

Introduced by Senator RunnerFebruary 12, 2009

An act to amend Section 11379.7 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 157, as introduced, Runner. Controlled substance offenses: methamphetamine or phencyclidine: child under 16 years of age present or suffering great bodily injury.

Existing law prohibits the manufacture of controlled substances and the possession of certain precursors of controlled substances with the intent to manufacture those controlled substances. Existing law further provides that any person convicted of violating these provisions, or of an attempt to violate these provisions, as the provisions relate to methamphetamine or phencyclidine, when the crime occurs in a structure where any child under 16 years of age is present or causes a child under 16 years of age to suffer great bodily injury or death, shall be punished by an additional term of imprisonment in the state prison, as specified.

This bill would provide that an additional term of imprisonment in the state prison shall be imposed, as specified, for each child under 16 years of age who is present or who suffers great bodily injury.

By providing for multiple enhancing allegations to be pled and proved by local prosecutors in some cases, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

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

1 SECTION 1. Section 11379.7 of the Health and Safety Code
 2 is amended to read:
 3 11379.7. (a) Except as provided in subdivision (b), any person
 4 convicted of a violation of subdivision (a) of Section 11379.6 or
 5 Section 11383, or of an attempt to violate subdivision (a) of Section
 6 11379.6 or Section 11383, as those sections relate to
 7 methamphetamine or phencyclidine, when the commission or
 8 attempted commission of the crime occurs in a structure where
 9 any child under 16 years of age is present, shall, in addition and
 10 consecutive to the punishment prescribed for the felony of which
 11 he or she has been convicted, be punished by an additional term
 12 of two years in the state prison *for each child under 16 years of*
 13 *age who is present.*
 14 (b) Any person convicted of a violation of subdivision (a) of
 15 Section 11379.6 or Section 11383, or of an attempt to violate
 16 subdivision (a) of Section 11379.6 or Section 11383, as those
 17 sections relate to methamphetamine or phencyclidine, where the
 18 commission of the crime causes any child under 16 years of age
 19 to suffer great bodily injury, shall, in addition and consecutive to
 20 the punishment prescribed for the felony of which he or she has
 21 been convicted, be punished by an additional term of five years in
 22 the state prison *for each child under 16 years of age who suffers*
 23 *great bodily injury.*
 24 (c) As used in this section, “structure” means any house,
 25 apartment building, shop, warehouse, barn, building, vessel,
 26 railroad car, cargo container, motor vehicle, housecar, trailer, trailer
 27 coach, camper, mine, floating home, or other enclosed structure
 28 capable of holding a child and manufacturing equipment.
 29 (d) As used in this section, “great bodily injury” has the same
 30 meaning as defined in Section 12022.7 of the Penal Code.
 31 SEC. 2. No reimbursement is required by this act pursuant to
 32 Section 6 of Article XIII B of the California Constitution because
 33 the only costs that may be incurred by a local agency or school
 34 district will be incurred because this act creates a new crime or
 35 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of
2 the Government Code, or changes the definition of a crime within
3 the meaning of Section 6 of Article XIII B of the California
4 Constitution.

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