RESOLUTION 01-01-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Penal Code sections 1054.7 and 1054.10, to read as follows:

§ 1054.7

(a) The disclosures required under this chapter shall be made at least 30 days prior to the trial, unless good cause is shown why a disclosure should be denied, restricted, or deferred. If the material and information becomes known to, or comes into the possession of, a party within 30 days of trial, disclosure shall be made immediately, unless good cause is shown why a disclosure should be denied, restricted, or deferred. "Good cause" is limited to threats or possible danger to the safety of a victim or witness, possible loss or destruction of evidence, or possible compromise of other investigations by law enforcement.

(b) Upon the request of any party, the court may permit a showing of good cause for the denial or regulation of disclosures, or any portion of that showing, to be made in camera. A verbatim record shall be made of any such proceeding. If the court enters an order granting relief following a showing in camera, the entire record of the showing shall be sealed and preserved in the records of the court, and shall be made available to an appellate court in the event of an appeal or writ. In its discretion, the trial court may after trial and conviction, unseal any previously sealed matter.

(c) (1) Notwithstanding subdivision (a), "good cause" includes restricted disclosure of child sexual abuse material, or any hardware, media, or other property containing, storing, or housing that material, by keeping it under seal with the court, a law enforcement agency, or the prosecuting agency, provided that such material is made reasonably available to the defendant.

(2) For purposes of paragraph (1), child sexual abuse material or any hardware, media, or other property containing, storing, or housing that material, shall be deemed to be reasonably available to the defendant if the prosecution provides ample opportunity for the inspection, viewing, and examination of that material by the defendant, the defendant's attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial, in a time, place, and manner that is mutually agreed on, or as ordered by the court.

(3) For purposes of this chapter, "child sexual abuse material" has the same meaning as stated in Section 3273.65 of the Civil Code.

(d) Any order to deny, restrict, or defer disclosure must not infringe on fundamental rights to due process and equal protection under the California Constitution or the United States Constitution.

§ 1054.10

(a) Except as provided in subdivision (b), no attorney may disclose or permit to be disclosed to a defendant, members of the defendant's family, or anyone else copies of ~~child pornography evidence~~ child sexual abuse material, unless specifically permitted to do so by the court after a hearing and a showing of good cause.

(b) Notwithstanding subdivision (a), an attorney may disclose or permit to be disclosed copies of ~~child pornography evidence~~ child sexual abuse material to persons employed by the attorney or to persons appointed by the court to assist in the preparation of a defendant's case if

that disclosure is required for that preparation. Persons provided this material by an attorney shall be informed by the attorney that further dissemination of the material, except as provided by this section, is prohibited.

(Proposed new language underlined; language to be deleted stricken)

PROPONENTS

Michael Fern, Sunita Popal, Ethan Milius, Eunice Kim, Thanh Tam Ton, Vicki Greene, Marc Sallus, H. Thomas Watson, Joel Douglas, Naris Khalatian

STATEMENT OF REASONS

The Problem (including Existing Law):

Existing law requires the prosecution to disclose to the defense "[a]ll relevant real evidence seized or obtained as a part of the investigation of the offenses charged." (Pen. Code, § 1054.1, subd. (c).) This includes child sexual abuse material. (See *Westerfield v. Superior Court* (2002) 99 Cal.App.4th 994.) For federal prosecutions involving "child pornography," the Adam Walsh Act of 2006 states that such evidence "shall remain in the care, custody, and control of the Government or the court" and directs courts to deny any request by a defendant to make copies "so long as the Government makes the property or material reasonably available to the defendant." (See 18 U.S.C., § 3069, subd. (m).) This ensures legitimate access within a secure computing environment and minimizes the risk of accidental viewing or acquisition by an unauthorized third party.

But in California, criminal courts can only deny, restrict, or defer the disclosure of discovery upon a showing of "good cause," which is limited by statute. (See Pen. Code, § 1054.7.) While Section 1054.7 defines "good cause" to include protecting against "threats and possible danger to the safety of a victim or witness," this does not include protecting the public from the dissemination of child sexual abuse material, which is incredibly toxic and can be easily lost or misplaced. As noted in the legislative history to Penal Code section 311.4, "Pedophiles often use child pornography as a 'teaching tool' in their molestations. Pornographic material depicting children involved in sexual activities is frequently utilized to sexually stimulate the molester, desensitize children and educate them to the desire of the molester, blackmail children into silence, and facilitate the molestation of additional children." (Assem. Com on Public Safety, Analysis of Assem. Bill No. 295 (1995-1996 Reg. Sess.) as amended Aug. 23, 1996, p. 4.)

The Solution: This resolution would amend Penal Code section 1054.7 to permit a court to find good cause to restrict the disclosure of child sexual abuse material in a manner consistent with federal law. It would further require that any order to deny, restrict, or defer disclosure not infringe on fundamental rights to due process and equal protection. It would also amend Section 1054.10 to replace both instances of "child pornography" with "child sexual abuse material," which is defined by Civil Code section 3273.65 to include "child pornography."
The use of "child sexual abuse material" is recommended by the National Center for Missing and Exploited Children, United States Department of Justice, and INTERPOL (See https://www.missingkids.org/theissues/csam; https://www.justice.gov/d9/2023-

06/child_sexual_abuse_material_2.pdf; https://www.interpol.int/en/Crimes/Crimes-against-children/Appropriate-terminology.)

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
AB 528 (2025-2026), which is currently in Senate Appropriations, would restrict disclosure of CSAM in the same manner as the Adam Walsh Act.

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RESOLUTION 01-02-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Penal Code sections 186.9, to read as follows:

§ 1214.19

(a) On or after July 1, 2022, in addition to any other penalty in infraction, misdemeanor, or felony cases, the court may impose a civil assessment of up to one hundred dollars ($100) against a defendant who fails, after notice and without good cause, to appear in court for a proceeding authorized by law ~~or who fails to pay all or any portion of a fine ordered by the court~~ or to pay an installment of bail as agreed to under Section 40510.5 of the Vehicle Code. This assessment shall be deposited with the county treasurer as provided in Section 1463.001, and transmitted to the State Treasurer for deposit into the General Fund.

(b)

(1) The assessment imposed pursuant to subdivision (a) shall not become effective until at least 20 calendar days after the court mails a warning notice to the defendant by first-class mail to the address shown on the notice to appear or to the defendant's last known address. If the defendant appears within the time specified in the notice and shows good cause for the failure to appear ~~or for the failure to pay a fine~~ or installment of bail, the court shall vacate the assessment.

