period of not less than 45 days and is not eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 45 days in a county jail. In all cases in which probation is granted, the court shall require as a condition thereof that the person be confined in a county jail for at least 45 days. The court shall not absolve a person who violates this subdivision from the obligation of spending at least 45 days in confinement in a county jail.

(2) In any accusatory pleading charging a violation of subdivision (b), if the defendant has been previously convicted two or more times of a violation of that subdivision, each of these previous convictions shall be charged in the accusatory pleading. If two or more of these previous convictions are found to be true by the jury, upon a jury trial, or by the court,

upon a court trial, or are admitted by the defendant, the defendant shall be imprisoned in a county jail for a period of not less than 90 days and is not eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 90 days in a county jail. In all cases in which probation is granted, the court shall require as a condition thereof that the person be confined in a county jail for at least 90 days. The court shall not absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in a county jail.

(3) In addition to any punishment prescribed by this section, a court may suspend, for not more than 30 days, the privilege of the person to operate a motor vehicle pursuant to Section 13201.5 of the Vehicle Code for any violation of subdivision (b) that was committed within 1,000 feet of a private residence and with the use of a vehicle. In lieu of the suspension, the court may order a person's privilege to operate a motor vehicle restricted, for not more than six months, to necessary travel to and from the person's place of employment or education. If driving a motor vehicle is necessary to perform the duties of the person's employment, the court may also allow the person to drive in that person's scope of employment.

(l) (1) A second or subsequent violation of subdivision (j) is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

(2) If the victim of a violation of subdivision (j) was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

SEC. 1.6. Section 647 of the Penal Code is amended to read:

647. Except as provided in paragraph (8) of subdivision (b) and subdivision (l), a person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) An individual who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.

(b) (1) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person with the intent to receive compensation, money, or anything of value, and with the specific intent to so engage.

(2) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person who is 18 years of age or older in exchange for the individual providing compensation, money, or anything of value to the other person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation by another person who is 18 years of age or older to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.

(3) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person who is a minor in exchange for the individual providing compensation, money, or anything of value to the minor. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation by someone who is a minor to so engage, regardless of whether the offer or solicitation was made by a minor who also possessed the specific intent to engage in an act of prostitution.

(4) A manifestation of acceptance of an offer or solicitation to engage in an act of prostitution does not constitute a violation of this subdivision unless some act, in addition to the manifestation of acceptance, is done within this state in furtherance of the commission of the act of prostitution by the person manifesting an acceptance of an offer or solicitation to engage in that act. As used in this subdivision, “prostitution” includes any lewd act between persons for money or other consideration.

(5) Except as provided in paragraph (6), a violation of paragraph (2) or (3) is punishable by imprisonment in a county jail for not less than 72 hours and not more than six months and by a fine of not less than two hundred fifty dollars (\$250) but not exceeding one thousand dollars (\$1,000). An amount of two hundred fifty dollars (\$250) of the fine shall be deposited in the treasury of the county in which the offense occurred and used by the county to fund services for victims of human trafficking. Upon a violation of paragraph (2) or (3), a person is not eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 24 continuous hours in a county jail. In all cases in which probation is granted, the court shall require as a condition of probation that the person be confined in a county jail for at least 24 hours. The court shall order that a person punished under this subdivision, who is to be punished by imprisonment in the county jail, be imprisoned on days other than days of regular employment of the person, as determined by the court. If the court determines that 24 hours of continuous imprisonment would interfere with the person’s work schedule, the court shall allow the person to serve the imprisonment whenever the person is normally scheduled for time off from work. The court may make this determination based upon a representation from the defendant’s attorney or upon an affidavit or testimony from the defendant.

(6) If a defendant violates paragraph (3) and knew or should have known that the person who was solicited was a minor at the time of the offense, or if a defendant violates paragraph (2) and the person who was solicited was a person posing as a minor and the defendant had specific intent to solicit a minor, the violation is punishable by imprisonment in a county jail for not less than 72 hours and not more than one year and by a fine of not less than one thousand dollars (\$1,000) but not exceeding ten thousand dollars (\$10,000). The fine imposed shall be deposited in the treasury of the county in which the offense occurred and used by the county to fund services for victims of human trafficking. Upon a violation of this paragraph, a person is not eligible for release upon completion of sentence, on probation, on

parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 48 continuous hours in a county jail. In all cases in which probation is granted, the court shall require as a condition of probation that the person be confined in a county jail for at least 48 hours. The court shall order that a person punished under this paragraph, who is to be punished by imprisonment in the county jail, be imprisoned on days other than days of regular employment of the person, as determined by the court. If the court determines that 48 hours of continuous imprisonment would interfere with the person's work schedule, the court shall allow the person to serve the imprisonment whenever the person is normally scheduled for time off from work. The court may make this determination based upon a representation from the defendant's attorney or upon an affidavit or testimony from the defendant.

(7) This subdivision does not prohibit prosecution under any other law.

(8) Notwithstanding paragraphs (1) to (3), inclusive, this subdivision does not apply to a child under 18 years of age who is alleged to have engaged in conduct to receive money or other consideration that would, if committed by an adult, violate this subdivision. A commercially exploited child under this paragraph may be adjudged a dependent child of the court pursuant to paragraph (2) of subdivision (b) of Section 300 of the Welfare and Institutions Code and may be taken into temporary custody pursuant to subdivision (a) of Section 305 of the Welfare and Institutions Code, if the conditions allowing temporary custody without warrant are met.

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

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

(e) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.

(f) Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, controlled substance, or toluene, in a condition that he or she is unable to exercise care for his or her own safety or the safety of others, or by reason of his or her being under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, or toluene, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way.

(g) If a person has violated subdivision (f), a peace officer, if he or she is reasonably able to do so, shall place the person, or cause him or her to be placed, in civil protective custody. The person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force that would be lawful were he or she effecting an arrest for a misdemeanor without a warrant. A person who has been placed in civil protective custody

shall not thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to this placement. This subdivision does not apply to the following persons:

(1) A person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.

(2) A person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f).

(3) A person who a peace officer in good faith believes will attempt escape or will be unreasonably difficult for medical personnel to control.

(h) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant. As used in this subdivision, “loiters” means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.

(i) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of any inhabited building or structure, without visible or lawful business with the owner or occupant.

(j) (1) A person who looks through a hole or opening, into, or otherwise views, by means of any instrumentality, including, but not limited to, a periscope, telescope, binoculars, camera, motion picture camera, camcorder, or mobile phone, the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person or persons inside. This subdivision does not apply to those areas of a private business used to count currency or other negotiable instruments.

(2) A person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person under or through the clothing being worn by that other person, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy.

(3) (A) A person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person.

