



General Assembly

February Session, 2006

**Amendment**

LCO No. 5487

**\*HB0508405487SRO\***

Offered by:

SEN. DELUCA, 32<sup>nd</sup> Dist.  
SEN. MCKINNEY, 28<sup>th</sup> Dist.  
SEN. CAPPIELLO, 24<sup>th</sup> Dist.  
SEN. COOK, 18<sup>th</sup> Dist.  
SEN. FASANO, 34<sup>th</sup> Dist.  
SEN. FREEDMAN, 26<sup>th</sup> Dist.

SEN. GUGLIELMO, 35<sup>th</sup> Dist.  
SEN. GUNTHER, 21<sup>st</sup> Dist.  
SEN. HERLIHY, 8<sup>th</sup> Dist.  
SEN. KISSEL, 7<sup>th</sup> Dist.  
SEN. NICKERSON, 36<sup>th</sup> Dist.  
SEN. RORABACK, 30<sup>th</sup> Dist.

To: Subst. House Bill No. 5084

File No. 440

Cal. No. 316

**"AN ACT CONCERNING THE FILING, STORAGE AND DISPOSITION OF THE FINGERPRINTS AND PHOTOGRAPHS OF ARRESTED PERSONS."**

1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. Section 53-21 of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective July 1, 2006*):

5 (a) Any person who (1) wilfully or unlawfully causes or permits any  
6 child under the age of sixteen years to be placed in such a situation  
7 that the life or limb of such child is endangered, the health of such  
8 child is likely to be injured or the morals of such child are likely to be  
9 impaired, or does any act likely to impair the health or morals of any  
10 such child, or (2) has contact with the intimate parts, as defined in

11 section 53a-65, of a child under the age of sixteen years or subjects a  
12 child under sixteen years of age to contact with the intimate parts of  
13 such person, in a sexual and indecent manner likely to impair the  
14 health or morals of such child, or (3) permanently transfers the legal or  
15 physical custody of a child under the age of sixteen years to another  
16 person for money or other valuable consideration or acquires or  
17 receives the legal or physical custody of a child under the age of  
18 sixteen years from another person upon payment of money or other  
19 valuable consideration to such other person or a third person, except in  
20 connection with an adoption proceeding that complies with the  
21 provisions of chapter 803, shall be guilty of a class C felony for a  
22 violation of subdivision (1) or (3) of this subsection and a class B felony  
23 for a violation of subdivision (2) of this subsection, except that, if the  
24 violation is of subdivision (2) of this subsection and the victim of the  
25 offense is under thirteen years of age, such person shall be guilty of a  
26 class A felony and, for a first offense, be sentenced to a term of  
27 imprisonment of twenty-five years which may not be suspended or  
28 reduced by the court and, for a subsequent offense, be sentenced to a  
29 term of life imprisonment.

30 (b) The act of a parent or agent leaving an infant thirty days or  
31 younger with a designated employee pursuant to section 17a-58 shall  
32 not constitute a violation of this section.

33 Sec. 502. Section 53a-70 of the general statutes is repealed and the  
34 following is substituted in lieu thereof (*Effective July 1, 2006*):

35 (a) A person is guilty of sexual assault in the first degree when such  
36 person (1) compels another person to engage in sexual intercourse by  
37 the use of force against such other person or a third person, or by the  
38 threat of use of force against such other person or against a third  
39 person which reasonably causes such person to fear physical injury to  
40 such person or a third person, or (2) engages in sexual intercourse with  
41 another person and such other person is under thirteen years of age  
42 and the actor is more than two years older than such person, or (3)  
43 commits sexual assault in the second degree as provided in section

44 53a-71 and in the commission of such offense is aided by two or more  
45 other persons actually present, or (4) engages in sexual intercourse  
46 with another person and such other person is mentally incapacitated to  
47 the extent that such other person is unable to consent to such sexual  
48 intercourse.

49 (b) (1) Except as provided in subdivision (2) of this subsection,  
50 sexual assault in the first degree is a class B felony for which two years  
51 of the sentence imposed may not be suspended or reduced by the  
52 court. [or, if the victim of the offense is under ten years of age, for  
53 which ten years of the sentence imposed may not be suspended or  
54 reduced by the court.]