(2) Payment of bail, fines, penalties, fees, or a civil assessment shall not be required in order for the court to vacate the assessment at the time of appearance pursuant to paragraph (1). Payment of a civil assessment shall not be required to schedule a court hearing on a pending underlying charge.

(c) If a civil assessment is imposed pursuant to subdivision (a), no bench warrant or warrant of arrest shall be issued with respect to the failure to appear at the proceeding for which the assessment is imposed ~~or the failure to pay the fine~~ or installment of bail. An outstanding, unserved bench warrant or warrant of arrest for a failure to appear ~~or for a failure to pay a fine~~ or installment of bail shall be recalled prior to the subsequent imposition of a civil assessment.

(d) The assessment imposed pursuant to subdivision (a) shall be subject to the due process requirements governing defense and collection of civil money judgments generally.

(e) Each court and county shall maintain the collection program that was in effect on July 1, 2005, unless otherwise agreed to by the court and county. If a court and a county do not agree on a plan for the collection of civil assessments imposed pursuant to this section, or any other collections under Section 1463.010, after the implementation of Sections 68085.6 and 68085.7 of the Government Code, the court or the county may request arbitration by a third party mutually agreed upon by the Administrative Director of the Courts and the California State Association of Counties.

(Proposed new language underlined; language to be deleted stricken)

PROPONENTS

Naris Khalatian, Collin Hu, Brad Siegel, Nicole Okung, Margaret Kame, Natasha Khamashta, Josephine Gallegos, Mark H. Aprahamian, Katherine Read, Faith Nouri

STATEMENT OF REASONS

The Problem (including Existing Law): The Eighth Amendment prohibits "excessive fines," though a penalty's burden depends on a person's financial circumstances.[1] Fines generally must be proportional to the harm caused.[2] California courts may impose civil assessments when a person fails to appear or pay a fine or bail installment.[3] These assessments are imposed without considering ability to pay and often punish poverty rather than misconduct.[4] For people unable to pay, additional fees create uncollectible debt, consume court resources, and do little to improve compliance.[5] Criminal fees can also cause lasting financial and emotional harm, restricting economic mobility and forcing families to choose between paying the court and meeting basic needs.[6] These burdens fall disproportionately on Black and Brown Californians, who are overrepresented in the criminal legal system due to targeted policing.[7] California has recognized these harms by discharging more than $6.9 billion in uncollectible criminal debt, eliminating over half of statewide criminal fees, and reducing the maximum civil assessment from $300 to $100; 45 of California's 58 counties have eliminated civil assessments entirely.[8] These reforms show that such fees are neither necessary nor effective for securing court compliance.

The Solution: This resolution eliminates the "failure to pay" penalty for civil assessments. In counties that still impose them, individuals who cannot afford to pay face additional charges, increased debt, and financial hardship, penalizing poverty and deepening involvement in the justice system. By removing "failure to pay" as a trigger for additional penalties, civil assessments will focus on actual noncompliance rather than economic hardship, while courts retain more effective compliance tools such as text reminders and flexible payment plans. Fiscal concerns are also addressed: since July 2022, civil assessment revenues are deposited into the General Fund rather than the Trial Court Trust Fund, reducing reliance on these fees to fund court operations. This reform reduces unnecessary financial burdens, promotes fairness, and is straightforward to implement.

IMPACT STATEMENT

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[1] U.S. Const. amend. VIII. In Constitution of the United States. Retrieved December 7, 2025, from https://constitution.congress.gov/constitution/amendment-8/

[2] Vista Criminal Law. (n.d.). *Court fines*. Vista Criminal Law. https://vistacriminallaw.com/court-fines/

[3] California. Penal Code § 1214.1 (Deering, LexisNexis, 2025).

[4] Judicial Branch of California. (2025, January). *AB 199: Civil assessments — Frequently asked questions* [PDF]. https://courts.ca.gov/sites/default/files/courts/default/2025-01/AB199-FAQs.pdf

[5] Legal Community Concerning Civil Assessments. (2022, March). *Civil assessments issue brief* [PDF]. LCCR SF. https://lccrsf.org/wp-content/uploads/2022/03/Civil-Assessments-Issue-Brief_v3.pdf

[6] Campos-Bui, S., & Zwerling, M. (2024). *Ending unjust and ineffective criminal fees in California*. UC Berkeley Law Policy Advocacy Clinic. https://www.law.berkeley.edu/experiential/clinics/policy-advocacy-clinic/adult-fees/ending-criminal-adult-fees-in-california/

[7] Legal Services for Prisoners with Children & Rights for Families. (2022, March). *Civil assessments issue brief* (v.3). https://lccrsf.org/wp-content/uploads/2022/03/Civil-Assessments-Issue-Brief_v3.pdf

[8] Policy Advocacy Clinic, UC Berkeley School of Law. (n.d.). *Ending unjust and ineffective criminal fees in California*. https://www.law.berkeley.edu/experiential/clinics/policy-advocacy-clinic/adult-fees/ending-criminal-adult-fees-in-california/

This resolution may require additional statutory changes. As mentioned above, AB 199 mandates civil assessment revenues be deposited into the state General Fund rather than the Trial Court Trust Fund and reported as an adjustment to alleviate financial burdens on individuals unable to pay and address concerns about the fairness of using such fines to fund court operations.[9] While this resolution would not require textual amendments, other California statutes that allow courts to impose civil assessments may be impacted, including Government Code Sections 68085.1, 68085.6, and 68085.7; Vehicle Code Sections 40510.5, 40512, 42007, 42008.5, 42008.7, and 42008.8; and Penal Code Section 1463.010.

