

pursuant to the State General Obligation Bond Law of the bonds authorized by this part, the Children's Hospital Bond Act Finance Committee is hereby created. For purposes of this part, the Children's Hospital Bond Act Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Controller, Director of Finance, and the Treasurer, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(b) The authority is designated the "board" for purposes of the State General Obligation Bond Law, and shall administer the program pursuant to this part.

1179.62. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this part in order to carry out the actions specified in Section 1179.54 and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds be issued or sold at any one time.

1179.63. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

1179.64. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated continuously from the General Fund in the State Treasury, for the purposes of this part, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this part, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 1179.65, appropriated without regard to fiscal years.

1179.65. For the purposes of carrying out this part, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds that have been authorized by the committee to be sold for the purpose of carrying out this part. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund from proceeds received from the sale of bonds for the purpose of carrying out this part.

1179.66. All money deposited in the fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

1179.67. Pursuant to Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, the cost of bond issuance shall be paid out of the bond proceeds. These costs shall be shared proportionally by each children's hospital funded through this bond act.

1179.68. The authority may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, including other authorized forms of interim financing that include, but are not limited to, commercial paper, in accordance with Section 16312 of the Government Code, for purposes of carrying out this part. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this part. The authority shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this part.

1179.69. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this part includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this part or any previously issued refunding bonds.

1179.70. Notwithstanding any other provision of this part, or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this part that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and for the investment of earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or

earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

1179.71. The people hereby find and declare that, inasmuch as the proceeds from the sale of bonds authorized by this part are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that part.

1179.72. Notwithstanding any other provision of this part, the provisions of this part are severable. If any provision of this part or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

PROPOSITION 4

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the California Constitution.

This initiative measure expressly amends the California Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title

This measure shall be known and may be cited as the Child and Teen Safety and Stop Predators Act: Sarah's Law.

SEC. 2. Declaration of Findings and Purposes

The people of California have a compelling interest in protecting minors from the known risks of secret abortions, including the danger of not obtaining prompt care for health- and life-threatening complications when a minor's parent or responsible family member is unaware that she has undergone a secret abortion. The people also have a compelling interest in preventing sexual predators from using secret abortions to conceal sexual exploitation of minors.

SEC. 3. Parental Notification

Section 32 is added to Article I of the California Constitution, to read:

SEC. 32. (a) *For purposes of this section, the following terms shall be defined to mean:*

(1) "Abortion" means the use of any means to terminate the pregnancy of an unemancipated minor known to be pregnant except for the purpose of producing a live birth. "Abortion" shall not include the use of any contraceptive drug or device.

(2) "Medical emergency" means a condition which, on the basis of the physician's good-faith clinical judgment, so complicates the medical condition of a pregnant unemancipated minor as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

(3) "Parent" means a person who, at the time notice or waiver is required under this section, is either a parent if both parents have legal custody, or the parent or person having legal custody, or the legal guardian of an unemancipated minor.

(4) "Adult family member" means a person at least 21 years of age who is the grandparent, stepparent, foster parent, aunt, uncle, sibling, half-sibling, or first cousin of an unemancipated minor.

(5) "Notice" means a written notification, signed and dated by a physician or his or her agent, informing the parent or adult family member of an unemancipated minor that she is pregnant and has requested an abortion.

(6) "Unemancipated minor" means a female under the age of 18 years who has not entered into a valid marriage and is not on active duty with the armed services of the United States and has not received a declaration of emancipation under state law. For the purposes of this section, pregnancy does not emancipate a female under the age of 18 years.

(7) "Physician" means any person authorized under the statutes and regulations of the State of California to perform an abortion upon an unemancipated minor.

(b) Notwithstanding Section 1 of Article I, or any other provision of this Constitution or law to the contrary and except in a medical emergency as provided for in subdivision (f), a physician shall not perform an abortion upon a pregnant unemancipated minor until at least 48 hours has elapsed after the physician or the physician's agent has delivered written notice to her parent

personally or by mail as provided in subdivision (c); or until the physician or the physician's agent has received a valid written waiver of notice as provided in subdivision (d); or until 48 hours after the physician has delivered written notice to an adult family member and has made a report of known or suspected child abuse, as provided in subdivision (e); or until the physician has received a copy of a waiver of notification from the court as provided in subdivision (h), (i), or (j). A copy of any notice or waiver shall be retained with the unemancipated minor's medical records. The physician or the physician's agent shall inform the unemancipated minor that her parent may receive notice as provided for in this section.