55 (2) Sexual assault in the first degree is a class A felony if the [offense  
56 is a violation of subdivision (1) of subsection (a) of this section and the  
57 victim of the offense is under sixteen years of age or the offense is a  
58 violation of subdivision (2) of subsection (a) of this section. Any person  
59 found guilty under said subdivision (1) or (2) shall be sentenced to a  
60 term of imprisonment of which ten years of the sentence imposed may  
61 not be suspended or reduced by the court if the victim is under ten  
62 years of age or of which five years of the sentence imposed may not be  
63 suspended or reduced by the court if the victim is under sixteen years  
64 of age] victim of the offense is under sixteen years of age and any  
65 person found guilty of such class A felony shall be sentenced to a term  
66 of imprisonment of which five years of the sentence imposed may not  
67 be suspended or reduced by the court, except that, if the offense is a  
68 violation of subdivision (1), (3) or (4) of subsection (a) of this section  
69 and the victim is under thirteen years of age or if the offense is a  
70 violation of subdivision (2) of subsection (a) of this section and the  
71 victim is under thirteen years of age and such person is eighteen years  
72 of age or older such person shall, for a first offense, be sentenced to a  
73 term of imprisonment of twenty-five years which may not be  
74 suspended or reduced by the court and, for a subsequent offense, be  
75 sentenced to a term of life imprisonment.

76 (3) [Any] Except as provided in subdivision (2) of this subsection, a

77 person found guilty under this section shall be sentenced to a term of  
78 imprisonment and a period of special parole pursuant to subsection (b)  
79 of section 53a-28 which together constitute a sentence of at least ten  
80 years.

81 Sec. 503. Section 53a-70a of the general statutes is repealed and the  
82 following is substituted in lieu thereof (*Effective July 1, 2006*):

83 (a) A person is guilty of aggravated sexual assault in the first degree  
84 when such person commits sexual assault in the first degree as  
85 provided in section 53a-70, and in the commission of such offense (1)  
86 such person uses or is armed with and threatens the use of or displays  
87 or represents by such person's words or conduct that such person  
88 possesses a deadly weapon, (2) with intent to disfigure the victim  
89 seriously and permanently, or to destroy, amputate or disable  
90 permanently a member or organ of the victim's body, such person  
91 causes such injury to such victim, (3) under circumstances evincing an  
92 extreme indifference to human life such person recklessly engages in  
93 conduct which creates a risk of death to the victim, and thereby causes  
94 serious physical injury to such victim, or (4) such person is aided by  
95 two or more other persons actually present. No person shall be  
96 convicted of sexual assault in the first degree and aggravated sexual  
97 assault in the first degree upon the same transaction but such person  
98 may be charged and prosecuted for both such offenses upon the same  
99 information.

100 (b) Aggravated sexual assault in the first degree is a class B felony  
101 or, if the victim of the offense is under sixteen years of age, a class A  
102 felony. Any person found guilty under this section shall be sentenced  
103 to a term of imprisonment of which five years of the sentence imposed  
104 may not be suspended or reduced by the court, except that, if such  
105 person committed sexual assault in the first degree by violating  
106 subdivision (1) of subsection (a) of section 53a-70, and (1) the victim of  
107 the offense is under sixteen years of age, such person shall, for a first  
108 offense, be sentenced to a term of imprisonment of which twenty years  
109 of the sentence imposed may not be suspended or reduced by the

110 court and, for a subsequent offense, be sentenced to a term of life  
111 imprisonment, or (2) if the victim of the offense is under thirteen years  
112 of age, such person shall, for a first offense, be sentenced to a term of  
113 imprisonment of twenty-five years which may not be suspended or  
114 reduced by the court and, for a subsequent offense, be sentenced to a  
115 term of life imprisonment. Any person found guilty under this section  
116 shall be sentenced to a period of special parole pursuant to subsection  
117 (b) of section 53a-28 of at least five years.

118 Sec. 504. Section 53a-71 of the general statutes is repealed and the  
119 following is substituted in lieu thereof (*Effective July 1, 2006*):

120 (a) A person is guilty of sexual assault in the second degree when  
121 such person engages in sexual intercourse with another person and: (1)  
122 Such other person is thirteen years of age or older but under sixteen  
123 years of age and the actor is more than two years older than such  
124 person; or (2) such other person is mentally defective to the extent that  
125 such other person is unable to consent to such sexual intercourse; or (3)  
126 such other person is physically helpless; or (4) such other person is less  
127 than eighteen years old and the actor is such person's guardian or  
128 otherwise responsible for the general supervision of such person's  
129 welfare; or (5) such other person is in custody of law or detained in a  
130 hospital or other institution and the actor has supervisory or  
131 disciplinary authority over such other person; or (6) the actor is a  
132 psychotherapist and such other person is (A) a patient of the actor and  
133 the sexual intercourse occurs during the psychotherapy session, (B) a  
134 patient or former patient of the actor and such patient or former  
135 patient is emotionally dependent upon the actor, or (C) a patient or  
136 former patient of the actor and the sexual intercourse occurs by means  
137 of therapeutic deception; or (7) the actor accomplishes the sexual  
138 intercourse by means of false representation that the sexual intercourse  
139 is for a bona fide medical purpose by a health care professional; or (8)  
140 the actor is a school employee and such other person is a student  
141 enrolled in a school in which the actor works or a school under the  
142 jurisdiction of the local or regional board of education which employs  
143 the actor; or (9) the actor is a coach in an athletic activity or a person