CURRENT OR PRIOR RELATED LEGISLATION

The following bills are related to this resolution. AB 199, enacted in 2022, decreased the maximum civil assessment from $300 to $100 under Penal Code Section 1214.1. AB 134, enacted in 2023, repeals criminal administrative fees related to record selling and post-conviction remedies pursuant to Penal Code Sections 1203.4, 1203.41, 1203.42, and 1203.45. AB 1869, enacted in 2020, eliminated 23 criminal fees, repealing fees under Government Code Sections 27712, 27753, 29550(c)(f), 29550.1, 29550.2, 29550.3, and Penal Code Sections 987.4, 987.5, 987.8, 1203, 1203.016(g), 1203.018(j), 1203.1b, 1203.1e, 1208.2(b), 1210.15, 3010.8, 4024.2(e), and 6266. SB 190, enacted in 2018, amended Government Code Sections 27756 and 277567, Penal Code Sections 1203.016, 1203.1ab, 1208.2, and various sections of the Welfare and Institutions Code to abolish administrative fees for juvenile cases. SB 1290, enacted in 2020, amended Welfare and Institutions Code Sections 223.2 and 903.1 to eliminate remaining juvenile fees. AB 103 (Public Safety Omnibus), enacted in June 2017, ended driver's license suspension for unpaid fines and fees and amended Vehicle Code Sections 13365, 40509, and 40509.5. AB 177, enacted in 2022, ended collection of an additional 17 administrative fees pursuant to Sections 367.8 and 367.9 of the Code of Civil Procedure, Sections 50050, 68645, 69950, 69950.5, 69951, 77205, and 68119 of the Government Code, and Sections 1465.9, 1001.15, 1001.16, 1203.1c, 1203.1m, 1214.5, 1202.4, 1203.1, 1203.1ab, 1203.4a, 1203.9, 1205, 2085.5, 2085.6, 2085.7, and 1463.07 of the Penal Code.

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[9] *Id* at 4.

RESOLUTION 01-03-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend California Vehicle Code section 21213 to read as follows:

§21213.5

(a) The Legislature finds and declares that operation of electric bicycles using motor power on sidewalks creates a foreseeable risk of serious harm to pedestrians, including children, seniors, and persons with disabilities.

(b) A person shall not operate electric bikes, as defined in section 312.5, on a sidewalk when using motor power.

(c) This section shall not apply when operation upon a sidewalk is necessary solely for the purpose of entering or leaving adjacent property.

(d) A violation of this section is an infraction.

(e) If the operator is a minor, the parent or legal guardian who knowingly permits the operation of an electric bicycle in violation of this section shall be jointly and severally liability with the minor for any injuries and damages proximately caused by the violation.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT

Orange County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): Electric bicycles ("e-bikes") using motor power are faster than conventional bicycles and can be operated at speeds between 20 to 28 miles per hour, depending upon the class. At these speeds, pedestrian reaction time is significantly limited, leaving little or no opportunity to avoid a collision. With such reduced reaction time by the pedestrian, even a minor misstep, unexpected movement, or momentary loss of balance can result in catastrophic consequences for the pedestrian. Current law lacks consistency and clarity on the use of e-bikes using motor power, instead of pedaling, on sidewalks, resulting in inconsistent local regulation and preventable injuries, particularly to pedestrians, including children, elderly individuals, and disabled persons, who are vulnerable to serious injury in sidewalk collisions. Additionally, because e-bikes are not subject to DMV registration, mandatory insurance coverage, or other reliable means of operator identification, collisions involving e-bikes often result in a significant lack of accountability. The absence of a law protecting the pedestrians makes it challenging for injured pedestrians to identify responsible parties and obtain compensation, further underscoring the need for clear statewide restrictions on sidewalk operation.

The Solution: This resolution establishes a bright-line statement rule prohibiting the operation of e-bikes using motor power on sidewalks, modeled after existing statutory restrictions for motorized scooters. The proposed legislation prohibits e-bike motorized use on sidewalks except

for ingress and egress to adjacent property; creates a uniform, easily enforceable safety standard; declares legislative intent supporting pedestrian protection and preventing foreseeable injuries; and clarifies that liability rests with the rider and with the minors' parents or guardians who knowingly permit unlawful operation by minors.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
None

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RESOLUTION 01-04-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Penal Code sections 186.9, to read as follows:

§ 186.9

As used in this chapter:

(a) "Conducts" includes, but is not limited to, initiating, concluding, or participating in conducting, initiating, or concluding a transaction.

(b) "Financial institution" means, when located or doing business in this state, any national bank or banking association, state bank or banking association, commercial bank or trust company organized under the laws of the United States or any state, any private bank, industrial savings bank, savings bank or thrift institution, savings and loan association, or building and loan association organized under the laws of the United States or any state, any insured institution as defined in Section 401 of the National Housing Act (12 U.S.C. Sec. 1724(a)), any credit union organized under the laws of the United States or any state, any national banking association or corporation acting under Chapter 6 (commencing with Section 601) of Title 12 of the United States Code, any agency, agent or branch of a foreign bank, any currency dealer or exchange, any person or business engaged primarily in the cashing of checks, any person or business who regularly engages in the issuing, selling, or redeeming of traveler's checks, money orders, or similar instruments, any broker or dealer in securities registered or required to be registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 or with the Commissioner of Business Oversight under Part 3 (commencing with Section 25200) of Division 1 of Title 4 of the Corporations Code, any licensed transmitter of funds or other person or business regularly engaged in transmitting funds to a foreign nation for others, any investment banker or investment company, any insurer, any dealer in gold, silver, or platinum bullion or coins, diamonds, emeralds, rubies, or sapphires, any pawnbroker, any telegraph company, any person or business regularly engaged in the delivery, transmittal, or holding of mail or packages, any person or business that conducts a transaction involving the transfer of title to any real property, vehicle, vessel, or aircraft, any personal property broker, any person or business acting as a real property securities dealer within the meaning of Section 10237 of the Business and Professions Code, whether licensed to do so or not, any person or business acting within the meaning and scope of subdivisions (d) and (e) of Section 10131 and Section 10131.1 of the Business and Professions Code, whether licensed to do so or not, any person or business regularly engaged in gaming within the meaning and scope of Section 330, any person or business regularly engaged in pool selling or bookmaking within the meaning and scope of Section 337a, any person or business regularly engaged in horse racing whether licensed to do so or not under the Business and Professions Code, any person or business engaged in the operation of a gambling ship within the meaning and scope of Section 11317, any person or business engaged in controlled gambling within the meaning and scope of subdivision (e) of Section 19805 of the Business and Professions Code, whether registered to do so or not, <u>any person or business regularly engaged in transactions involving digital financial assets,</u> and any person or business defined as a "bank," "financial agency," or "financial institution" by Section 5312 of

Title 31 of the United States Code or Section 103.11 of Title 31 of the Code of Federal Regulations and any successor provisions thereto.

