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SB-230 Evidence: commercial sexual offenses. (2017-2018)

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Senate Bill No. 230

CHAPTER 805

An act to amend Section 1108 of the Evidence Code, relating to evidence.

[Approved by Governor October 14, 2017. Filed with Secretary of State October 14, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 230, Atkins. Evidence: commercial sexual offenses.

Existing law provides that evidence of a person's character is inadmissible when offered to prove his or her conduct on a specified occasion. Existing law creates exceptions to that rule, including that in a criminal action in which the defendant is accused of a sexual offense, evidence of the defendant's commission of another sexual offense or offenses is not inadmissible under that rule, except as specified. Existing law defines the term "sexual offense" as conduct proscribed by various sections of the Penal Code as well as other types of conduct.

This bill would include in the definition of "sexual offense" for this purpose specified human trafficking sexual offenses.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1108 of the Evidence Code is amended to read:

1108. (a) In a criminal action in which the defendant is accused of a sexual offense, evidence of the defendant's commission of another sexual offense or offenses is not made inadmissible by Section 1101, if the evidence is not inadmissible pursuant to Section 352.

(b) In an action in which evidence is to be offered under this section, the people shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered in compliance with the requirements of Section 1054.7 of the Penal Code.

(c) This section does not limit the admission or consideration of evidence under any other section of this code.

(d) As used in this section, the following definitions shall apply:

(1) "Sexual offense" means a crime under the law of a state or of the United States that involved any of the following:

(A) Any conduct proscribed by subdivision (b) or (c) of Section 236.1, Section 243.4, 261, 261.5, 262, 264.1, 266c, 269, 286, 288, 288a, 288.2, 288.5, or 289, or subdivision (b), (c), or (d) of Section 311.2 or Section 311.3, 311.4, 311.10, 311.11, 314, or 647.6, of the Penal Code.

(B) Any conduct proscribed by Section 220 of the Penal Code, except assault with intent to commit mayhem.

(C) Contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person.

(D) Contact, without consent, between the genitals or anus of the defendant and any part of another person's body.

(E) Deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person.

(F) An attempt or conspiracy to engage in conduct described in this paragraph.

(2) "Consent" shall have the same meaning as provided in Section 261.6 of the Penal Code, except that it does not include consent which is legally ineffective because of the age, mental disorder, or developmental or physical disability of the victim.