

AMENDED IN ASSEMBLY MARCH 15, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1877**

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**Introduced by Assembly Member Linder  
(Principal coauthor: Assembly Member Mathis)**

February 10, 2016

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An act to amend Section 314 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1877, as amended, Linder. Lewd or obscene conduct.

Existing law provides that any person who exposes his or her person, or the private parts thereof, in a public place or in any place where there are present other persons to be offended or annoyed by that act is guilty of a misdemeanor, except as specified. A 2nd or subsequent conviction of that act, or a first conviction of that act after a prior conviction for a specified lewd or lascivious act, is a felony punishable by imprisonment in the state prison.

~~This bill would make technical, nonsubstantive changes to those provisions:~~

*This bill would instead make a first conviction of exposing oneself when it occurs in state prison or a county jail punishable as a felony in the state prison, and make a first conviction of that act after a prior conviction requiring registration as a sex offender punishable as a felony in the state prison. Because this bill would increase the penalties for an existing crime, it 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: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. Section 314 of the Penal Code is amended to  
2 read:

3 314. ~~(a) Every person who, willfully and lewdly, does either~~  
4 ~~of the following is guilty of a misdemeanor: either:~~

5 ~~(1)~~

6 1. Exposes his *or her* person, or the private parts thereof, in any  
7 public place, or in any place where there are present other persons  
8 to be offended or annoyed ~~thereby: thereby; or,~~

9 ~~(2)~~

10 2. Procures, counsels, or assists any person so to expose himself  
11 *or herself* or take part in any model artist exhibition, or to make  
12 any other exhibition of himself *or herself* to public view, or the  
13 view of any number of persons, such as is offensive to decency,  
14 or is adapted to excite to vicious or lewd thoughts ~~or acts: acts, is~~  
15 *guilty of a misdemeanor.*

16 ~~(b) Every~~

17 ~~Every person who violates paragraph (1) of subdivision (a)~~  
18 ~~subdivision 1 of this section~~ after having entered, without consent,  
19 an inhabited dwelling house, or trailer coach as defined in Section  
20 635 of the Vehicle Code, or the inhabited portion of any other  
21 building, is punishable by imprisonment in the state prison, or in  
22 ~~the~~ a county jail not exceeding one year.

23 ~~(c) A~~

24 A second or subsequent conviction under ~~paragraph (1) of~~  
25 ~~subdivision (a), subdivision 1 of this section,~~ or a first conviction  
26 under ~~paragraph (1) of subdivision (a) subdivision 1 of this section~~  
27 after a previous conviction ~~under Section 288, requiring~~  
28 ~~registration pursuant to subdivision (c) of Section 290, or a first~~  
29 ~~conviction under subdivision 1 of this section when the offense~~  
30 ~~occurs in state prison or a county jail,~~ is punishable as a felony  
31 by imprisonment in state prison.

32 SEC. 2. *No reimbursement is required by this act pursuant to*  
33 *Section 6 of Article XIII B of the California Constitution because*

1 *the only costs that may be incurred by a local agency or school*  
2 *district will be incurred because this act creates a new crime or*  
3 *infraction, eliminates a crime or infraction, or changes the penalty*  
4 *for a crime or infraction, within the meaning of Section 17556 of*  
5 *the Government Code, or changes the definition of a crime within*  
6 *the meaning of Section 6 of Article XIII B of the California*  
7 *Constitution.*

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