(c) "Transaction" includes the deposit, withdrawal, transfer, bailment, loan, pledge, payment, or exchange of currency, or a monetary instrument, as defined by subdivision (d), or the electronic, wire, magnetic, or manual transfer of funds between accounts by, through, or to, a financial institution as defined by subdivision (b).

(d) "Monetary instrument" means United States currency and coin; the currency, coin, and foreign bank drafts of any foreign country; payment warrants issued by the United States, this state, or any city, county, or city and county of this state or any other political subdivision thereof; any bank check, cashier's check, traveler's check, or money order; any personal check, stock, investment security, or negotiable instrument in bearer form or otherwise in a form in which title thereto passes upon delivery; gold, silver, or platinum bullion or coins; ~~and~~ diamonds, emeralds, rubies, or sapphires; and digital financial assets. Except for foreign bank drafts and federal, state, county, or city warrants, "monetary instrument" does not include personal checks made payable to the order of a named party which have not been endorsed or which bear restrictive endorsements, and also does not include personal checks which have been endorsed by the named party and deposited by the named party into the named party's account with a financial institution.

(e) "Criminal activity" means a criminal offense punishable under the laws of this state by death, imprisonment in the state prison, or imprisonment pursuant to subdivision (h) of Section 1170 or from a criminal offense committed in another jurisdiction punishable under the laws of that jurisdiction by death or imprisonment for a term exceeding one year.

(f) "Foreign bank draft" means a bank draft or check issued or made out by a foreign bank, savings and loan, casa de cambio, credit union, currency dealer or exchanger, check cashing business, money transmitter, insurance company, investment or private bank, or any other foreign financial institution that provides similar financial services, on an account in the name of the foreign bank or foreign financial institution held at a bank or other financial institution located in the United States or a territory of the United States.

(g) "Digital financial assets" has the same meaning as defined in subdivision (g) of Section 3102 of the Financial Code.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT

Los Angeles County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): Money laundering is the lifeblood of financial crimes, allowing thieves, fraudsters, and dealers in contraband to disguise the illicit origins of money derived from criminal activities and underwrite ongoing criminal enterprises. Under existing law, the crime of money laundering requires a transaction involving "monetary instruments" greater than $5,000 through a "financial institution" over a specified period of time, with either the intent to facilitate criminal activity or the knowledge that the proceeds are derived from criminal activity. (Pen. Code, § 186.10, subd. (a).) A "monetary instrument" includes government-issued

currencies, checks, money orders, and certain kinds of assets, such as precious metals, gems, and securities. (Pen. Code, § 186.9, subd. (d).)

However, the current definition of a "monetary instrument" does not account for the emergence of transactions involving digital financial assets, such as non-fungible tokens (NFTs) and cryptocurrencies. (Hall, *Nations to adopt Bitcoin, crypto users to reach 1B by 2023* (Jan. 21, 2022) Cointelegraph, https://cointelegraph.com/news/nations-to-adopt-bitcoin-crypto-users-to-reach-1b-by-2023-report.) Given their use in conducting near-instant and relatively anonymous cross-border financial transactions of unlimited value, NFTs and cryptocurrencies have become major conduits for money laundering. (See Versprille, *Crypto, NFTs Are Rife With 'Mountains' of Fraud, IRS Says* (Jan. 26, 2022) Bloomberg, https://www.bloomberg.com/news/articles/2022-01-26/irs-seeing-mountains-and-mountains-of-fraud-with-crypto-nfts.)

The Solution: This resolution would close a major loophole in California's anti-money laundering provisions by adding "digital financial assets" as defined in Financial Code section 3102(g) to the list of "monetary instruments" and adding "any person or business regularly engaged in transactions involving digital financial assets" to the meaning of a "financial institution."

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
Similar to AB 76 (2023-24), which was based on Resolution 11-11-2022.

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RESOLUTION 01-05-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Penal Code sections 519 and 520, to read as follows:

§ 519

Fear, such as will constitute extortion, may be induced by a threat of any of the following:

1. To do an unlawful injury to the person or property of the individual threatened or of a third person.

2. To accuse the individual threatened, or a relative of his or her, or a member of his or her family, of a crime.

3. To expose, or to impute to him, her, or them a deformity, disgrace, or crime.

4. To expose a secret affecting him, her, or them.

5. To report his, her, or their immigration status or suspected immigration status.

6. To report his, her, or their free exercise or enjoyment of a right or privilege secured by the Constitution or laws of this state or by the Constitution or laws of the United States, in whole or in part, to a foreign government or agent thereof.

§ 520

Every person who extorts property or other consideration from another, including the ability to freely exercise or enjoy a right or privilege secured by the Constitution or laws of this state or by the Constitution or laws of the United States, in whole or in part, under circumstances not amounting to robbery or carjacking, by means of force, or any threat, such as is mentioned in Section 519, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for two, three or four years.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT

Los Angeles County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): Authoritarian governments are increasingly engaged in transnational repression of their citizens and members of diaspora communities who live in the United States. (See https://www.cfr.org/articles/transnational-repression-grew-2025-and-it-will-only-get-worse; https://www.propublica.org/article/even-on-us-campuses-china-cracks-down-on-students-who-speak-out; https://www.justice.gov/usao-ma/pr/former-berklee-college-music-student-sentenced-prison-threatening-individual-promoting.) While existing law protects against acts of violence and death threats, a more subtle form of control that currently escapes legal scrutiny is the threat of being reported to a foreign government for speaking freely on a political issue, affirming a disfavored identity, or practicing a religion. Such threats are designed to instill

fear in the safety of relatives and loved ones and and the ability to return to the country of one's birth, for exercising rights and privileges while living in a free society.

The Solution: This resolution would include within the crime of extortion a threat to report his, her, or their free exercise or enjoyment of a right or privilege secured by the Constitution or laws of this state or by the Constitution or laws of the United States, in whole or in part, to a foreign government, or an agent thereof, and clarify that the ability to exercise such rights are a type of consideration that can be extorted.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
Not known.

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RESOLUTION 01-06-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Penal Code sections 1054.7 and 1054.10, to read as follows:

§ 190.5

(a) Notwithstanding any other provision of law, neither the death penalty or the penalty of confinement in the state prison for life without the possibility of parole shall ~~not~~ be imposed on any person who is under the age of ~~18~~ 26 at the time of the commission of the crime. The burden of proof as to the age of such person shall be on the defendant.