(B) Neither of the following is a defense to the crime specified in this paragraph:

(i) The defendant was a cohabitant, landlord, tenant, cotenant, employer, employee, or business partner or associate of the victim, or an agent of any of these.

(ii) The victim was not in a state of full or partial undress.

(4) (A) A person who intentionally distributes the image of the intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or an image of masturbation by the person depicted or in which the person depicted participates, under circumstances in which the persons agree or understand that the image shall remain private, the person distributing the image knows or should know that distribution of the image will cause serious emotional distress, and the person depicted suffers that distress.

(B) A person intentionally distributes an image described in subparagraph (A) when he or she personally distributes the image, or arranges, specifically requests, or intentionally causes another person to distribute that image.

(C) As used in this paragraph, “intimate body part” means any portion of the genitals, the anus and in the case of a female, also includes any portion of the breasts below the top of the areola, that is either uncovered or clearly visible through clothing.

(D) It shall not be a violation of this paragraph to distribute an image described in subparagraph (A) if any of the following applies:

(i) The distribution is made in the course of reporting an unlawful activity.

(ii) The distribution is made in compliance with a subpoena or other court order for use in a legal proceeding.

(iii) The distribution is made in the course of a lawful public proceeding.

(5) This subdivision does not preclude punishment under any section of law providing for greater punishment.

(k) In addition to any punishment prescribed by this section, a court may suspend, for not more than 30 days, the privilege of the person to operate a motor vehicle pursuant to Section 13201.5 of the Vehicle Code for any violation of subdivision (b) that was committed within 1,000 feet of a private residence and with the use of a vehicle. In lieu of the suspension, the court may order a person’s privilege to operate a motor vehicle restricted, for not more than six months, to necessary travel to and from the person’s place of employment or education. If driving a motor vehicle is necessary to perform the duties of the person’s employment, the court may also allow the person to drive in that person’s scope of employment.

(l) (1) A second or subsequent violation of subdivision (j) is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

(2) If the victim of a violation of subdivision (j) was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail

not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

SEC. 1.7. Section 647 of the Penal Code is amended to read:

647. Except as provided in paragraph (8) of subdivision (b) and subdivision (l), a person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) An individual who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.

(b) (1) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with the intent to receive compensation, money, or anything of value from another person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation by another person to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.

(2) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person who is 18 years of age or older in exchange for the individual providing compensation, money, or anything of value to the other person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation by another person who is 18 years of age or older to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.

(3) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person who is a minor in exchange for the individual providing compensation, money, or anything of value to the minor. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation by someone who is a minor to so engage, regardless of whether the offer or solicitation was made by a minor who also possessed the specific intent to engage in an act of prostitution.

(4) A manifestation of acceptance of an offer or solicitation to engage in an act of prostitution does not constitute a violation of this subdivision unless some act, in addition to the manifestation of acceptance, is done within this state in furtherance of the commission of the act of prostitution by the person manifesting an acceptance of an offer or solicitation to engage in that act. As used in this subdivision, "prostitution" includes any lewd act between persons for money or other consideration.

(5) Except as provided in paragraph (6), a violation of paragraph (2) or (3) is punishable by imprisonment in a county jail for not less than 72 hours and not more than six months and by a fine of not less than two hundred fifty dollars (\$250) but not exceeding one thousand dollars (\$1,000). An amount of two hundred fifty dollars (\$250) of the fine shall be deposited in the treasury of the county in which the offense occurred and used by the

county to fund services for victims of human trafficking. Upon a violation of paragraph (2) or (3), a person is not eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 24 continuous hours in a county jail. In all cases in which probation is granted, the court shall require as a condition of probation that the person be confined in a county jail for at least 24 hours. The court shall order that a person punished under this subdivision, who is to be punished by imprisonment in the county jail, be imprisoned on days other than days of regular employment of the person, as determined by the court. If the court determines that 24 hours of continuous imprisonment would interfere with the person's work schedule, the court shall allow the person to serve the imprisonment whenever the person is normally scheduled for time off from work. The court may make this determination based upon a representation from the defendant's attorney or upon an affidavit or testimony from the defendant.

(6) If a defendant violates paragraph (3) and knew or should have known that the person who was solicited was a minor at the time of the offense, or if a defendant violates paragraph (2) and the person who was solicited was a person posing as a minor and the defendant had specific intent to solicit a minor, the violation is punishable by imprisonment in a county jail for not less than 72 hours and not more than one year and by a fine of not less than one thousand dollars (\$1,000) but not exceeding ten thousand dollars (\$10,000). The fine imposed shall be deposited in the treasury of the county in which the offense occurred and used by the county to fund services for victims of human trafficking. Upon a violation of this paragraph, a person is not eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 48 continuous hours in a county jail. In all cases in which probation is granted, the court shall require as a condition of probation that the person be confined in a county jail for at least 48 hours. The court shall order that a person punished under this paragraph, who is to be punished by imprisonment in the county jail, be imprisoned on days other than days of regular employment of the person, as determined by the court. If the court determines that 48 hours of continuous imprisonment would interfere with the person's work schedule, the court shall allow the person to serve the imprisonment whenever the person is normally scheduled for time off from work. The court may make this determination based upon a representation from the defendant's attorney or upon an affidavit or testimony from the defendant.

(7) This subdivision does not prohibit prosecution under any other law.

(8) Notwithstanding paragraphs (1) to (3), inclusive, this subdivision does not apply to a child under 18 years of age who is alleged to have engaged in conduct to receive money or other consideration that would, if committed by an adult, violate this subdivision. A commercially exploited child under this paragraph may be adjudged a dependent child of the court pursuant to paragraph (2) of subdivision (b) of Section 300 of the Welfare and Institutions Code and may be taken into temporary custody pursuant to



subdivision (a) of Section 305 of the Welfare and Institutions Code, if the conditions allowing temporary custody without warrant are met.

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

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

(e) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.

(f) Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, controlled substance, or toluene, in a condition that he or she is unable to exercise care for his or her own safety or the safety of others, or by reason of his or her being under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, or toluene, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way.

(g) If a person has violated subdivision (f), a peace officer, if he or she is reasonably able to do so, shall place the person, or cause him or her to be placed, in civil protective custody. The person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force that would be lawful were he or she effecting an arrest for a misdemeanor without a warrant. A person who has been placed in civil protective custody shall not thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to this placement. This subdivision does not apply to the following persons:

(1) A person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.

(2) A person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f).

(3) A person who a peace officer in good faith believes will attempt escape or will be unreasonably difficult for medical personnel to control.

(h) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant. As used in this subdivision, "loiter" means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.

(i) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of any inhabited building or structure, without visible or lawful business with the owner or occupant.