144 who provides intensive, ongoing instruction and such other person is a  
145 recipient of coaching or instruction from the actor and (A) is a  
146 secondary school student and receives such coaching or instruction in  
147 a secondary school setting, or (B) is under eighteen years of age; or (10)  
148 the actor is twenty years of age or older and stands in a position of  
149 power, authority or supervision over such other person by virtue of  
150 the actor's professional, legal, occupational or volunteer status and  
151 such other person's participation in a program or activity, and such  
152 other person is under eighteen years of age.

153 (b) [Sexual] (1) Except as provided in subdivisions (2) and (3) of this  
154 subsection, sexual assault in the second degree is a class C felony [or,]  
155 and any person found guilty of such class C felony shall be sentenced  
156 to a term of imprisonment of which nine months of the sentence  
157 imposed may not be suspended or reduced by the court.

158 (2) Sexual assault in the second degree is a class B felony if the  
159 victim of the offense is thirteen years of age or older but under sixteen  
160 years of age, [a class B felony,] and any person found guilty [under this  
161 section] of such class B felony shall be sentenced to a term of  
162 imprisonment of which nine months of the sentence imposed may not  
163 be suspended or reduced by the court.

164 (3) Sexual assault in the second degree is a class A felony if the  
165 victim of the offense is under thirteen years of age, and any person  
166 found guilty of such class A felony shall, for a first offense, be  
167 sentenced to a term of imprisonment of twenty-five years which may  
168 not be suspended or reduced by the court and, for a subsequent  
169 offense, be sentenced to a term of life imprisonment.

170 Sec. 505. Section 53a-72a of the general statutes is repealed and the  
171 following is substituted in lieu thereof (*Effective July 1, 2006*):

172 (a) A person is guilty of sexual assault in the third degree when  
173 such person (1) compels another person to submit to sexual contact (A)  
174 by the use of force against such other person or a third person, or (B)  
175 by the threat of use of force against such other person or against a third

176 person, which reasonably causes such other person to fear physical  
177 injury to himself or herself or a third person, or (2) engages in sexual  
178 intercourse with another person whom the actor knows to be related to  
179 him or her within any of the degrees of kindred specified in section  
180 46b-21.

181 (b) [Sexual] (1) Except as provided in subdivisions (2) and (3) of this  
182 subsection, sexual assault in the third degree is a class D felony. [or,]

183 (2) Sexual assault in the third degree is a class C felony if the victim  
184 of the offense is thirteen years of age or older but under sixteen years  
185 of age. [, a class C felony.]

186 (3) Sexual assault in the third degree is a class A felony if the victim  
187 of the offense is under thirteen years of age and any person found  
188 guilty of such class A felony shall, for a first offense, be sentenced to a  
189 term of imprisonment of twenty-five years which may not be  
190 suspended or reduced by the court and, for a subsequent offense, be  
191 sentenced to a term of life imprisonment.

192 Sec. 506. Section 53a-86 of the general statutes is repealed and the  
193 following is substituted in lieu thereof (*Effective July 1, 2006*):

194 (a) A person is guilty of promoting prostitution in the first degree  
195 when [he] such person knowingly: (1) Advances prostitution by  
196 compelling a person by force or intimidation to engage in prostitution,  
197 or profits from coercive conduct by another; or (2) advances or profits  
198 from prostitution of a person less than sixteen years old.

199 (b) [Promoting] (1) Except as provided in subdivision (2) of this  
200 subsection, promoting prostitution in the first degree is a class B  
201 felony.

202 (2) Promoting prostitution in the first degree is a class A felony if  
203 the victim of the offense is under thirteen years of age and any person  
204 found guilty of such class A felony shall, for a first offense, be  
205 sentenced to a term of imprisonment of twenty-five years which may

206 not be suspended or reduced by the court and, for a subsequent  
207 offense, be sentenced to a term of life imprisonment.

