

AMENDED IN SENATE APRIL 8, 1999

SENATE BILL

No. 800

Introduced by Senator Dunn

February 25, 1999

An act to ~~add Section 12022.76 to~~ *amend Section 12022.75 of the Penal Code, relating to sentencing.*

LEGISLATIVE COUNSEL'S DIGEST

SB 800, as amended, Dunn. Sentencing.

Existing law provides that any person who, for the purpose of committing a felony, administers by injection, inhalation, ingestion, or any other means, any controlled substance against the victim's will by means of force, violence, or fear of immediate and unlawful bodily injury to the victim or another person, shall, in addition and consecutive to the penalty provided for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of 3 years. ~~Existing law also provides that any person convicted of a felony violation of any specified sex offense under one or more specified circumstances, or 2 or more other specified circumstances, shall be punished by imprisonment in the state prison for life with the possibility of parole after not less than 25 years. If only one of the other specified circumstances is present, the person is required to be punished by imprisonment in the state prison for life with the possibility of parole after not less than 15 years. One of the circumstances described above that in combination with another circumstance triggers the 25-year minimum term of~~

~~imprisonment is when the defendant administered a controlled substance to the victim by force, violence, or fear.~~

~~This bill would provide that any person who personally administers, causes, procures, instigates, or encourages another person to take an intoxicant, anesthetic, or controlled substance in the commission or attempted commission of a felony, or any person who instigates, encourages, or facilitates a 3rd person to administer an intoxicant, anesthetic, or controlled substance in the commission or attempted commission of a felony, shall, upon conviction of that felony or attempted felony, for the purpose of committing specified sex offenses, administers by injection, inhalation, ingestion, or by any other means, or causes, instigates, or encourages a 3rd person to administer any intoxicant, anesthetic, or controlled substance to the victim or another person, surreptitiously, or by trick, fraud, or deceit, shall, in addition and consecutive to the penalty provided for the violation of which he or she has been convicted, be punished by an additional term of imprisonment in the state prison for 3, 4, or 10 years. By providing for these 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.

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

- 1 ~~SECTION 1. Section 12022.76 is added to the Penal~~
- 2 *SECTION 1. Section 12022.75 of the Penal Code is*
- 3 *amended to read:*
- 4 12022.75. ~~Any~~ *(a) Except as specified in subdivision*
- 5 *(b), any person who, for the purpose of committing a*
- 6 *felony, administers by injection, inhalation, ingestion, or*
- 7 *any other means, any controlled substance listed in*
- 8 *Section 11054, 11055, 11056, 11057, or 11058 of the Health*



1 and Safety Code, against the victim’s will by means of
2 force, violence, or fear of immediate and unlawful bodily
3 injury to the victim or another person, shall, in addition
4 and consecutive to the penalty provided for the felony or
5 attempted felony of which he or she has been convicted,
6 be punished by an additional term of three years.

7 *(b) Any person who, for the purpose of violating*
8 *paragraph (3) of subdivision (a) of Section 261,*
9 *subdivision (i) of Section 286, subdivision (i) of Section*
10 *288a, or subdivision (e) of Section 289, administers by*
11 *injection, inhalation, ingestion, or by any other means, or*
12 *causes, instigates, or encourages a third person to*
13 *administer any intoxicant, anesthetic, or controlled*
14 *substance to the victim or another person, surreptitiously,*
15 *or by trick, fraud, or deceit, shall, in addition and*
16 *consecutive to the penalty provided for the violation of*
17 *which he or she has been convicted, be punished by an*
18 *additional term of imprisonment in the state prison for 3*
19 *years.*

20 *(c) Nothing in this section is intended to preclude*
21 *prosecution under any other provision of law.*

22 *SEC. 2. No reimbursement is required by this act*
23 *pursuant to Section 6 of Article XIII B of the California*
24 *Constitution because the only costs that may be incurred*
25 *by a local agency or school district will be incurred*
26 *because this act creates a new crime or infraction,*
27 *eliminates a crime or infraction, or changes the penalty*
28 *for a crime or infraction, within the meaning of Section*
29 *17556 of the Government Code, or changes the definition*
30 *of a crime within the meaning of Section 6 of Article*
31 *XIII B of the California Constitution.*

32 ~~Code, to read:~~

33 ~~12022.76. Any person who personally administers,~~
34 ~~causes, procures, instigates, or encourages another person~~
35 ~~to take an intoxicant, anesthetic, or controlled substance~~
36 ~~in the commission or attempted commission of a felony,~~
37 ~~or any person who instigates, encourages, or facilitates a~~
38 ~~third person to administer an intoxicant, anesthetic, or~~
39 ~~controlled substance in the commission or attempted~~
40 ~~commission of a felony, shall, upon conviction of that~~



1 ~~felony or attempted felony, be punished by an additional~~
2 ~~term of imprisonment in the state prison for 3, 4, or 10~~
3 ~~years.~~

4 ~~This enhancement shall be in addition and consecutive~~
5 ~~to the punishment prescribed for the felony or attempted~~
6 ~~felony for which the person has been convicted.~~

7 ~~SEC. 2. No reimbursement is required by this act~~
8 ~~pursuant to Section 6 of Article XIII B of the California~~
9 ~~Constitution because the only costs that may be incurred~~
10 ~~by a local agency or school district will be incurred~~
11 ~~because this act creates a new crime or infraction,~~
12 ~~eliminates a crime or infraction, or changes the penalty~~
13 ~~for a crime or infraction, within the meaning of Section~~
14 ~~17556 of the Government Code, or changes the definition~~
15 ~~of a crime within the meaning of Section 6 of Article~~
16 ~~XIII B of the California Constitution.~~