(b) The penalty for a defendant found guilty of murder in the first degree~~, in any case in which one or more special circumstances enumerated in Section 190.2 or 190.25 has been found true under Section 190.4,~~ who was 16 years of age or older and under the age of ~~18~~ 26 years at the time of the commission of the crime, shall be confinement in the state prison for ~~life without the possibility of parole or, at the discretion of the court,~~ 25 years to life.

~~(c) The trier of fact shall determine the existence of any special circumstance pursuant to the procedure set forth in Section 190.4~~

(Proposed new language underlined; language to be deleted stricken)

PROPONENT

Women Lawyers Association of Los Angeles

STATEMENT OF REASONS

The Problem (including Existing Law): Existing law prohibits imposing a sentence of death for any person who was under the age of 18 at the time of the crime (Pen. Code § 190.5, subd. (a)) or a sentence of life imprisonment without the possibility of parole for any person who was under the age of 16 at the time of the crime (Pen. Code § 190.5, subd. (b)). The Legislature has recognized differences in culpability due to immature brain development of persons age 18 to 26. Penal Code section 3051 allows such youthful offenders to petition for a hearing to present mitigating factors not introduced at sentencing in the original trial in order to make a record for future consideration of parole, but such hearings are not authorized for persons serving a sentence of life without the possibility of parole as a result of conviction for a crime committed after they attained age 18. (Pen. Code § 3051, subd. (h).) The California Supreme Court has upheld the Legislature's decision to exclude youthful offenders serving life without parole from the benefits of section 3051. (*People v. Hardin* (2024) 15 Cal.5th 834.) Immature brain development of persons under age 26 should be a factor in sentencing, even for crimes subject to a penalty of death or life imprisonment without the possibility of parole. In *Roper v. Simmons* (2005) 543 U.S. 551, 574, the United States Supreme Court recognized "[t]he qualities that distinguish juveniles do not disappear when an individual turns 18." Scientific research supports the *Simmons* Court's observation because there is little empirical evidence supporting age 18 as an accurate age of maturity. (Sara B. Johnson, Robert W. Blum & Jay N. Giedd, *Adolescent*

Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Adolescent Health Policy 45(3) J. Adolesc Health 216-221, available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2892678/; Elizabeth S. Scott, Richard J. Bonnie & Laurence Steinberg, *Young Adulthood as a Transitional Legal Category: Science, Social Change and Justice Policy,* 85 Fordham L. Rev. 641, 645, 648 (2016).) Individuals mature intellectually before they achieve emotional or social maturity, but what is relevant to legal culpability is the emotional and social development that continues after age 18. (Scott, et al., 85 Fordham L. Rev, at p. 648.) Some scientific literature suggests the behavior and decision-making of adults between the ages of 18 and 25 is closer to juvenile offenders than adult offenders over age 25. (Carly Loomis-Gustafson, *Adjusting the Bright-Line Age of Accountability within the Criminal Justice System: Raising the Age of Majority to Age 21 Based on the Conclusions of Scientific Studies Regarding Neurological Development and Culpability of Young-Adult Offenders,* 55 Duq. L. Rev. 221, 229 (2017); see also Scott, et al. 85 Fordham L. Rev, at p. 642.)

This proposal is identical to a resolution proposed to the 2025 Conference (Resolution 04-05-2025). The Resolutions Committee approved the resolution, but it failed to pass the Conference by one vote.

The Solution: This proposal would apply the age range identified by the Legislature in Penal Code section 3051 to eliminate sentences of death or life imprisonment without the possibility of parole for persons who committed their crime prior to attaining age 26, and would eliminate the necessity of trying special circumstance allegations attached to murder charges against persons in this age range. Instead, those persons could receive parole-eligible life sentences.

IMPACT STATEMENT

This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION

Senate Bill No. 672 would grant young adults (age 18-25 at the time of the crime) sentenced to life without the possibility of parole for murder a chance for a parole hearing after serving 25 years, with some exceptions including hate crimes and murder of a peace officer. The bill passed the Senate in 2025. It was paused until 2026 for further work in the Assembly.

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RESPONSIBLE FLOOR DELEGATE

Mark Alan Hart

RESOLUTION 01-07-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Penal Code section 597, to read as follows:

§ 597

(a) Except as provided in subdivision (c) of this section or Section 599c, a person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of a crime punishable pursuant to subdivision (d).

(b) Except as otherwise provided in subdivision (a) or (c), a person who unlawfully abducts another person's companion animal with the intent to sell or deprive, who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills an animal, or causes or procures an animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, or shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of an animal, either as owner or otherwise, subjects an animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses an animal, or fails to provide the animal with proper food, drink, or shelter, or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for each offense, guilty of a crime punishable pursuant to subdivision (d).

(c) A person who maliciously and intentionally maims, mutilates, or tortures a mammal, bird, reptile, amphibian, or fish, as described in subdivision (e), is guilty of a crime punishable pursuant to subdivision (d).

(d) A violation of subdivision (a), (b), or (c) is punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars ($20,000), or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail for not more than one year, or by a fine of not more than twenty thousand dollars ($20,000), or by both that fine and imprisonment.

(e)

(1) Subdivision (c) applies to a mammal, bird, reptile, amphibian, or fish that is a creature described as follows:

(A) Endangered species or threatened species as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

(B) Fully protected birds described in Section 3511 of the Fish and Game Code.

(C) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.

(D) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.

(E) Fully protected fish as described in Section 5515 of the Fish and Game Code.

(2) This subdivision does not supersede or affect any law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.

(f) For the purposes of subdivision (c), each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subdivision (e) is a separate offense. If a person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.

(g)

(1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of an animal shelter or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.

(2) Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT
Los Angeles County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): Approximately 2 million dogs are stolen every year, very few of whom are reunited with their owner. (See https://natlawreview.com/press-releases/sashas-pet-resort-endorses-national-pet-theft-awareness-day-february.) However, existing law treats the theft of a companion animal as purely a property crime (see Pen. Code, § 491), which ignores the familial bond that is broken and the separation anxiety caused by an indefinite abduction. And if the re-sale value of the companion animal is $950 or less, the offense is considered petty theft, no different than shoplifting a pack of gum. (See Pen. Code, §§ 484, 487.) "A spokeswoman for the Los Angeles County District Attorney George Gascón says the prosecutor — who is fighting to remain in office as the debate about stolen pets rages — agrees that California lawmakers should reexamine laws around pet theft." (See https://lamag.com/news/frenchie-connection-french-bulldog-gunpoint-thefts-los-angeles/.)