(c) The written notice shall be delivered by the physician or the physician's agent to the parent, either personally or by certified mail addressed to the parent at the parent's last known address with return receipt requested and restricted delivery to the addressee. If notice is provided by certified mail, a copy of the written notice shall also be sent at the same time by first class mail to the parent. Notice by mail may be presumed to have been delivered under the provisions of this subdivision at noon of the second day after the written notice sent by certified mail was postmarked, not counting any days on which regular mail delivery does not take place. A form for the notice shall be prescribed by the State Department of Health Services. The notice form shall be bilingual, in English and Spanish, and also available in English and each of the other languages in which California Official Voter Information Guides are published.

(d) Notice of an unemancipated minor's intent to obtain an abortion may be waived by her parent. The waiver must be in writing, on a form prescribed by the State Department of Health Services, signed by a parent, dated, and notarized. The parent shall specify on the form that the waiver is valid for 30 days, or until a specified date, or until the minor's eighteenth birthday. The written waiver need not be notarized if the parent personally delivers it to the physician or the physician's agent. The form shall include the following statement: **"WARNING. It is a crime to knowingly provide false information to a physician or a physician's agent for the purpose of inducing a physician or a physician's agent to believe that a waiver of notice has been provided by a parent or guardian."** The waiver form shall be bilingual, in English and Spanish, and also available in English and each of the other languages in which California Official Voter Information Guides are published. For each abortion performed on an unemancipated minor pursuant to this subdivision, the physician or the physician's agent must receive a separate original written waiver that shall be retained with the unemancipated minor's medical records.

(e) Notice to a parent shall not be required under this section if, at least 48 hours prior to performing the abortion, the attending physician has delivered notice in the manner prescribed and on the form prescribed in subdivision (c) to an adult family member designated by the unemancipated minor and has made a written report of known or suspected child abuse concerning the unemancipated minor to the appropriate law enforcement or public child protective agency. Such report shall be based on a minor's written statement that she fears physical, sexual, or severe emotional abuse from a parent who would otherwise be notified and that her fear is based on a pattern of physical, sexual, or severe emotional abuse of her exhibited by a parent. The physician shall include the minor's statement with his or her report and shall also retain a copy of the statement and the report in the minor's medical records. The physician shall also include with the notice a letter informing the adult family member that a report of known or suspected child abuse has been made concerning the minor and identifying the agency to which the report was made. The minor shall be informed that the notice and the letter will be delivered to the adult family member she has designated.

(f) Notice shall not be required under this section if the attending physician certifies in the unemancipated minor's medical records the medical indications supporting the physician's good-faith clinical judgment that the abortion is necessary due to a medical emergency.

(g) Notice shall not be required under this section if waived pursuant to this subdivision and subdivision (h), (i), or (j). If the pregnant unemancipated minor elects not to permit notice to be given to a parent, she may file a petition with the juvenile court. No filing fee shall be required for filing a petition. If, pursuant to this subdivision, an unemancipated minor seeks to file a petition, the court shall assist the minor or person designated by the minor in preparing the documents required pursuant to this section. The petition shall set forth with specificity the minor's reasons for the request. The unemancipated minor shall appear personally in the proceedings in juvenile court and may appear on her own behalf or with counsel of her own choosing. The court shall, however, advise her that she has a right to court-appointed counsel upon

request. The hearing shall be held by 5 p.m. on the second court day after filing the petition unless extended at the written request of the unemancipated minor or her counsel. The unemancipated minor shall be notified of the date, time, and place of the hearing on the petition. Judgment shall be entered within one court day of submission of the matter. The judge shall order a record of the evidence to be maintained, including the judge's written factual findings and legal conclusions supporting the decision. The court shall ensure that the minor's identity be kept confidential and that all court proceedings be sealed.

(h) (1) If the judge finds, by clear and convincing evidence, that the unemancipated minor is both sufficiently mature and well-informed to decide whether to have an abortion, the judge shall authorize a waiver of notice of a parent.

(2) If the judge finds, by clear and convincing evidence, that notice to a parent is not in the best interests of the unemancipated minor, the judge shall authorize a waiver of notice. If the finding that notice to a parent is not in the best interests of the minor is based on evidence of physical, sexual, or emotional abuse, the court shall ensure that such evidence is brought to the attention of the appropriate law enforcement or public child protective agency.

(3) If the judge does not make a finding specified in paragraph (1) or (2), the judge shall deny the petition.

(i) If the judge fails to rule within the time period specified in subdivision (g) and no extension was requested and granted, the petition shall be deemed granted and the notice requirement shall be waived.