208 Sec. 507. Section 53a-87 of the general statutes is repealed and the  
209 following is substituted in lieu thereof (*Effective July 1, 2006*):

210 (a) A person is guilty of promoting prostitution in the second degree  
211 when [he] such person knowingly: (1) Advances or profits from  
212 prostitution by managing, supervising, controlling or owning, either  
213 alone or in association with others, a house of prostitution or a  
214 prostitution business or enterprise involving prostitution activity by  
215 two or more prostitutes; or (2) advances or profits from prostitution of  
216 a person less than eighteen years old.

217 (b) [Promoting] (1) Except as provided in subdivision (2) of this  
218 subsection, promoting prostitution in the second degree is a class C  
219 felony.

220 (2) Promoting prostitution in the second degree is a class A felony if  
221 the victim of the offense is under thirteen years of age and any person  
222 found guilty of such class A felony shall, for a first offense, be  
223 sentenced to a term of imprisonment of twenty-five years which may  
224 not be suspended or reduced by the court and, for a subsequent  
225 offense, be sentenced to a term of life imprisonment.

226 Sec. 508. Section 53a-90a of the general statutes is repealed and the  
227 following is substituted in lieu thereof (*Effective July 1, 2006*):

228 (a) A person is guilty of enticing a minor when such person uses an  
229 interactive computer service to knowingly persuade, induce, entice or  
230 coerce any person under sixteen years of age to engage in prostitution  
231 or sexual activity for which the actor may be charged with a criminal  
232 offense. For purposes of this section, "interactive computer service"  
233 means any information service, system or access software provider  
234 that provides or enables computer access by multiple users to a  
235 computer server, including specifically a service or system that  
236 provides access to the Internet and such systems operated or services

237 offered by libraries or educational institutions.

238 (b) [Enticing] (1) Except as provided in subdivision (2) of this  
239 subsection, enticing a minor is a class D felony for a first offense, a  
240 class C felony for a second offense and a class B felony for any  
241 subsequent offense.

242 (2) Enticing a minor is a class A felony if the victim of the offense is  
243 under thirteen years of age and any person found guilty of such class  
244 A felony shall, for a first offense, be sentenced to a term of  
245 imprisonment of twenty-five years which may not be suspended or  
246 reduced by the court and, for a subsequent offense, be sentenced to a  
247 term of life imprisonment.

248 Sec. 509. Section 53a-196 of the general statutes is repealed and the  
249 following is substituted in lieu thereof (*Effective July 1, 2006*):

250 (a) A person is guilty of obscenity as to minors when [he] such  
251 person knowingly promotes to a minor, for monetary consideration,  
252 any material or performance which is obscene as to minors.

253 (b) For purposes of this section, "knowingly" means having general  
254 knowledge of or reason to know or a belief or ground for belief which  
255 warrants further inspection or inquiry as to (1) the character and  
256 content of any material or performance which is reasonably susceptible  
257 of examination by such person, and (2) the age of the minor.

258 (c) In any prosecution for obscenity as to minors, it shall be an  
259 affirmative defense that the defendant made (1) a reasonable mistake  
260 as to age, and (2) a reasonable bona fide attempt to ascertain the true  
261 age of such minor, by examining a draft card, driver's license, birth  
262 certificate or other official or apparently official document, exhibited  
263 by such minor, purporting to establish that such minor was seventeen  
264 years of age or older.

265 (d) [Obscenity] (1) Except as provided in subdivision (2) of this  
266 subsection, obscenity as to minors is a class D felony.

267       (2) Obscenity as to minors is a class A felony if the victim of the  
268 offense is under thirteen years of age and any person found guilty of  
269 such class A felony shall, for a first offense, be sentenced to a term of  
270 imprisonment of twenty-five years which may not be suspended or  
271 reduced by the court and, for a subsequent offense, be sentenced to a  
272 term of life imprisonment.

273       Sec. 510. Section 53a-196a of the general statutes is repealed and the  
274 following is substituted in lieu thereof (*Effective July 1, 2006*):

275       (a) A person is guilty of employing a minor in an obscene  
276 performance when [(1) he] such person (1) employs any minor,  
277 whether or not such minor receives any consideration, for the purpose  
278 of promoting any material or performance which is obscene as to  
279 minors, notwithstanding that such material or performance is intended  
280 for an adult audience, or (2) [he] permits any such minor to be  
281 employed, whether or not such minor receives any consideration, in  
282 the promotion of any material or performance which is obscene as to  
283 minors, notwithstanding that such material or performance is intended  
284 for an adult audience, and [he] such person is the parent or guardian  
285 of such minor or otherwise responsible for the general supervision of  
286 such minor's welfare.