The Solution: This resolution would amend Penal Code section 597 to include a person "who unlawfully abducts another person's companion animal with the intent to sell or deprive" as a form of animal cruelty.

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
Not known.

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RESOLUTION 01-08-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend section 799 of the Penal Code, to read as follows:

§ 799

(a) Prosecution for an offense punishable by death or by imprisonment in the state prison for life or for life without the possibility of parole, or for the embezzlement of public money may be commenced at any time.

(b) (1) Prosecution for a felony offense described in paragraph (1), (2), (3), (4), (6), or (7) of subdivision (a) of Section 261, paragraph (1), (2), (3), (4), or (5) of subdivision (a) of former Section 262, Section 264.1, paragraph (2) or (3) of subdivision (c) of, or subdivision (d), (f), (g), (i), or (k) of, Section 286, paragraph (2) or (3) of subdivision (c) of, or subdivision (d), (f), (g), (i), or (k) of, Section 287 or former Section 288a, subdivision (a) of Section 288 involving substantial sexual conduct as defined in subdivision (b) of Section 1203.066, subdivision (b) of Section 288, Section 288.5, or subdivision (a), (b), (d), (e), or (g) of Section 289 may be commenced at any time.

(2) This subdivision applies to crimes that were committed on or after January 1, 2017, and to crimes for which the statute of limitations that was in effect prior to January 1, 2017, has not run as of January 1, 2017.

(c) This section applies when the defendant was a minor at the time of the commission of the offense and the prosecuting attorney could have petitioned the court for a fitness hearing pursuant to Section 707 of the Welfare and Institutions Code.

(d) (1) Prosecution for the grand theft of public money shall be commenced within eight years after discovery of the offense or its completion, whichever is later.

(2) This subdivision applies to crimes that were committed on or after January 1, 2028, and to crimes for which the statute of limitations that was in effect prior to January 1, 2028, has not run as of January 1, 2028.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT

Los Angeles County Bar Association

STATEMENT OF REASONS

The Problem (including Existing Law): The theft of public money defunds government programs and services, disproportionately harms low-income Californians, and increases the burden on taxpayers to make up the shortfall. By some estimates, fraud accounts for up to 20 percent of government healthcare expenditures. (See https://www.taf.org/fraud-by-the-numbers-september-20/.) Every month, cybercriminals steal an estimated $10 million from the EBT accounts of low-income Californians, with one group allegedly siphoning $180 million. (See https://calmatters.org/economy/2023/11/california-missed-chances-to-stop-ebt-theft-its-lost-tens-of-millions -of-taxpayer-dollars-since/; https://www.justice.gov/usao-sdca/pr/seven-charged-

theft-california-benefits-low-income-families.) During the pandemic (2020-2022), fraudsters and cybercriminals likely stole between $20 billion to $32.6 billion in benefits from the Employment Development Department. (See https://www.kcra.com/article/analysis-edd-fraud-326-billion-and-counting/41281662.) Yet, nearly all suspected fraudulent claims are now permanently shielded from prosecution. Although Penal Code section 799 allows a case to be filed at any time when public money is embezzled (i.e., stolen by a fiduciary), the prosecution of grand theft of public funds (more than $950) is barred after four years from when it should have been discovered. (See Pen. Code, §§ 487(a), 801.5, 803(c)(1); *People v. Zamora* (1976) 18 Cal.3d 538, 561-562.) Both crimes involve the same fiscal impact and carry the same maximum sentence. Moreover, the public harm caused by grand theft of public funds in aggregate is several magnitudes greater than that of embezzlement.

The Solution: This resolution would amend Penal Code section 799 to require the prosecution of grand theft of public money to commence within 8 years of the discovery of the offense or its completion, whichever is later. In accordance with the Ex Post Facto Clause, it would only apply to new prosecutions based to offenses whose statute of limitations have not run by January 1, 2028 (See *Stogner v. California* (2003) 539 U.S. 607.)

IMPACT STATEMENT
This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION
Similar to AB 2878 (2023-2024), which would have established a 12-year statute of limitations for offenses involving the Pandemic Unemployment Assistance program.

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RESOLUTION 01-09-2026

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to delete repeal Penal Code sections 647f, 315, 316, 266(h), 653.20, 653.22, 653.23, 653.24; to amend Penal Code sections 647, 647.1, 318, 266i, and 11225; and to add Health and Safety Code section 429.13, to read as follows:

§ 647

Except as provided in paragraph (5) of subdivision (b) and in subdivisions (k) and (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 a public place or in a 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, an 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, the individual 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, an 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, the individual 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.~~

(b)(1~~3~~) An individual who solicits, or who agrees to engage in, or who engages in, an 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, the individual 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.

(2)~~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.

(3~~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 a public place or in a place open to the public for the purpose of begging or soliciting alms.
(d) Who loiters in or about a toilet open to the public for the purpose of engaging in or soliciting a lewd or lascivious or an unlawful act.
(e) Who lodges in a 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 a public place under the influence of intoxicating liquor, a drug, controlled substance, toluene, or a combination of an intoxicating liquor, drug, controlled substance, or toluene, in a condition that they are unable to exercise care for their own safety or the safety of others, or by reason of being under the influence of intoxicating liquor, drug, controlled substance, toluene, or a combination of an intoxicating liquor, drug, or toluene, interferes with or obstructs or prevents the free use of a street, sidewalk, or other public way.
(g) If a person has violated subdivision (f), a peace officer, if reasonably able to do so, shall place the person, or cause the person 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 authorized to effect an arrest for a misdemeanor without a warrant. A person who has been placed in civil protective custody shall not thereafter be subject to 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 a drug or under the combined influence of intoxicating liquor and a drug.
(2) A person who a peace officer has probable cause to believe has committed a felony, or who has committed a 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 an 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, mobile phone, electronic device, or unmanned aircraft system, 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. For the purposes of this paragraph, "identifiable" means capable of identification, or capable of being recognized, meaning that someone, including the victim, could identify or recognize the victim. It does not require the victim's identity to actually be established.

(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. For the purposes of this paragraph, "identifiable" means capable of identification, or capable of being recognized, meaning that someone, including the victim, could identify or recognize the victim. It does not require the victim's identity to actually be established.