(j) (1) A person who looks through a hole or opening, into, or otherwise views, by means of any instrumentality, including, but not limited to, a

periscope, telescope, binoculars, camera, motion picture camera, camcorder, or mobile phone, the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person or persons inside. This subdivision does not apply to those areas of a private business used to count currency or other negotiable instruments.

(2) A person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person under or through the clothing being worn by that other person, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy.

(3) (A) A person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person.

(B) Neither of the following is a defense to the crime specified in this paragraph:

(i) The defendant was a cohabitant, landlord, tenant, cotenant, employer, employee, or business partner or associate of the victim, or an agent of any of these.

(ii) The victim was not in a state of full or partial undress.

(4) (A) A person who intentionally distributes the image of the intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or an image of masturbation by the person depicted or in which the person depicted participates, under circumstances in which the persons agree or understand that the image shall remain private, the person distributing the image knows or should know that distribution of the image will cause serious emotional distress, and the person depicted suffers that distress.

(B) A person intentionally distributes an image described in subparagraph (A) when he or she personally distributes the image, or arranges, specifically requests, or intentionally causes another person to distribute that image.

(C) As used in this paragraph, “intimate body part” means any portion of the genitals, the anus and in the case of a female, also includes any portion of the breasts below the top of the areola, that is either uncovered or clearly visible through clothing.

(D) It shall not be a violation of this paragraph to distribute an image described in subparagraph (A) if any of the following applies:

(i) The distribution is made in the course of reporting an unlawful activity.

(ii) The distribution is made in compliance with a subpoena or other court order for use in a legal proceeding.

(iii) The distribution is made in the course of a lawful public proceeding.

(5) This subdivision does not preclude punishment under any section of law providing for greater punishment.

(k) In addition to any punishment prescribed by this section, a court may suspend, for not more than 30 days, the privilege of the person to operate a motor vehicle pursuant to Section 13201.5 of the Vehicle Code for any violation of subdivision (b) that was committed within 1,000 feet of a private residence and with the use of a vehicle. In lieu of the suspension, the court may order a person's privilege to operate a motor vehicle restricted, for not more than six months, to necessary travel to and from the person's place of employment or education. If driving a motor vehicle is necessary to perform the duties of the person's employment, the court may also allow the person to drive in that person's scope of employment.

(l) (1) A second or subsequent violation of subdivision (j) is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

(2) If the victim of a violation of subdivision (j) was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

SEC. 2. Section 653.22 of the Penal Code is amended to read:

653.22. (a) (1) Except as specified in paragraph (2), it is unlawful for any person to loiter in any public place with the intent to commit prostitution. This intent is evidenced by acting in a manner and under circumstances that openly demonstrate the purpose of inducing, enticing, or soliciting prostitution, or procuring another to commit prostitution.

(2) Notwithstanding paragraph (1), this subdivision does not apply to a child under 18 years of age who is alleged to have engaged in conduct that would, if committed by an adult, violate this subdivision. A commercially exploited child under this paragraph may be adjudged a dependent child of the court pursuant to paragraph (2) of subdivision (b) of Section 300 of the Welfare and Institutions Code and may be taken into temporary custody pursuant to subdivision (a) of Section 305 of the Welfare and Institutions Code, if the conditions allowing temporary custody without warrant are met.

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

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

(2) Repeatedly stops or attempts to stop motor vehicles by hailing the drivers, waving arms, or making any other bodily gestures, or engages or attempts to engage the drivers or passengers of the motor vehicles in conversation, indicative of soliciting for prostitution.

(3) Has been convicted of violating this section, subdivision (a) or (b) of Section 647, or any other offense relating to or involving prostitution, within five years of the arrest under this section.

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

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

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

SEC. 2.1. Section 653.22 of the Penal Code is amended to read:

653.22. (a) (1) Except as specified in paragraph (2), it is unlawful for any person to loiter in any public place with the intent to commit prostitution. This intent is evidenced by acting in a manner and under circumstances that openly demonstrate the purpose of inducing, enticing, or soliciting prostitution, or procuring another to commit prostitution.

(2) Notwithstanding paragraph (1), this subdivision does not apply to a child under 18 years of age who is alleged to have engaged in conduct that would, if committed by an adult, violate this subdivision. A commercially exploited child under this paragraph may be adjudged a dependent child of the court pursuant to paragraph (2) of subdivision (b) of Section 300 of the Welfare and Institutions Code and may be taken into temporary custody pursuant to subdivision (a) of Section 305 of the Welfare and Institutions Code, if the conditions allowing temporary custody without warrant are met.

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

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

(2) Repeatedly stops or attempts to stop motor vehicles by hailing the drivers, waving arms, or making any other bodily gestures, or engages or attempts to engage the drivers or passengers of the motor vehicles in conversation, indicative of soliciting for prostitution.

(3) Has been convicted of violating this section, subdivision (a) or (b) of Section 647, or any other offense relating to or involving prostitution, within five years of the arrest under this section.

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

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

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

(d) A violation of this section is a misdemeanor.

SEC. 3. (a) Section 1.1 of this bill incorporates amendments to Section 647 of the Penal Code proposed by both this bill and Senate Bill 420. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 647 of the Penal Code, (3) Senate Bill 1129 and Assembly Bill 1708 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after Senate Bill 420, in which case Sections 1, 1.2, 1.3, 1.4, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates amendments to Section 647 of the Penal Code proposed by both this bill and Senate Bill 1129. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 647 of the Penal Code, (3) Senate Bill 420 and Assembly Bill 1708 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after Senate Bill 1129, in which case Sections 1, 1.1, 1.3, 1.4, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 647 of the Penal Code proposed by both this bill and Assembly Bill 1708. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 647 of the Penal Code, (3) Senate Bill 420 and Senate Bill 1129 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after Assembly Bill 1708, in which case Sections 1, 1.1, 1.2, 1.4, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(d) Section 1.4 of this bill incorporates amendments to Section 647 of the Penal Code proposed by this bill, Senate Bill 420, and Senate Bill 1129. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2017, (2) all three bills amend Section 647 of the Penal Code, (3) Assembly Bill 1708 is not enacted or as enacted does

not amend that section, and (4) this bill is enacted after Senate Bill 420 and Senate Bill 1129, in which case Sections 1, 1.1, 1.2, 1.3, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(e) Section 1.5 of this bill incorporates amendments to Section 647 of the Penal Code proposed by this bill, Senate Bill 420, and Assembly Bill 1708. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2017, (2) all three bills amend Section 647 of the Penal Code, (3) Senate Bill 1129 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 420 and Assembly Bill 1708, in which case Sections 1, 1.1, 1.2, 1.3, 1.4, 1.6, and 1.7 of this bill shall not become operative.