287       (b) Employing a minor in an obscene performance is a class A felony  
288 and, if the victim of the offense is under thirteen years of age, any  
289 person found guilty under this section shall, for a first offense, be  
290 sentenced to a term of imprisonment of twenty-five years which may  
291 not be suspended or reduced by the court and, for a subsequent  
292 offense, be sentenced to a term of life imprisonment.

293       Sec. 511. Section 53a-196b of the general statutes is repealed and the  
294 following is substituted in lieu thereof (*Effective July 1, 2006*):

295       (a) A person is guilty of promoting a minor in an obscene  
296 performance when [he] such person knowingly promotes any material  
297 or performance in which a minor is employed, whether or not such  
298 minor receives any consideration, and such material or performance is

299 obscene as to minors notwithstanding that such material or  
300 performance is intended for an adult audience.

301 (b) For purposes of this section, "knowingly" means having general  
302 knowledge of or reason to know or a belief or ground for belief which  
303 warrants further inspection or inquiry as to (1) the character and  
304 content of any material or performance which is reasonably susceptible  
305 of examination by such person, and (2) the age of the minor employed.

306 (c) [Promoting] (1) Except as provided in subdivision (2) of this  
307 subsection, promoting a minor in an obscene performance is a class B  
308 felony.

309 (2) Promoting a minor in an obscene performance is a class A felony  
310 if the victim of the offense is under thirteen years of age and any  
311 person found guilty of such class A felony shall, for a first offense, be  
312 sentenced to a term of imprisonment of twenty-five years which may  
313 not be suspended or reduced by the court and, for a subsequent  
314 offense, be sentenced to a term of life imprisonment.

315 Sec. 512. Section 53a-35a of the general statutes is repealed and the  
316 following is substituted in lieu thereof (*Effective July 1, 2006*):

317 For any felony committed on or after July 1, 1981, the sentence of  
318 imprisonment shall be a definite sentence and the term shall be fixed  
319 by the court as follows: (1) For a capital felony, a term of life  
320 imprisonment without the possibility of release unless a sentence of  
321 death is imposed in accordance with section 53a-46a; (2) for the class A  
322 felony of murder or for a class A felony as provided in section 53-21,  
323 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-86, 53a-87, 53a-90a, 53a-196, 53a-  
324 196a or 53a-196b, as amended by this act, where the victim of the  
325 offense was under thirteen years of age, a term not less than twenty-  
326 five years nor more than life; (3) for a class A felony other than  
327 [murder] an offense specified in subdivision (2) of this section, a term  
328 not less than ten years nor more than twenty-five years; (4) for the class  
329 B felony of manslaughter in the first degree with a firearm under  
330 section 53a-55a, a term not less than five years nor more than forty

331 years; (5) for a class B felony other than manslaughter in the first  
332 degree with a firearm under section 53a-55a, a term not less than one  
333 year nor more than twenty years, except that for a conviction under  
334 section 53a-59(a)(1), 53a-59a, 53a-70a, 53a-94a, 53a-101(a)(1) or 53a-  
335 134(a)(2), the term shall be not less than five years nor more than  
336 twenty years; (6) for a class C felony, a term not less than one year nor  
337 more than ten years, except that for a conviction under section 53a-56a,  
338 the term shall be not less than three years nor more than ten years; (7)  
339 for a class D felony, a term not less than one year nor more than five  
340 years, except that for a conviction under section 53a-60b or 53a-217, as  
341 amended, the term shall be not less than two years nor more than five  
342 years, for a conviction under section 53a-60c, the term shall be not less  
343 than three years nor more than five years, and for a conviction under  
344 section 53a-216, the term shall be five years; (8) for an unclassified  
345 felony, a term in accordance with the sentence specified in the section  
346 of the general statutes that defines the crime.

347 Sec. 513. (NEW) (*Effective July 1, 2006*) Any person who is released  
348 on parole or special parole after being convicted of a violation of  
349 subdivision (2) of section 53-21 or section 53a-70, 53a-70a, 53a-71, 53a-  
350 72a, 53a-86, 53a-87, 53a-90a, 53a-196, 53a-196a or 53a-196b of the  
351 general statutes, as amended by this act, where the victim of the  
352 offense was under thirteen years of age, shall, as a condition of such  
353 parole or special parole, be subject to electronic monitoring that shall  
354 include the use of a global positioning system for the duration of such  
355 person's period of parole or special parole."