(j) The unemancipated minor may appeal the judgment of the juvenile court at any time after the entry of judgment. The Judicial Council shall prescribe, by rule, the practice and procedure on appeal and the time and manner in which any record on appeal shall be prepared and filed and may prescribe forms for such proceedings. These procedures shall require that the hearing shall be held within three court days of filing the notice of appeal. The unemancipated minor shall be notified of the date, time, and place of the hearing. The appellate court shall ensure that the unemancipated minor's identity be kept confidential and that all court proceedings be sealed. No filing fee shall be required for filing an appeal. Judgment on appeal shall be entered within one court day of submission of the matter.

(k) The Judicial Council shall prescribe, by rule, the practice and procedure for petitions for waiver of parental notification, hearings, and entry of judgment as it deems necessary and may prescribe forms for such proceedings. Each court shall provide annually to the Judicial Council, in a manner to be prescribed by the Judicial Council to ensure confidentiality of the unemancipated minors filing petitions, a report of the number of petitions filed, the number of petitions granted under paragraph (1) or (2) of subdivision (h), deemed granted under subdivision (i), denied under paragraph (3) of subdivision (h), and granted or denied under subdivision (j), said reports to be publicly available unless the Judicial Council determines that the data contained in individual reports should be aggregated by county before being made available to the public in order to preserve the confidentiality of the unemancipated minors filing petitions.

(l) The State Department of Health Services shall prescribe forms for the reporting of abortions performed on unemancipated minors by physicians. The report forms shall not identify the unemancipated minor or her parent(s) by name or request other information by which the unemancipated minor or her parent(s) might be identified. The forms shall include the date of the procedure and the unemancipated minor's month and year of birth, the duration of the pregnancy, the type of abortion procedure, the numbers of the unemancipated minor's previous abortions and deliveries if known, and the facility where the abortion was performed. The forms shall also indicate whether the abortion was performed pursuant to subdivision (c), (d), (e), (f), (h), (i), or (j).

(m) The physician who performs an abortion on an unemancipated minor shall within one month file a dated and signed report concerning that abortion with the State Department of Health Services on forms prescribed pursuant to subdivision (l). The identity of the physician shall be kept confidential and shall not be subject to disclosure under the California Public Records Act.

(n) The State Department of Health Services shall compile an annual statistical report from the information specified in subdivision (l). The annual report shall not include the identity of any physician who filed a report as required by subdivision (m). The compilation shall include statistical information on the numbers of abortions by month and by county where performed, the minors' ages, the duration of the pregnancies, the types of abortion procedures, the numbers of prior abortions or deliveries where known, and the numbers of abortions performed pursuant to each of subdivision (c), (d), (e), (f), (h), (i), or (j). The annual statistical report shall be made

available to county public health officials, Members of the Legislature, the Governor, and the public.

(o) Any person who performs an abortion on an unemancipated minor and in so doing knowingly or negligently fails to comply with the provisions of this section shall be liable for damages in a civil action brought by the unemancipated minor, her legal representative, or by a parent wrongfully denied notification. The time for commencement of the action shall be within four years of the date the minor attains majority or four years of the date a parent wrongfully denied notification discovers or reasonably should have discovered the failure to comply with this section, whichever period expires later. A person shall not be liable under this section if the person establishes by written or documentary evidence that the person relied upon evidence sufficient to convince a careful and prudent person that the representations of the unemancipated minor or other persons regarding information necessary to comply with this section were bona fide and true. At any time prior to the rendering of a final judgment in an action brought under this subdivision, the plaintiff may elect to recover, in lieu of actual damages, an award of statutory damages in the amount of ten thousand dollars (\$10,000). In addition to any damages awarded under this subdivision, the plaintiff shall be entitled to an award of reasonable attorney fees. Nothing in this section shall abrogate, limit, or restrict the common law rights of parents, or any right to relief under any theory of liability that any person or any state or local agency may have under any statute or common law for any injury or damage, including any legal, equitable, or administrative remedy under federal or state law, against any party, with respect to injury to an unemancipated minor from an abortion.

(p) Other than an unemancipated minor who is the patient of a physician, or other than the physician or the physician's agent, any person who knowingly provides false information to a physician or a physician's agent for the purpose of inducing the physician or the physician's agent to believe that pursuant to this section notice has been or will be delivered to a parent or adult family member, or that a waiver of notice has been obtained, or that an unemancipated minor patient is not an unemancipated minor, is guilty of a misdemeanor punishable by a fine of up to two thousand dollars (\$2,000).

(q) Notwithstanding any notice or waivers of notice, except where the particular circumstances of a medical emergency or her own mental incapacity precludes obtaining her consent, a physician shall not perform or induce an abortion upon an unemancipated minor except with the consent of the unemancipated minor herself.

(r) Notwithstanding any notice or waivers of notice, an unemancipated minor who is being coerced by any person through force, threat of force, or threatened or actual deprivation of food or shelter to consent to undergo an abortion may apply to the juvenile court for relief. The court shall give the matter expedited consideration and grant such relief as may be necessary to prevent such coercion.