(f) Section 1.6 of this bill incorporates amendments to Section 647 of the Penal Code proposed by this bill, Senate Bill 1129, and Assembly Bill 1708. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2017, (2) all three bills amend Section 647 of the Penal Code, (3) Senate Bill 420 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 1129 and Assembly Bill 1708, in which case Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.7 of this bill shall not become operative.

(g) Section 1.7 of this bill incorporates amendments to Section 647 of the Penal Code proposed by this bill, Senate Bill 420, Senate Bill 1129, and Assembly Bill 1708. It shall only become operative if (1) all four bills are enacted and become effective on or before January 1, 2017, (2) all four bills amend Section 647 of the Penal Code, and (3) this bill is enacted after Senate Bill 420, Senate Bill 1129, and Assembly Bill 1708, in which case Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6 of this bill shall not become operative.

SEC. 4. Section 2.1 of this bill incorporates amendments to Section 653.22 of the Penal Code proposed by both this bill and Assembly Bill 1771. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 653.22 of the Penal Code, and (3) this bill is enacted after Assembly Bill 1771, in which case Section 2 of this bill shall not become operative.

## Senate Bill No. 357

### CHAPTER 86

An act to amend Section 782.1 of the Evidence Code, to amend Sections 647.3, 653.23, and 1203.47 of, to add Section 653.29 to, and to repeal Sections 653.20 and 653.22 of, the Penal Code, to amend Section 99171 of the Public Utilities Code, and to amend Sections 18259 and 18259.3 of the Welfare and Institutions Code, relating to crimes.

[Approved by Governor July 1, 2022. Filed with Secretary of State July 1, 2022.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 357, Wiener. Crimes: loitering for the purpose of engaging in a prostitution offense.

Existing law prohibits soliciting or engaging in an act of prostitution, as specified. Existing law also prohibits loitering in a public place with the intent to commit prostitution, as defined, or directing, supervising, recruiting, or aiding a person who is loitering with the intent to commit prostitution, or collecting or receiving all or part of the proceeds of an act of prostitution. Under existing law, a violation of any of these provisions is a misdemeanor.

This bill would repeal those provisions related to loitering with the intent to commit prostitution and would make other conforming changes. This bill would also authorize a person convicted of a violation of loitering with the intent to commit prostitution to petition the court for the dismissal and sealing of their case, and resentencing, if applicable.

This bill would incorporate additional changes to Section 99171 of the Public Utilities Code proposed by AB 1337 to be operative only if this bill and AB 1337 are enacted and this bill is enacted last.

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

SECTION 1. Section 782.1 of the Evidence Code is amended to read:

782.1. The possession of a condom is not admissible as evidence in the prosecution of a violation of Section 372 of, or subdivision (a) or (b) of Section 647 of, or former Section 653.22 of, the Penal Code, if the offense is related to prostitution.

SEC. 2. Section 647.3 of the Penal Code is amended to read:

647.3. (a) A person who reports being a victim of, or a witness to, a serious felony as defined in subdivision (c) of Section 1192.7, an assault in violation of subdivision (a) of Section 245, domestic violence in violation of Section 273.5, extortion in violation of Section 518, human trafficking in violation of Section 236.1, sexual battery in violation of subdivision (a)

of Section 243.4, or stalking in violation of Section 646.9 shall not be arrested for any of the following offenses if that offense is related to the crime that the person is reporting or if the person was engaged in that offense at or around the time that the person was the victim of or witness to the crime they are reporting:

(1) A misdemeanor violation of the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code).

(2) A violation of Section 372 or subdivision (a) or (b) of Section 647, or former Section 653.22, if the offense is related to an act of prostitution.

(b) Possession of condoms in any amount shall not provide a basis for probable cause for arrest for a violation of Section 372 or subdivision (a) or (b) of Section 647, or former Section 653.22 if the offense is related to an act of prostitution.

SEC. 3. Section 653.20 of the Penal Code is repealed.

SEC. 4. Section 653.22 of the Penal Code is repealed.

SEC. 5. Section 653.23 of the Penal Code is amended to read:

653.23. (a) It is unlawful for a person to do either of the following:

(1) Direct, supervise, recruit, or otherwise aid another person in the commission of a violation of subdivision (b) of Section 647.

(2) Collect or receive all or part of the proceeds earned from an act or acts of prostitution committed by another person in violation of subdivision (b) of Section 647.

(b) Nothing in this section shall preclude the prosecution of a suspect for a violation of Section 266h or 266i or for any other offense, or for a violation of this section in conjunction with a violation of Section 266h or 266i or any other offense.

SEC. 6. Section 653.29 is added to the Penal Code, to read:

653.29. (a) (1) A person currently serving a sentence for a conviction of violating former Section 653.22, whether by trial or by open or negotiated plea, may petition for a recall or dismissal of sentence before the trial court that entered the judgment of conviction in the case to request resentencing or dismissal, and sealing, as applicable.

(2) Upon receiving a petition under paragraph (1), the court shall presume the petitioner satisfies the criteria in paragraph (1) unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in paragraph (1), the court shall grant the petition to recall the sentence or dismiss the sentence because it is legally invalid and shall seal the conviction as legally invalid.

(b) (1) A person who has completed their sentence for a conviction of violating Section 653.22, whether by trial or open or negotiated plea, may file an application before the trial court that entered the judgment of conviction in their case to have the conviction dismissed and sealed because the prior conviction is now legally invalid.

(2) The court shall presume the petitioner satisfies the criteria in paragraph (1) unless the party opposing the application proves by clear and convincing evidence that the petitioner does not satisfy the criteria in paragraph (1).



Once the applicant satisfies the criteria in paragraph (1), the court shall seal the conviction as legally invalid.

(c) Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under subdivision (b).

(d) If the court that originally sentenced the petitioner is not available, the presiding judge shall designate another judge to rule on the petition or application.

(e) Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant.

(f) The Judicial Council shall promulgate and make available all necessary forms to enable the filing of the petitions and applications provided in this section.

SEC. 7. Section 1203.47 of the Penal Code is amended to read:

1203.47. (a) A person who was found to be a person described in Section 602 of the Welfare and Institutions Code by reason of the commission of an offense described in subdivision (b) of Section 647 or in former Section 653.22 may, upon reaching 18 years of age, petition the court to have their record sealed, as provided in Section 781 of the Welfare and Institutions Code, except that, as pertaining to any records regarding the commission of an offense described in subdivision (b) of Section 647 or in former Section 653.22, it shall not be a requirement in granting the petition for the person to show that they have not been convicted of a felony or of any misdemeanor involving moral turpitude, or that rehabilitation has been attained to the satisfaction of the court. Upon granting the petition, all records relating to the violation or violations of subdivision (b) of Section 647 or of former Section 653.22, or both, shall be sealed pursuant to Section 781 of the Welfare and Institutions Code.

