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DEPARTMENT OF
POLICE

CITY OF SACRAMENTO
CALIFORNIA

HALL OF JUSTICE
813 SIXTH STREET
SACRAMENTO, CA
95814-2495

May 11, 1993

PH 916-264-5121

Law and Legislation Committee
City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: Assembly Bill 629 - Penalty enhancements for selling controlled substances within a public park or on an ocean-front beach.

LOCATION AND COUNCIL DISTRICT: City

RECOMMENDATION: It is recommended that the City Council support Assembly Bill 629.

CONTACT PERSON: Claudia Evans, Administrative Services Officer, 264-7346

FOR COMMITTEE MEETING OF: May 18, 1993

SUMMARY

Current law makes it a felony to sell controlled substances. Current law also provides separate penalty enhancements for adults convicted of selling controlled substances within 1,000 feet of school grounds or if the purchaser is a minor at least four years younger than the convicted adult. Assembly Bill 629 would add a 1-year penalty enhancement for anyone, adult or juvenile, who is convicted of selling controlled substances - heroin, cocaine, methamphetamine or PCP - within a public park or on an ocean-front beach.

BACKGROUND INFORMATION

The selling of controlled substances in and around public parks and beaches has increased over the years to the point that citizens fear sending their children into the parks to play. While current law does allow for the establishment of drug free zones around parks, in order for them to work, offenders must realize that there will be increased consequences for their behavior.

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By adding penalty enhancements for any offender, adult or juvenile, convicted of drug violations in parks or beaches, Assembly Bill 629 will send that message and add a measure of consistency to the laws governing penalty enhancements for drug violations in areas where children congregate.

Supporters of this bill include the City of Santa Monica, Los Angeles District Attorney, California Sheriff's Association, Police Officers Research Association of California, the California Peace Officers Association, and the California Police Chiefs Association.

FINANCIAL CONSIDERATIONS

Assembly Bill 629 does not involve a state-mandated local program. The support of Assembly Bill 629 will not have any fiscal impact on the City of Sacramento.

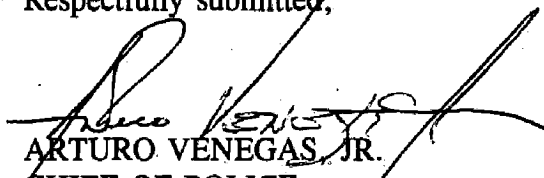
POLICY CONSIDERATIONS

Support of Assembly Bill 629 is consistent with the City Council's policy elevating the problem of drugs and gangs to emergency status and dedicating resources to resolve the problem. Support is also consistent with the City Council's focus on neighborhoods and neighborhood revitalization.

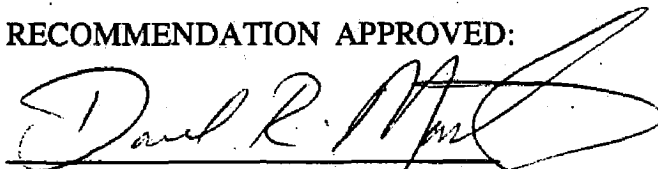
MBE/WBE

None

Respectfully submitted,


ARTURO VENEGAS, JR.
CHIEF OF POLICE

RECOMMENDATION APPROVED:


DAVID MARTINEZ
DEPUTY CITY MANAGER

AV:cre
Ref: 5-11

AMENDED IN ASSEMBLY MAY 5, 1993

CALIFORNIA LEGISLATURE—1993-94 REGULAR SESSION

ASSEMBLY BILL

No. 629

Introduced by Assembly Member Terry Friedman

February 22, 1993

An act to add ~~Section 11352.1 to~~ *and repeal Section 11380.5* of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 629, as amended, T. Friedman. Controlled substances: public park or *ocean-front* beach.

Existing law makes it a felony, punishable by imprisonment in the state prison, to possess; ~~possess or purchase~~ for sale; ~~transport, import into this state, or sell; furnish, administer, or give away~~ designated controlled substances *heroin, cocaine, cocaine base, methamphetamine, or phencyclidine (PCP)*.

This bill would provide that any person who is convicted of any of these offenses, in addition to the punishment imposed for that conviction, shall be imprisoned in the state prison for an additional ~~2 years~~ *one year* if the violation occurred upon; ~~or within 300 feet of,~~ the grounds of a public park or *ocean-front* beach, *including adjacent public parking lots and sidewalks*.

The bill would also provide that its provisions shall apply to a public park or ocean-front beach only if the city council or county board of supervisors having jurisdiction over the public park or ocean-front beach adopts an ordinance designating the public park or ocean-front beach as a "drug-free zone" and notice of the bill's provisions is posted at the public park or ocean-front beach.

The provisions of this bill would remain in effect only until January 1, 1997, and as of that date are repealed.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section ~~11352.1~~ 11380.5 is added to the
2 Health and Safety Code, to read:

3 ~~11352.1.~~

4 11380.5. (a) (1) Notwithstanding any other provision
5 of law, any person who is convicted of a violation of
6 Section ~~11350, 11351, 11351.5, or 11352~~ the possession for
7 sale or the sale of heroin, cocaine, cocaine base,
8 methamphetamine, or phencyclidine (PCP), in addition
9 to the punishment imposed for that conviction, shall be
10 imprisoned in the state prison for an additional ~~two years~~
11 one year if the violation occurred upon, ~~or within 300~~
12 feet of, the grounds of a public park or ocean-front beach.

13 (2) For the purposes of this section, a "public park or
14 ocean-front beach" includes adjacent public parking lots
15 and sidewalks.

16 (b) The additional punishment provided in this
17 section shall not be imposed unless the allegation is
18 charged in the accusatory pleading and admitted by the
19 defendant or found to be true by the trier of fact.

20 (c) The additional punishment provided in this
21 section shall be in addition to any other punishment
22 provided by law and shall not be limited by any other
23 provision of law.

24 (d) Notwithstanding any other provision of law, the
25 court may strike the additional punishment provided for
26 in this section if it determines that there are
27 circumstances in mitigation of the additional punishment
28 and states on the record its reasons for striking the
29 additional punishment.

30 ~~(e) This section does not require either that notice be~~
31 ~~posted regarding the proscribed conduct or that the~~
32 ~~applicable 300-foot boundary limit be marked.~~

33 (e) This section shall apply to a public park or

1 *ocean-front beach only if the following conditions are*
2 *satisfied:*

3 *(1) The city council or county board of supervisors*
4 *having jurisdiction over the public park or ocean-front*
5 *beach adopts an ordinance designating the public park or*
6 *ocean-front beach as a "drug-free zone" pursuant to this*
7 *section.*

8 *(2) Notice of this law is posted at the public park or*
9 *ocean-front beach.*

10 *(f) This section shall remain in effect only until*
11 *January 1, 1997, and as of that date is repealed.*