

**Amended Mock-up for 2025-2026 AB-1739 (Ward (A))**

**Mock-up based on Version Number 98 - Amended Assembly 3/9/26  
Submitted by: Staff Name, Office Name**

**REVISED**

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

**SECTION 1.** Section 729 of the Business and Professions Code is amended to read:

~~729. (a) Any physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, alcohol and drug abuse counselor, or member of the clergy, or any person holding themselves out to be a physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, alcohol and drug abuse counselor, or member of the clergy who engages in an act of sexual intercourse, sodomy, oral copulation, or sexual contact with a current or former patient, client, or member of the congregation when the relationship was terminated primarily for the purpose of engaging in those acts, unless the physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, alcohol and drug abuse counselor, or member of the clergy has referred the patient, client, or member of the congregation to an independent and objective physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, alcohol and drug abuse counselor, or member of the clergy recommended by a third party physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, alcohol and drug abuse counselor, or member of the clergy for treatment, is guilty of sexual exploitation by a physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, alcohol and drug abuse counselor, or member of the clergy.~~

(a) Any physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor, or any person holding themselves out to be a physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor, who engages in an act of sexual intercourse, sodomy, oral copulation, or sexual contact with a patient or client, or with a former patient or client when the relationship was terminated primarily for the purpose of engaging in those acts, unless the physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor has referred the patient or client to an independent and objective physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor recommended by a third-party physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor for treatment, is guilty of sexual exploitation by a physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor.

**(b) Any member of the clergy providing therapeutic services, as defined in subdivisions (d)(3) and (d)(4), or any person holding themselves out to be a member of the clergy providing therapeutic services, who engages in an act of sexual intercourse, sodomy, oral copulation, or sexual contact with a current or former patient, client, or member of the congregation within two years following termination of therapeutic services, when the relationship was terminated primarily for the purpose of engaging in those acts, unless the provider has referred the patient, or client, or member of the congregation to an independent and objective licensed professional or qualified provider of therapeutic services recommended by a third-party for treatment, is guilty of sexual exploitation by a member of the clergy.**

~~(b)~~ **(c)** Sexual exploitation by a physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, alcohol and drug abuse counselor, **or member of the clergy** is a public offense:

(1) An act in violation of subdivision (a) **or (b)** shall be punishable by imprisonment in a county jail for a period of not more than six months, or a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(2) Multiple acts in violation of subdivision (a) **or (b)** with a single victim, when the offender has no prior conviction for sexual exploitation, shall be punishable by imprisonment in a county jail for a period of not more than six months, or a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(3) An act or acts in violation of subdivision (a) **or (b)** with two or more victims shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars (\$10,000); or the act or acts shall be punishable by imprisonment in a county jail for a period of not more than one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(4) Two or more acts in violation of subdivision (a) **or (b)** with a single victim, when the offender has at least one prior conviction for sexual exploitation, shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars (\$10,000); or the act or acts shall be punishable by imprisonment in a county jail for a period of not more than one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(5) An act or acts in violation of subdivision (a) **or (b)** with two or more victims, and the offender has at least one prior conviction for sexual exploitation, shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars (\$10,000).

For purposes of subdivision (a) **or (b)**, in no instance shall consent of the patient, client, or member of the congregation be a defense. However, physicians and surgeons shall not be guilty of sexual exploitation for touching any intimate part of a patient or client unless the touching is outside the scope of medical examination and treatment, or the touching is done for sexual gratification.

**(e) (d)** For purposes of this section:

(1) “Alcohol and drug abuse counselor” means an individual who holds themselves out to be an alcohol or drug abuse professional or paraprofessional.

(2) “Intimate part” and “touching” have the same meanings as defined in Section 243.4 of the Penal Code.

**(3) “Member of the clergy” means a priest, minister, rabbi, ordained religious practitioner, or similar functionary of a recognized religious organization. This term shall apply under this section only when the clergy member is providing “therapeutic services.”**

**(4) “Therapeutic services” means counseling, mental health guidance, spiritual counseling involving the treatment of emotional, psychological, or behavioral conditions, or other services that are substantially similar in nature to psychotherapy, whether or not the provider is licensed by the state.**

~~(3) “Member of the clergy” means a priest, minister, ordained religious practitioner, or similar functionary of a church, or of a recognized religious denomination or religious organization, or a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization. “Member of the congregation” means any member, parishioner, worshiper, adherent, or other person who is within the clergy member’s congregation.~~

~~(4) (5)~~ “Psychotherapist” has the same meaning as defined in Section 728.

~~(5) (6)~~ “Sexual contact” means sexual intercourse or the touching of an intimate part of a patient **or client, or member of the congregation** for the purpose of sexual arousal, gratification, or abuse.

~~(d) (e)~~ In the investigation and prosecution of a violation of this section, no person shall seek to obtain disclosure of any confidential files of other current or former patients, or clients, **or members of the congregation** of the physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, alcohol and drug abuse counselor, **or member of the clergy.**

~~(e) (f)~~ This section does not apply to sexual contact between a physician and surgeon and their spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to their spouse or person in an equivalent domestic relationship.

~~(f) (g)~~ If a physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, alcohol and drug abuse counselor, in a professional partnership or similar group has sexual contact with a patient, or client, in violation of this section, another physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, alcohol and

drug abuse counselor, in the partnership or practitioner group shall not be subject to action under this section solely because of the occurrence of that sexual contact.

~~(g)~~ **(h)** (1) Consistent with Section 2908, nothing in the act that added this subdivision shall be construed to apply Chapter 6.6 (commencing with Section 2900) to duly ordained members of the recognized clergy, or duly ordained religious practitioners doing work of a psychological nature consistent with the laws governing their respective professions, provided they do not state or imply that they are licensed to practice psychology.

(2) Inclusion of members of the clergy **providing therapeutic services** into the scope of this section is intended only to convey the intent of the Legislature that members of the clergy **providing therapeutic services** perform their functions pursuant to a code of conduct that prohibits sexual contact with members, parishioners, worshipers, adherents, or others and is at least as stringent as the prohibitions described in this section applicable to physicians and surgeons, psychotherapists, research psychoanalysts, student research psychoanalysts, and alcohol and drug abuse counselors, and to impose similar penalties for violations of that code of conduct.

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