(b) The relief provided by this section does not apply to a person adjudicated pursuant to subdivision (b) of Section 647 who paid money or any other valuable thing, or attempted to pay money or any other valuable thing, to any person for the purpose of prostitution as defined in subdivision (b) of Section 647.

(c) This section applies to adjudications that occurred before, as well as those that occur after, the effective date of this section.

(d) A petition granted pursuant to this section does not authorize the sealing of any part of a person's record that is unrelated to a violation of subdivision (b) of Section 647.

SEC. 8. Section 99171 of the Public Utilities Code is amended to read:

99171. (a) (1) A transit district may issue a prohibition order to any person to whom either of the following applies:

(A) On at least three separate occasions within a period of 90 consecutive days, the person is cited for an infraction committed in or on a vehicle, bus stop, or train or light rail station of the transit district for any act that is a violation of paragraph (2) or (5) of subdivision (a) of Section 99170 of this code or paragraph (1), (2), (3), or (4) of subdivision (d) of Section 640 or Section 640.5 of the Penal Code.

(B) The person is arrested or convicted for a misdemeanor or felony committed in or on a vehicle, bus stop, or light rail station of the transit district for acts involving violence, threats of violence, lewd or lascivious behavior, or possession for sale or sale of a controlled substance.

(C) The person is convicted of a violation of Section 11532 of the Health and Safety Code.

(2) A person subject to a prohibition order may not enter the property, facilities, or vehicles of the transit district for a period of time deemed appropriate by the transit district, provided that the duration of a prohibition order shall not exceed the following, as applicable:

(A) Thirty days if issued pursuant to subparagraph (A) of paragraph (1), provided that a second prohibition order within one year may not exceed 90 days, and a third or subsequent prohibition order within one year may not exceed 180 days.

(B) Thirty days if issued pursuant to an arrest pursuant to subparagraph (B) of paragraph (1). Upon conviction of a misdemeanor offense, the duration of the prohibition order for the conviction, when added to the duration of the prohibition order for the initial arrest, if any, may not exceed 180 days. Upon conviction of a felony offense, the duration of the prohibition order for the conviction, when added to the duration of the prohibition order for the initial arrest, if any, may not exceed one year.

(3) No prohibition order issued under this subdivision shall be effective unless the transit district first affords the person an opportunity to contest the transit district's proposed action in accordance with procedures adopted by the transit district for this purpose. A transit district's procedures shall provide, at a minimum, for the notice and other protections set forth in subdivisions (b) and (c), and the transit district shall provide reasonable notification to the public of the availability of those procedures.

(b) (1) A notice of a prohibition order issued under subdivision (a) shall set forth a description of the conduct underlying the violation or violations giving rise to the prohibition order, including reference to the applicable statutory provision, ordinance, or transit district rule violated, the date of the violation, the approximate time of the violation, the location where the violation occurred, the period of the proposed prohibition, and the scope of the prohibition. The notice shall include a clear and conspicuous statement indicating the procedure for contesting the prohibition order. The notice of prohibition order shall be personally served upon the violator. The notice of prohibition order, or a copy, shall be considered a record kept in the ordinary course of business of the transit district and shall be prima facie evidence of the facts contained in the notice establishing a rebuttable presumption affecting the burden of producing evidence. For purposes of this paragraph, "clear and conspicuous" means in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the language.

(2) For purposes of this section, "personal service" means any of the following:

(A) In-person delivery.

(B) Delivery by any form of mail providing for delivery confirmation, postage prepaid, to at least one address provided by the person being served, including, but not limited to, the address set forth in any citation or in court records.

(C) Any alternate method approved in writing by the transit district and the person being served.

(3) If a person served with a notice of prohibition order is not able, or refuses, to provide a mailing address, the notice of prohibition order shall set forth the procedure for obtaining any letters, notices, or orders related to the prohibition order from the administrative offices of the transit district. For purposes of this section, delivery shall be deemed to have been made on the following date, as applicable:

(A) On the date of delivery, if delivered in person.

(B) On the date of confirmed delivery, for any delivery by mail.

(C) For any alternate method of service, as provided in the writing specifying the alternate method.

(4) Proof of service of the notice shall be filed with the transit district.

(5) If a person contests a notice of prohibition order, the transit district shall proceed in accordance with subdivision (c). If the notice of prohibition order is not contested within 10 calendar days after delivery by personal service, the prohibition order shall be deemed final and shall go into effect, without further action by the transit district, for the period of time set forth in the order.

(6) All prohibition orders shall be subject to an automatic stay and shall not take effect until the latest of the following:

(A) Eleven calendar days after delivery of the prohibition order by personal service.

(B) If an initial review is timely requested under paragraph (1) of subdivision (c), 11 calendar days after delivery by personal service of the results of the review.

(C) If an administrative hearing is timely requested under paragraph (3) of subdivision (c), the date the hearing officer's decision is delivered by personal service.

(c) (1) For a period of 10 calendar days from the delivery of the prohibition order by personal service, the person may request an initial review of the prohibition order by the transit district. The request may be made by telephone, in writing, or in person. There shall be no charge for this review. In conducting its review and reaching a determination, the transit district shall determine whether the prohibition order meets the requirements of subdivision (a) and, unless the person has been convicted of the offense or offenses, whether the offense or offenses for which the person was cited or arrested are proven by a preponderance of the evidence. If, following the initial review, based on these findings, the transit district determines that the prohibition order is not adequately supported or that extenuating circumstances make dismissal of the prohibition order appropriate in the interest of justice, the transit district shall cancel the notice.

If, following the initial review, based on these findings, the transit district determines that the prohibition order should be upheld in whole or in part, the transit district shall issue a written statement to that effect, including any modification to the period or scope of the prohibition order. The transit district shall serve the results of the initial review to the person contesting the notice by personal service.

(2) The transit district may modify or cancel a prohibition order in the interest of justice. The transit district shall cancel a prohibition order if it determines that the person did not understand the nature and extent of their actions or did not have the ability to control their actions. If the person is dependent upon the transit system for trips of necessity, including, but not limited to, travel to or from medical or legal appointments, school or training classes, places of employment, or obtaining food, clothing, and necessary household items, the transit district shall modify a prohibition order to allow for those trips. A person requesting a cancellation or modification in the interest of justice shall have the burden of establishing the qualifying circumstances by a preponderance of the evidence.

(3) If the person is dissatisfied with the results of the initial review, the person may request an administrative hearing of the prohibition order no later than 10 calendar days after the results of the initial review are delivered by personal service. The request may be made by telephone, in writing, or in person. An administrative hearing shall be held within 30 calendar days after the receipt of a request for an administrative hearing. The person requesting the hearing may request one continuance, not to exceed seven calendar days.

(4) The administrative hearing process shall include all of the following:

(A) The person requesting the hearing shall have the choice of a hearing by mail or in person. An in-person hearing shall be conducted within the jurisdiction of the transit district.