(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) (i) A person who intentionally distributes or causes to be distributed 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, when subclauses (I) to (III), inclusive, are all true:

(I) The person distributing the image knows or should know that the distribution of the image will cause serious emotional distress.

(II) The person depicted suffers serious emotional distress.

(III) One of the following has occurred:

(ia) The person depicted in the image and the person distributing the image had agreed or had an understanding that the image shall remain private.

(ib) The image was knowingly recorded, captured, or otherwise obtained by the person distributing the image without the authorization of the person depicted, and the image was recorded or captured under circumstances in which the person depicted had a reasonable expectation of privacy.

(ic) The image is knowingly obtained by the person distributing the image by exceeding authorized access from the property, accounts, messages, files, or resources of the person depicted.

(ii) A person who intentionally creates and distributes or causes to be distributed any photo realistic image, digital image, electronic image, computer image, computer-generated image, or other pictorial representation of an 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 that was created in a manner that would cause a reasonable person to believe the image is an authentic image of the person depicted, under circumstances in which 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. This clause shall not apply to a person who was under 18 years of age at the time the person committed the offense.
(B) (i) A person intentionally distributes an image described in subparagraph (A) when that person personally distributes the image.
(ii) A person intentionally causes an image described in subparagraph (A) to be distributed when that person arranges, specifically requests, or intentionally causes another person to distribute the image.
(C) As used in this paragraph, the following terms have the following meanings:
(i) "Distribute" includes exhibiting in public or giving possession.
(ii) "Identifiable" has the same meaning as in paragraphs (2) and (3).
(iii) "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.
(iv) The distribution is related to a matter of public concern or public interest. Distribution is not a matter of public concern or public interest solely because the depicted individual is a public figure.
(5) This subdivision does not preclude punishment under any section of law providing for greater punishment.
(6) A defendant shall not be punished for both a violation of paragraph (4) of subdivision (j) and paragraph (2) of subdivision (j) or Section 502 if that punishment would be barred under Section 654.
(k) (1) Except as provided in paragraph (3), 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) Except as provided in paragraph (3), 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.
(3) If the victim of a violation of paragraph (3) of subdivision (j) was a minor at the time of the offense, a second or subsequent violation of paragraph (3) of subdivision (j) is punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170, or by both a fine and imprisonment. This paragraph shall not apply to a person who was under 18 years of age at the time that they committed the offense.
(l) (1) (A) If a crime is committed in violation of subdivision (b) by a defendant who is 18 years of age or older, the person who was solicited was a minor at the time of the offense, and 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, except as provided in paragraph (2).

(B) 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 paragraph. If the court reduces or eliminates the mandatory two days of imprisonment, the court shall specify the reason on the record.

(2) Notwithstanding paragraph (1), a defendant 18 years of age or older may be punished by either 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, or imprisonment pursuant to subdivision (h) of Section 1170 for any of the following:

(A) The solicited minor was under 16 years of age at the time of the offense, or the person solicited was under 18 years of age at the time of the offense and the person solicited was caused, induced, or persuaded at the time of the solicitation to engage in a commercial sex act as specified in subdivision (c) of Section 236.1.

(B) The solicited minor was more than 3 years younger than the defendant at the time of the offense.

(3) A second or subsequent violation of paragraph (2) is punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170.

(4) A defendant who is convicted of a violation of paragraph (2) shall be ordered by the court, if granted probation, to successfully complete an education program on human trafficking and the exploitation of children. A fee shall not be imposed for participation or enrollment in an education program pursuant to this paragraph.

(5) An individual who provides compensation, money, or anything of value in violation of paragraph (2) or (3) of subdivision (b) shall, in addition to any other punishment, be punished by a fine of one thousand dollars ($1,000). Fines collected pursuant to this paragraph shall be deposited in the Survivors Support Fund.

§ 315

~~Every person who keeps a house of ill-fame in this state, resorted to for the purposes of prostitution or lewdness, or who willfully resides in such house, is guilty of a misdemeanor; and in all prosecutions for keeping or resorting to such a house common repute may be received as competent evidence of the character of the house, the purpose for which it is kept or used, and the character of the women inhabiting or resorting to it.~~

§ 316

~~Every person who keeps any disorderly house, or any house for the purpose of assignation or prostitution, or any house of public resort, by which the peace, comfort, or decency of the immediate neighborhood is habitually disturbed, or who keeps any inn in a disorderly manner; and every person who lets any apartment or tenement, knowing that it is to be used for the purpose of assignation or prostitution, is guilty of a misdemeanor.~~

§ 318

Whoever, through invitation or device, prevails upon any person to visit any room, building, or other places kept for the purpose of illegal gambling~~or prostitution~~, is guilty of a misdemeanor, and, upon conviction thereof, shall be confined in the county jail not exceeding six months, or fined not exceeding five hundred dollars ($500), or be punished by both that fine and imprisonment.

§ 266h

~~(a) Except as provided in subdivision (b), any person who, knowing another person is a prostitute, lives or derives support or maintenance in whole or in part from the earnings or proceeds of the person's prostitution, or from money loaned or advanced to or charged against that person by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, or who solicits or receives compensation for soliciting for the person, is guilty of pimping, a felony, and shall be punishable by imprisonment in the state prison for three, four, or six years.~~

~~(b) Any person who, knowing another person is a prostitute, lives or derives support or maintenance in whole or in part from the earnings or proceeds of the person's prostitution, or from money loaned or advanced to or charged against that person by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, or who solicits or receives compensation for soliciting for the person, when the prostitute is a minor, is guilty of pimping a minor, a felony, and shall be punishable as follows:~~

~~(1) If the person engaged in prostitution is a minor 16 years of age or older, the offense is punishable by imprisonment in the state prison for three, four, or six years.~~

~~(2) If the person engaged in prostitution is under 16 years of age, the offense is punishable by imprisonment in the state prison for three, six, or eight years.~~

§ 266i

(a) ~~Except as provided in subdivision (b), any~~ Any person who does any of the following with a minor is guilty of pandering, a felony~~, and shall be punishable by imprisonment in the state prison for three, four, or six years~~:

(1) Procures another person for the purpose of prostitution.

(2) By promises, threats, violence, or by any device or scheme, causes, induces, persuades, or encourages another person to become a prostitute.