(s) This section shall not take effect until 90 days after the election in which it is approved. The Judicial Council shall, within these 90 days, prescribe the rules, practices, and procedures and prepare and make available any forms it may prescribe as provided in subdivision (k). The State Department of Health Services shall, within these 90 days, prepare and make available the forms prescribed in subdivisions (c), (d), and (l).

(t) If any one or more provision, subdivision, sentence, clause, phrase or word of this section or the application thereof to any person or circumstance is found to be unconstitutional or invalid, the same is hereby declared to be severable and the balance of this section shall remain effective notwithstanding such unconstitutionality or invalidity. Each provision, subdivision, sentence, clause, phrase, or word of this section would have been approved by voters irrespective of the fact that any one or more provision, subdivision, sentence, clause, phrase, or word might be declared unconstitutional or invalid.

(u) Except for the rights, duties, privileges, conditions, and limitations specifically provided for in this section, nothing in this section shall be construed to grant, secure, or deny any other rights, duties, privileges, conditions, and limitations relating to abortion or the funding thereof.

PROPOSITION 5

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends, and adds sections to various codes, and repeals a section of uncodified law; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be

added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title.

This act shall be known and may be cited as the "Nonviolent Offender Rehabilitation Act of 2008."

SEC. 2. Findings and Declarations.

The people of the State of California hereby find and declare all of the following:

I. Failure to Provide Effective Rehabilitation is a Costly Mistake

(a) California's prison system has failed in its mission to rehabilitate criminals and protect public safety.

(b) State prisons are severely overcrowded and highly unsafe, currently with 175,000 inmates squeezed into facilities designed for about 100,000. Many of these inmates entered prison for nonviolent crimes and for nonviolent parole violations.

(c) Drug addiction is a leading cause of crime in California, with high prevalence among arrestees, prisoners and parolees. Moreover, untreated addiction is deadly: drug overdose is the second leading cause of accidental death in the United States and disproportionately impacts persons recently released from jail and prison.

(d) Punishment alone largely fails to change nonviolent criminal behavior, particularly when such behavior is driven by addiction and lack of basic education and skills.

(e) California's corrections system does not provide meaningful rehabilitation services to most inmates and parolees. Nonviolent offenders can languish for years behind bars without education, vocational training, or rehabilitation programs of any kind. These inmates are then released into our communities without access to meaningful services, and with no skills or opportunities to help them safely and successfully be reintegrated into society.

(f) California's criminal justice system fails to offer effective drug treatment to tens of thousands of nonviolent offenders each year whose drug offenses and other criminal activity are driven by substance abuse and addiction. Moreover, courts are required to spend scarce resources on processing routine cases of adult marijuana possession, a waste of resources that can be curtailed by penalizing small amounts of marijuana possession as an infraction.

(g) California now offers virtually no publicly funded drug treatment options for youth under the age of 18, a tragic and short-sighted failure, in that young people with drug problems are at the highest risk to lead lives of addiction and criminality as adults. New sources of funding must be found for youth programs. At the same time, youth under the age of 18 who are arrested for possession of marijuana should receive appropriate, science-based drug education programs.

(h) California spends excessive time and resources monitoring nonviolent former inmates. Many states require much less supervision for low-risk offenders and have lower recidivism rates. Parole supervision should be targeted to more dangerous offenders, with serious or violent criminals given heightened parole supervision.

(i) High rates of incarceration and re-incarceration result, in part, from lack of appropriate treatment and rehabilitation options for youth and nonviolent offenders. Moreover, prison overcrowding makes rehabilitation almost impossible, and the lack of rehabilitation for nonviolent prisoners and parolees contributes directly to recidivism and re-incarceration of recently released inmates.

(j) Studies show that providing drug treatment and rehabilitation services to youth, to nonviolent offenders, and to nonviolent prisoners and parolees is an effective strategy to reduce future criminality and recidivism.

(k) In light of the crisis in California's prison system, Californians need and demand a major reorientation of state policies to provide greater rehabilitation, accountability and treatment options for youth, nonviolent offenders and nonviolent prisoners and parolees.

II. Treatment and Rehabilitation Enhance Public Safety

(a) Public safety is enhanced when young people are offered drug education and treatment, including family counseling, upon the first signs of a substance abuse problem.

(b) Public safety is enhanced when nonviolent, addicted offenders receive effective drug treatment and mental health services, instead of incarceration.

(c) Public safety is enhanced when nonviolent prisoners and parolees participate in effective rehabilitation programs designed to assist them in a successful reintegration into society.