(B) The administrative hearing shall be conducted in accordance with written procedures established by the transit district and approved by the governing body or chief executive officer of the transit district. The hearing shall provide an independent, objective, fair, and impartial review of the prohibition order.

(C) The administrative review shall be conducted before a hearing officer designated to conduct the review by the transit district's governing body or chief executive officer. In addition to any other requirements, a hearing officer shall demonstrate the qualifications, training, and objectivity prescribed by the transit agency's governing body or chief executive officer as are necessary to fulfill and that are consistent with the duties and responsibilities set forth in this subdivision. The hearing officer's continued service, performance evaluation, compensation, and benefits, as applicable, shall not be directly or indirectly linked to the number of prohibition orders upheld by the hearing officer.

(D) The person who issued the notice of prohibition order shall not be required to participate in an administrative hearing, unless participation is requested by the person requesting the hearing. The request for participation

must be made at least five calendar days prior to the date of the hearing and may be made by telephone, in writing, or in person. The notice of prohibition order, in proper form, shall be prima facie evidence of the violation or violations pursuant to subdivision (a) establishing a rebuttable presumption affecting the burden of producing evidence.

(E) In issuing a decision, the hearing officer shall determine whether the prohibition order meets the requirements of subdivision (a) and, unless the person has been convicted of the offense or offenses, whether the offense or offenses for which the person was cited or arrested are proven by a preponderance of the evidence. Based upon these findings, the hearing officer may uphold the prohibition order in whole, determine that the prohibition order is not adequately supported, or cancel or modify the prohibition order in the interest of justice. The hearing officer shall cancel a prohibition order if they determine that the person did not understand the nature and extent of their actions or did not have the ability to control their actions. If the person is dependent upon the transit system for trips of necessity, including, but not limited to, travel to or from medical or legal appointments, school or training classes, places of employment, or obtaining food, clothing, and necessary household items, the transit district shall modify a prohibition order to allow for those trips. A person requesting a cancellation or modification in the interest of justice shall have the burden of establishing the qualifying circumstances by a preponderance of the evidence.

(F) The hearing officer's decision following the administrative hearing shall be delivered by personal service.

(G) A person aggrieved by the final decision of the hearing officer may seek judicial review of the decision within 90 days of the date of delivery of the decision by personal service, as provided by Section 1094.6 of the Code of Civil Procedure.

(d) A person issued a prohibition order under subdivision (a) may, within 10 calendar days of the date the order goes into effect under paragraph (6) of subdivision (b), request a refund for any prepaid fare media rendered unusable in whole or in part by the prohibition order, including, but not limited to, monthly passes. If the fare media remain usable for one or more days outside the period of the prohibition order, the refund shall be prorated based on the number of days the fare media will be unusable. The issuance of a refund may be made contingent on surrender of the fare media.

(e) For purposes of this section, "transit district" means the Sacramento Regional Transit District, the Los Angeles County Metropolitan Transportation Authority, the Fresno Area Express, or the San Francisco Bay Area Rapid Transit District.

SEC. 8.5. Section 99171 of the Public Utilities Code is amended to read:

99171. (a) (1) A transit district may issue a prohibition order to any person to whom either of the following applies:

(A) On at least three separate occasions within a period of 90 consecutive days, the person is cited for an infraction committed in or on a vehicle, bus stop, or train or light rail station of the transit district or a property, facility,

or vehicle upon which the San Francisco Bay Area Rapid Transit District owes policing responsibilities to a local government pursuant to an operations and maintenance agreement or similar interagency agreement for an act that is a violation of paragraph (2) or (5) of subdivision (a) of Section 99170 of this code or paragraph (1), (2), (3), or (4) of subdivision (d) of Section 640 or Section 640.5 of the Penal Code.

(B) The person is arrested or convicted for a misdemeanor or felony committed in or on a vehicle, bus stop, or light rail station of the transit district for acts involving violence, threats of violence, lewd or lascivious behavior, or possession for sale or sale of a controlled substance.

(C) The person is convicted of a violation of Section 11532 of the Health and Safety Code.

(2) A person subject to a prohibition order may not enter the property, facilities, or vehicles of the transit district or the property, facilities, or vehicles upon which the San Francisco Bay Area Rapid Transit District owes policing responsibilities to a local government pursuant to an operations and maintenance agreement or similar interagency agreement for a period of time deemed appropriate by the transit district, provided that the duration of a prohibition order shall not exceed the following, as applicable:

(A) Thirty days if issued pursuant to subparagraph (A) of paragraph (1), provided that a second prohibition order within one year may not exceed 90 days, and a third or subsequent prohibition order within one year may not exceed 180 days.

(B) Thirty days if issued pursuant to an arrest pursuant to subparagraph (B) of paragraph (1). Upon conviction of a misdemeanor offense, the duration of the prohibition order for the conviction, when added to the duration of the prohibition order for the initial arrest, if any, may not exceed 180 days. Upon conviction of a felony offense, the duration of the prohibition order for the conviction, when added to the duration of the prohibition order for the initial arrest, if any, may not exceed one year.

(3) A prohibition order issued pursuant to this subdivision shall not be effective unless the transit district first affords the person an opportunity to contest the transit district's proposed action in accordance with procedures adopted by the transit district for this purpose. A transit district's procedures shall provide, at a minimum, for the notice and other protections set forth in subdivisions (b) and (c), and the transit district shall provide reasonable notification to the public of the availability of those procedures.

(b) (1) A notice of a prohibition order issued under subdivision (a) shall set forth a description of the conduct underlying the violation or violations giving rise to the prohibition order, including reference to the applicable statutory provision, ordinance, or transit district rule violated, the date of the violation, the approximate time of the violation, the location where the violation occurred, the period of the proposed prohibition, and the scope of the prohibition. The notice shall include a clear and conspicuous statement indicating the procedure for contesting the prohibition order. The notice of prohibition order shall be personally served upon the violator. The notice of prohibition order, or a copy, shall be considered a record kept in the

ordinary course of business of the transit district and shall be prima facie evidence of the facts contained in the notice establishing a rebuttable presumption affecting the burden of producing evidence. For purposes of this paragraph, “clear and conspicuous” means in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the language.

(2) For purposes of this section, “personal service” means any of the following:

(A) In-person delivery.

(B) Delivery by any form of mail providing for delivery confirmation, postage prepaid, to at least one address provided by the person being served, including, but not limited to, the address set forth in any citation or in court records.

(C) Any alternate method approved in writing by the transit district and the person being served.

(3) If a person served with a notice of prohibition order is not able, or refuses, to provide a mailing address, the notice of prohibition order shall set forth the procedure for obtaining any letters, notices, or orders related to the prohibition order from the administrative offices of the transit district. For purposes of this section, delivery shall be deemed to have been made on the following date, as applicable:

(A) On the date of delivery, if delivered in person.

