

AMENDED IN ASSEMBLY APRIL 3, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1890

**Introduced by Assembly Member Members Rod Pacheco
and Reyes**

February 10, 2000

~~An act to amend Section 11353.6 of the Health and Safety Code, relating to controlled substances. An act to add Section 2717 to the Penal Code, relating to prisoners.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1890, as amended, Rod Pacheco. ~~Controlled substances: schools~~ Prisoners: work outside prisons: security and clothing.

Existing law provides for the employment of state prisoners outside the prison grounds in road cleanup crews and fire crews, as specified.

This bill would provide that the Department of Corrections shall provide adequate security with respect to these prisoners so as to ensure that the prisoners do not escape. The bill would also provide that the department shall require these prisoners to wear distinctive clothing for identification purposes.

Existing law, the Juvenile Drug Trafficking and Schoolyard Act of 1988, provides that any person 18 years of age or over who is convicted of specified controlled substance offenses with regard to cocaine base, heroin, and methamphetamine, or of a conspiracy to commit one of those offenses, where the violation takes place upon the grounds of, or within 1,000 feet

~~of, a public or private elementary, vocational, junior high, or high school, as defined, during hours that the school is open for classes or school-related programs, or at any time when minors are using the facility where the offense occurs, shall receive an additional punishment of 3, 4, or 5 years at the court's discretion.~~

~~This bill would modify this provision to instead provide that any person, 18 years of age or over, who is convicted of a violation, a conspiracy to commit a violation, or an attempt to commit a violation of a greater number of controlled substance offenses with regard to a greater number of controlled substances, where the violation takes place upon the grounds, of or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school, shall receive an additional punishment of 3, 4, or 5 years. The bill would delete the definition regarding distance from a school and would make other conforming and clarifying changes. By creating new enhancements, 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 no.~~

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

1 ~~SECTION 1. Section 11353.6 of the Health and Safety~~
2 *SECTION 1. Section 2717 is added to the Penal Code,*
3 *to read:*
4 *2717. (a) The Department of Corrections shall*
5 *provide adequate security with respect to prisoners who*
6 *are working outside the prison grounds in road cleanup*
7 *crews pursuant to Article 4 (commencing with Section*
8 *2760) or fire crews pursuant to Article 5 (commencing*
9 *with Section 2780) so as to ensure that the prisoners do not*
10 *escape.*

(b) The Department of Corrections shall require prisoners who are working outside the prison grounds in road cleanup crews pursuant to Article 4 (commencing with Section 2760) or fire crews pursuant to Article 5 (commencing with Section 2780) to wear distinctive clothing for identification purposes.

Code is amended to read:

~~11353.6. (a) This section shall be known, and may be cited, as the Juvenile Drug Trafficking and Schoolyard Act of 1988.~~

~~(b) Any person, 18 years of age or over, who is convicted of a violation, a conspiracy to commit a violation, or an attempt to commit a violation of Section 11351, 11351.5, 11352, 11358, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, or 11383, where the violation takes place upon the grounds, of or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school shall receive an additional punishment of 3, 4, or 5 years.~~

~~(c) Any person, 18 years of age or older, who is convicted of a violation pursuant to subdivision (b) that involves a minor who is at least four years younger than that person, as a full and separately served enhancement to that provided in subdivision (b), shall be punished by imprisonment in the state prison for 3, 4, or 5 years.~~

~~(d) The additional terms provided in this section shall not be imposed unless the allegation is charged in the accusatory pleading and is admitted by the accused or is found to be true by the trier of fact.~~

~~(e) The additional terms provided in this section shall be in addition to any other punishment provided by law and shall not be limited by any other provision of law.~~

~~(f) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in this section if it determines that there are circumstances in mitigation of the additional punishment and states on the record its reasons for striking the additional punishment.~~

~~SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California~~

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