(3) Procures for another person a place as an inmate in a house of prostitution or as an inmate of any place in which prostitution is encouraged or allowed within this state.

(4) By promises, threats, violence, or by any device or scheme, causes, induces, persuades, or encourages an inmate of a house of prostitution, or any other place in which prostitution is encouraged or allowed, to remain therein as an inmate.

(5) By fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority, procures another person for the purpose of prostitution, or to enter any place in which prostitution is encouraged or allowed within this state, or to come into this state or leave this state for the purpose of prostitution.

(6) Receives or gives, or agrees to receive or give, any money or thing of value for procuring, or attempting to procure, another person for the purpose of prostitution, or to come into this state or leave this state for the purpose of prostitution.

(7) Derives or receives support from prostitution.

(b) Any person who does any of the acts described in subdivision (a) ~~with another person who is a minor~~ is guilty of ~~pandering,~~ a felony, and shall be punishable as follows:

(1) If the other person is a minor 16 years of age or older, the offense is punishable by imprisonment in the state prison for three, four, or six years.

(2) If the other person is under 16 years of age, the offense is punishable by imprisonment in the state prison for three, six, or eight years.

§ 11225

(a) (1) Every building or place used for the purpose of illegal gambling as defined by state law or local ordinance, ~~lewdness, assignation, or prostitution,~~ and every building or place in or upon which acts of illegal gambling as defined by state law or local ordinance, ~~lewdness, assignation, or prostitution,~~ are held or occur, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

(2) Nothing in this subdivision shall be construed to apply the definition of a nuisance to a private residence where illegal gambling is conducted on an intermittent basis and without the purpose of producing profit for the owner or occupier of the premises.

(b) (1) Notwithstanding any other law, every building or place used for the purpose of human trafficking, and every building or place in or upon which acts of human trafficking are held or occur, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

(2) For purposes of this subdivision, human trafficking is defined in Section 236.1.

(c) (1) Every building or place used as a bathhouse which as a primary activity encourages or permits conduct that according to the guidelines of the federal Centers for Disease Control and Prevention can transmit AIDS, including, but not limited to, anal intercourse, oral copulation, or vaginal intercourse, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

(2) For purposes of this subdivision, a "bathhouse" means a business which, as its primary purpose, provides facilities for a spa, whirlpool, communal bath, sauna, steam bath, mineral bath, mud bath, or facilities for swimming.

~~**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.~~

~~**§ 653.24**~~

~~If any section, subdivision, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision, and that holding shall not affect the validity of the remaining portion of the chapter.~~

~~**§ 653.25**~~

~~(a) It is unlawful for any person to loiter in any public place with the intent to purchase commercial sex. 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 such as circling an area in a motor vehicle and repeatedly beckoning to, contacting, or attempting to contact or stop pedestrians or other motorists, making~~

~~unauthorized stops along known prostitution tracks, or engaging in other conduct indicative of soliciting to procure another to engage in commercial sex.~~
~~(b) A violation of this section shall, in addition to any other punishment, be punished by a fine of one thousand dollars ($1,000). Fines collected pursuant to this subdivision shall be deposited in the Survivor Support Fund.~~

§ 429.13
Operators of Businesses of Prostitution must adopt and promote safer sex practices:
(1) Every operator of a business of prostitution must:
(a) Take all reasonable steps to give health information (whether oral or written) to sex workers and clients; and
(b) If the person operates a brothel, display health information prominently in that brothel; and
(c) Not state or imply that a medical examination of a sex worker means the sex worker is not infected, or likely to be infected, with a sexually transmissible infection; and
(d) The owner and operator of a businesses of prostitution must not discourage the use of prophylactics in the course of the business.
(2) The obligations in this section apply only in relation to commercial sexual services provide for the business and to sex workers and clients in connection with those services.
(3) In this section, health information means information on safer sex practices and services for the prevention and treatment of sexually transmissible infections.
(4) The director of the Health Services Department may implement suitable regulations to enforce the above.

(Proposed new language underlined; language to be deleted stricken)

PROPONENTS
Margaret J. Grover, Kelly Borelli, Michael Fern, Mark Flory, Jeffrey Hayden, Frank Z. Leidman, Sean McCoy, Jack Osborn, Ujvala Singh, Edward Teyssier

STATEMENT OF REASONS

The Problem (including Existing Law):
Current law makes providing sexual services a crime. It is also a crime to maintain a place where sexual services are provided (disorderly house), and to derive income from one who provides sexual services.

People have bought and sold sexual services throughout history. Historically, prostitution has been regulated and criminalized in keeping with varying moral perspectives. Current condemnation and criminal prohibitions have not abated the prostitution. The underground nature of the prostitution business creates dangers and vulnerabilities for sex workers and their clients and negatively impacts public health and safety. This illegal status makes it easier for predators to commit acts or violence against prostitutes including human trafficking. Prohibitions make regulation impossible.

The Solution:
Allowing sex work to exist lawfully will:

1. Reduce violence Legal sex work creates environments in which oversight is possible which protects prostitutes and clients from violence including rape, robbery, battery, extortion, etc.

2. Reduce trafficking in human beings in the sex trade. This measure will provide a lawful environment for the sexual service industry, shifting enforcement resources to actual incidences of abuse rather than consensual commercial sex in general.

3. Promote public health. Current research reflects that prostitutes have a rate of sexually transmitted disease infections that is equal to other comparable segments of the population. Openness in the sex industry will support sexual health educational initiatives including safe sex practices and access to medical services for sex workers.

4. Promote labor rights and OSHA standards in the sex industry. Workers in the sex industry deserve the same rights as workers in any other trade.

5. Promote positive community relations. A legal sex industry provides support for community feedback addressing issues of zoning, traffic, advertising and public health.

This section retains Penal Code Sections 266, 266 a, 2666 e, and 266 f. These sections punish procurement of minors, procurement by force or fraud, acquiring a prostitute, and selling a prostitute. The penalties for these offenses remain quite severe.

The prohibition of pimping a minor has been transferred from Penal Code Section 266 h to Penal Code Section 266 i. It carries a punishment of between three and eight years.

This proposal also enacts Health and Safety Code Section 429.13, allowing for enforcement of safer sex practices in the business of prostitution.

This resolution incorporates legislation that has been enacted in New Zealand with positive experience.

IMPACT STATEMENT

This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION

None known.

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