(B) On the date of confirmed delivery, for any delivery by mail.

(C) For any alternate method of service, as provided in the writing specifying the alternate method.

(4) Proof of service of the notice shall be filed with the transit district.

(5) If a person contests a notice of prohibition order, the transit district shall proceed in accordance with subdivision (c). If the notice of prohibition order is not contested within 10 calendar days after delivery by personal service, the prohibition order shall be deemed final and shall go into effect, without further action by the transit district, for the period of time set forth in the order.

(6) All prohibition orders shall be subject to an automatic stay and shall not take effect until the latest of the following:

(A) Eleven calendar days after delivery of the prohibition order by personal service.

(B) If an initial review is timely requested under paragraph (1) of subdivision (c), 11 calendar days after delivery by personal service of the results of the review.

(C) If an administrative hearing is timely requested under paragraph (3) of subdivision (c), the date the hearing officer’s decision is delivered by personal service.

(c) (1) For a period of 10 calendar days from the delivery of the prohibition order by personal service, the person may request an initial review of the prohibition order by the transit district. The request may be made by telephone, in writing, or in person. There shall be no charge for

this review. In conducting its review and reaching a determination, the transit district shall determine whether the prohibition order meets the requirements of subdivision (a) and, unless the person has been convicted of the offense or offenses, whether the offense or offenses for which the person was cited or arrested are proven by a preponderance of the evidence. If, following the initial review, based on these findings, the transit district determines that the prohibition order is not adequately supported or that extenuating circumstances make dismissal of the prohibition order appropriate in the interest of justice, the transit district shall cancel the notice. If, following the initial review, based on these findings, the transit district determines that the prohibition order should be upheld in whole or in part, the transit district shall issue a written statement to that effect, including any modification to the period or scope of the prohibition order. The transit district shall serve the results of the initial review to the person contesting the notice by personal service.

(2) The transit district may modify or cancel a prohibition order in the interest of justice. The transit district shall cancel a prohibition order if it determines that the person did not understand the nature and extent of their actions or did not have the ability to control their actions. If the person is dependent upon the transit system for trips of necessity, including, but not limited to, travel to or from medical or legal appointments, school or training classes, places of employment, or obtaining food, clothing, and necessary household items, the transit district shall modify a prohibition order to allow for those trips. A person requesting a cancellation or modification in the interest of justice shall have the burden of establishing the qualifying circumstances by a preponderance of the evidence.

(3) If the person is dissatisfied with the results of the initial review, the person may request an administrative hearing of the prohibition order no later than 10 calendar days after the results of the initial review are delivered by personal service. The request may be made by telephone, in writing, or in person. An administrative hearing shall be held within 30 calendar days after the receipt of a request for an administrative hearing. The person requesting the hearing may request one continuance, not to exceed seven calendar days.

(4) The administrative hearing process shall include all of the following:

(A) The person requesting the hearing shall have the choice of a hearing by mail or in person. An in-person hearing shall be conducted within the jurisdiction of the transit district.

(B) The administrative hearing shall be conducted in accordance with written procedures established by the transit district and approved by the governing body or chief executive officer of the transit district. The hearing shall provide an independent, objective, fair, and impartial review of the prohibition order.

(C) The administrative review shall be conducted before a hearing officer designated to conduct the review by the transit district's governing body or chief executive officer. In addition to any other requirements, a hearing officer shall demonstrate the qualifications, training, and objectivity



prescribed by the transit agency's governing body or chief executive officer as are necessary to fulfill and that are consistent with the duties and responsibilities set forth in this subdivision. The hearing officer's continued service, performance evaluation, compensation, and benefits, as applicable, shall not be directly or indirectly linked to the number of prohibition orders upheld by the hearing officer.

(D) The person who issued the notice of prohibition order shall not be required to participate in an administrative hearing, unless participation is requested by the person requesting the hearing. The request for participation shall be made at least five calendar days before the date of the hearing and may be made by telephone, in writing, or in person. The notice of prohibition order, in proper form, shall be prima facie evidence of the violation or violations pursuant to subdivision (a) establishing a rebuttable presumption affecting the burden of producing evidence.

(E) In issuing a decision, the hearing officer shall determine whether the prohibition order meets the requirements of subdivision (a) and, unless the person has been convicted of the offense or offenses, whether the offense or offenses for which the person was cited or arrested are proven by a preponderance of the evidence. Based upon these findings, the hearing officer may uphold the prohibition order in whole, determine that the prohibition order is not adequately supported, or cancel or modify the prohibition order in the interest of justice. The hearing officer shall cancel a prohibition order if they determine that the person did not understand the nature and extent of their actions or did not have the ability to control their actions. If the person is dependent upon the transit system for trips of necessity, including, but not limited to, travel to or from medical or legal appointments, school or training classes, places of employment, or obtaining food, clothing, and necessary household items, the transit district shall modify a prohibition order to allow for those trips. A person requesting a cancellation or modification in the interest of justice shall have the burden of establishing the qualifying circumstances by a preponderance of the evidence.

(F) The hearing officer's decision following the administrative hearing shall be delivered by personal service.

(G) A person aggrieved by the final decision of the hearing officer may seek judicial review of the decision within 90 days of the date of delivery of the decision by personal service, as provided by Section 1094.6 of the Code of Civil Procedure.

(d) A person issued a prohibition order under subdivision (a) may, within 10 calendar days of the date the order goes into effect under paragraph (6) of subdivision (b), request a refund for any prepaid fare media rendered unusable in whole or in part by the prohibition order, including, but not limited to, monthly passes. If the fare media remain usable for one or more days outside the period of the prohibition order, the refund shall be prorated based on the number of days the fare media will be unusable. The issuance of a refund may be made contingent on surrender of the fare media.

(e) For purposes of this section, “transit district” means the Sacramento Regional Transit District, the Los Angeles County Metropolitan Transportation Authority, the Fresno Area Express, or the San Francisco Bay Area Rapid Transit District.

SEC. 9. Section 18259 of the Welfare and Institutions Code is amended to read:

18259. (a) The County of Alameda, contingent upon local funding, may establish a project consistent with this chapter to develop a comprehensive, replicative, multidisciplinary model to address the needs and effective treatment of commercially sexually exploited minors who have been arrested or detained by local law enforcement for a violation of subdivision (a) or (b) of Section 647 or subdivision (a) of former Section 653.22 of the Penal Code, or who have been adjudged a dependent of the juvenile court pursuant to paragraph (2) of subdivision (b) of Section 300.

(b) The District Attorney of the County of Alameda, in collaboration with the county child welfare agency, county probation, sheriff, and community-based agencies, may develop, as a component of the program described in this chapter, protocols for identifying and assessing minors, upon arrest or detention by law enforcement, who may be victims of commercial sexual exploitation. The protocol shall include the process for how to make a report to the county child welfare agency if there is reason to believe the minor is a person described in Section 300. The protocol shall also include the process for the child welfare agency to investigate the report pursuant to Section 328.

(c) The District Attorney of the County of Alameda, in collaboration with the county child welfare agency, county probation, sheriff, and community-based agencies that serve commercially sexually exploited minors, may develop, as a component of the program described in this chapter, a diversion program reflecting the best practices to address the needs and requirements of minors who have been determined to be victims of commercial sexual exploitation.

(d) The District Attorney of the County of Alameda, in collaboration with the county and community-based agencies, may form, as a component of the program described in this chapter, a multidisciplinary team including, but not limited to, city police departments, the county sheriff’s department, the public defender’s office, the probation department, child protection services, and community-based organizations that work with or advocate for commercially sexually exploited minors, to do both of the following:

(1) Develop a training curriculum reflecting the best practices for identifying and assessing minors who may be victims of commercial sexual exploitation.

(2) Offer and provide this training curriculum through multidisciplinary teams to law enforcement, child protective services, and others who are required to respond to arrested or detained minors who may be victims of commercial sexual exploitation.

SEC. 10. Section 18259.3 of the Welfare and Institutions Code is amended to read:

18259.3. (a) For purposes of this chapter, “commercially sexually exploited minor” means a person under 18 years of age who is described by one or more of the following:

(1) Has been abused in the manner described in paragraph (2) of subdivision (c) of Section 11165.1 of the Penal Code, and who has been detained for a violation of the law or placed in civil protective custody on a safety hold based only on a violation of subdivision (a) or (b) of Section 647 of the Penal Code or subdivision (a) of former Section 653.22 of the Penal Code.

(2) Has been adjudged a dependent of the juvenile court pursuant to paragraph (2) of subdivision (b) of Section 300.

(3) Has been the victim of abduction, as described in Section 267 of the Penal Code.

(4) Meets the definition of a victim of a severe form of trafficking, as defined in Section 7105 of Title 22 of the United States Code.

(b) If a minor is arrested or detained for an alleged violation of subdivision (a) or (b) of Section 647 of the Penal Code or of subdivision (a) of former Section 653.22 of the Penal Code, or if a minor is the subject of a petition to be adjudged a dependent of the juvenile court pursuant to paragraph (2) of subdivision (b) of Section 300, they shall be presumed to be a commercially sexually exploited minor, as defined in subdivision (a).

SEC. 11. Section 8.5 of this bill incorporates amendments to Section 99171 of the Public Utilities Code proposed by both this bill and Assembly Bill 1337. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 99171 of the Public Utilities Code, and (3) this bill is enacted after Assembly Bill 1337, in which case Section 8 of this bill shall not become operative.

# Cal. Code Regs. tit. 2 § 649.56

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Current through Register 2023 Notice Reg. No. 5, February 3, 2023

Section 649.56 - Involvement in the Qualifying Crime of Prostitution. [Repealed]

*Cal. Code Regs. Tit. 2, § 649.56*

*Note: Authority cited: Sections 13920 and 13974, Government Code. Reference: Section 13956, Government Code.*

1. Change without regulatory effect renumbering former section 656.5 to section 649.56, including amendment of Note, filed 12-6-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 49).
2. New subsection (d) filed 9-9-2013; operative 9-9-2013 pursuant to Government Code section 11343.4(b)(3) (Register 2013, No. 37).
3. Repealer filed 5-30-2014; operative 7/1/2014 (Register 2014, No. 22).

Previous Section

Section 649.55 - Involvement in the Qualifying Crime Due to Gang Involvement

Next Section

Section 649.57 - Mitigation of Involvement in the Events Leading to the Qualifying Crime



## SFWPC Support for Supervisor Ronen's Resolution Urging Legalization of Sex Work in California

February 28, 2023

San Francisco Board of Supervisors  
City Hall, Legislative Chamber, Room 250  
San Francisco, CA 94102

Dear Board of Supervisors,

On behalf of the San Francisco Women's Political Committee (SFWPC), we are writing in strong support of Resolution 230179, urging Governor Gavin Newsom, Senator Scott Wiener, Assemblymember Matt Haney, and Assemblymember Phil Ting to legalize consensual adult prostitution in the State of California.

As an organization that champions policies that promote intersectional feminism, gender equity, and equitable systems that advance racial justice, wellness, and equity for all women, we recognize that decriminalizing and legalizing sex work is an important step. While we understand stated concerns surrounding the impacts that legalization may have on women's safety and combatting human trafficking, the current criminalization and policing of sex work harms sex workers' safety, access to housing, and employment opportunities. As noted in the Resolution, decriminalization of sex work is associated with a 30-50% reduction in rapes and sexual assaults in locations like Scotland, Rhode Island, and the Netherlands. Because decriminalization reduces the threat of detention and arrest, workers feel safer and more often report violent crime to police.<sup>1</sup> Decriminalization also improves sex

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<sup>1</sup> ACLU. "Is Sex Work Decriminalization the Answer? What the Research Tells Us." 2020. <https://www.aclu.org/report/sex-work-decriminalization-answer-what-research-tells-us>

workers' safety and well-being by reducing one of the biggest barriers to securing affordable housing. A survey of transgender sex workers found that housing was the most immediate need for 79% of the population.<sup>2</sup> Decriminalization improves the ability of workers to obtain housing, formal employment, capital/loans, and even healthcare.<sup>3</sup>

We therefore strongly support decriminalization and legalization of sex work as a proven method to improve the safety, health, and economic justice outcomes. It is a crucial first step to broader cultural change needed to reduce stigma surrounding sex work.

Sincerely,

SFWPC Board of Directors

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<sup>2</sup> Macon, C.; Tai, E. "Earning Housing: Removing Barriers to Housing to Improve the Health and Wellbeing of Chronically Homeless Sex Workers." *Soc. Sci.* **2022**, *11*, 399. <https://doi.org/10.3390/socsci11090399>

<sup>3</sup> Amnesty International. "Sex workers at risk: a research summary on human rights abuses against sex workers." Published May 2016.

## Introduction Form

*(by a Member of the Board of Supervisors or the Mayor)*



I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)  
*(Routine, non-controversial and/or commendatory matters only)*
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor  inquiries..."
- 5. City Attorney Request
- 6. Call File No.  from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the Board on

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission       Youth Commission       Ethics Commission
- Planning Commission       Building Inspection Commission       Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes                       No

*(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)*

Sponsor(s):

Subject:

Long Title or text listed:

Signature of Sponsoring Supervisor:

