

AMENDED IN SENATE JUNE 29, 2024

AMENDED IN SENATE JUNE 20, 2024

AMENDED IN SENATE JUNE 5, 2024

AMENDED IN ASSEMBLY MAY 20, 2024

AMENDED IN ASSEMBLY APRIL 11, 2024

AMENDED IN ASSEMBLY APRIL 3, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 2943

Introduced by Assembly Members Zbur and Robert Rivas
(Principal coauthors: Assembly Members Alanis, Haney, Ortega,
Pacheco, Petrie-Norris, and Schiavo)
(Coauthors: Assembly Members Cervantes, Gipson, Lackey, Reyes,
and Rodriguez) and Reyes)
(Coauthor: Senator Allen)

February 15, 2024

An act to amend ~~Section 853.6 of, to amend, repeal, and add Sections 487 and 836 of, to add and repeal Sections 836, 853.6, and 1001.82 of, and to add Sections 372.7, 496.6, 372.7 and 1203g of, and to repeal and add Section 1001.82 of, to, the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately. crimes.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2943, as amended, Zbur. Crimes: shoplifting.

(1) Existing law divides theft into grand theft and petty theft. Existing law punishes petty theft as a misdemeanor while grand theft is punished as either a misdemeanor or a felony. Existing law lists specific types

of theft which are grand theft and all other cases of theft as petty theft. Existing law authorizes a person to be charged with grand theft if the property taken exceeds \$950 over the course of distinct but related acts.

This bill would clarify that those related acts include acts committed against multiple victims or in counties other than the county of the current offense. The bill would also clarify that evidence that distinct acts are motivated by one intention, one general impulse, and one plan may include, but is not limited to, evidence that the acts involve the same defendant or defendants, are substantially similar in nature, or occur within a 90-day period.

(2) Existing law prohibits the possession or receipt of stolen property, as specified. A violation of this prohibition is punishable as either a misdemeanor or a felony, depending on the value of the property and whether the offender has certain prior convictions.

This bill would make it a crime for any person to possess property unlawfully that was acquired through one or more acts of shoplifting, theft, or burglary from a retail business, if the property is not possessed for personal use and the person has intent to sell, exchange, or return the merchandise for value, or the intent to act in concert with one or more persons to sell, exchange, or return the merchandise for value, and the value of the possessed property exceeds \$950.

The bill would, for the purpose of determining the value of the property, aggregate the property with any other property possessed by the person with that intent within the prior 2 years and with any property possessed by another person acting in concert with the first person to sell, exchange, or return the merchandise for value, if that property was also acquired unlawfully. The bill would make this crime punishable as a misdemeanor or a felony. By creating a new crime, this bill would impose a state-mandated local program.

(3)

(1) Existing law prohibits shoplifting, defined as entering a commercial establishment with intent to commit theft while that establishment is open during regular business hours, where the value of the property that is taken or intended to be taken does not exceed \$950. Existing law requires an act that falls within this definition to be charged as shoplifting and not as burglary or theft. Under existing law, shoplifting is punishable as a misdemeanor, except when the defendant has prior convictions, as specified.

Existing law authorizes a peace officer to make a warrantless arrest for a misdemeanor when the officer has probable cause to believe the

person to be arrested has committed the misdemeanor in the officer's presence. Existing law also authorizes a private person to make an arrest for a misdemeanor committed in their presence, and requires the person to deliver the arrested person to a peace officer or magistrate. Existing law additionally authorizes a merchant to detain a person for a reasonable time and in a reasonable manner to determine if a person has unlawfully taken merchandise.

Existing law authorizes a peace officer to make a warrantless arrest for specified misdemeanors relating to domestic violence, violation of a restraining order, and carrying a concealed firearm at an airport that did not occur in the officer's presence.

This bill would authorize a peace officer to make a warrantless arrest for a misdemeanor shoplifting offense not committed in the officer's presence if the officer has probable cause to believe that person has committed shoplifting, as specified.

The bill would clarify that local law enforcement or a local jurisdiction is prohibited from bringing a nuisance action against a business solely for the act of reporting retail crime, unless the report is knowingly false.

(4)

(2) Existing law requires a peace officer to release upon a signed promise to appear any person arrested for a misdemeanor, unless the person demands to be taken before a magistrate. Existing law provides certain reasons a person arrested for a misdemeanor shall not be released including that the person is intoxicated or in need of medical attention, the person is unable to provide satisfactory proof of identification, or there are outstanding arrest warrants for the person. Additionally, existing law exempts from this provision persons arrested for specified crimes including domestic violence, stalking, threatening a witness, and, until January 1, 2026, organized retail theft.

This bill would extend that exemption for organized retail theft until January 1, 2031.

(5)

(3) Existing law, until January 1, 2026, authorizes a city or county prosecuting authority or county probation department to create a diversion or deferred entry of judgment program for persons who commit a theft offense or repeat theft offenses, as specified.

This bill would extend that authorization until January 1, 2031.

(6)

(4) Existing law authorizes the court to suspend a criminal sentence and make and enforce terms of probation for a period not to exceed 2

years, and in misdemeanor cases, for a period not to exceed one year. Existing law authorizes the court to make and enforce the terms of probation for specified theft cases for a period not to exceed 3 years.

This bill would, for an offense of shoplifting or petty theft, authorize the court to make and enforce the terms of probation for a period not to exceed 2 years. The bill would require a court that imposes a term longer than one year to consider referring the defendant to a collaborative court or rehabilitation program that is relevant to the underlying factor or factors that led to the commission of the offense, as specified. For a defendant under 25 years of age, the bill would require the court, to the extent such a program is available, to refer the defendant to a program modeled on healing-centered, restorative, trauma-informed, and positive youth development approaches that is provided in collaboration with community-based organizations. By increasing the period of probation, this bill would impose a state-mandated local program.

~~(7) The bill would make all of these changes inoperative if a specified initiative is approved by the voters.~~

~~(8) This bill would incorporate additional changes to Section 487 of the Penal Code that are substantively the same as those proposed by AB 1794 to be operative only if this bill and AB 1794 are enacted and this bill is enacted last.~~

~~(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

~~(10) This bill would declare that it is to take effect immediately as an urgency statute.~~

~~(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,~~

reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 372.7 is added to the Penal Code, to read:
2 372.7. ~~(a)~~ Local law enforcement or a local jurisdiction shall
3 not bring or threaten a nuisance action pursuant to Section 372 or
4 373a against a business, or impose fines pursuant to Section 372
5 or 373a upon a business, solely for the act of reporting retail crime,
6 unless the report is knowingly false.
7 ~~(b) If the proposed initiative measure titled “The Homelessness,~~
8 ~~Drug Addiction, and Theft Reduction Act” (Initiative 23-0017A1)~~
9 ~~is approved by the voters at the statewide general election on~~
10 ~~November 5, 2024, this section shall become inoperative on the~~
11 ~~fifth day after the Secretary of State files the statement of the vote~~
12 ~~for the election, and shall be repealed on January 1, 2025.~~
13 SEC. 2. Section 487 of the Penal Code is amended to read:
14 487. ~~Grand theft is theft committed in any of the following~~
15 ~~cases:~~
16 ~~(a) When the money, labor, real property, or personal property~~
17 ~~taken is of a value exceeding nine hundred fifty dollars (\$950);~~
18 ~~except as provided in subdivision (b):~~
19 ~~(b) Notwithstanding subdivision (a), grand theft is committed~~
20 ~~in any of the following cases:~~
21 ~~(1) (A) When domestic fowls, avocados, olives, citrus or~~
22 ~~deciduous fruits, other fruits, vegetables, nuts, artichokes, or other~~
23 ~~farm crops are taken of a value exceeding two hundred fifty dollars~~
24 ~~(\$250).~~
25 ~~(B) For the purposes of establishing that the value of domestic~~
26 ~~fowls, avocados, olives, citrus or deciduous fruits, other fruits,~~
27 ~~vegetables, nuts, artichokes, or other farm crops under this~~
28 ~~paragraph exceeds two hundred fifty dollars (\$250), that value~~
29 ~~may be shown by the presentation of credible evidence which~~
30 ~~establishes that on the day of the theft domestic fowls, avocados,~~
31 ~~olives, citrus or deciduous fruits, other fruits, vegetables, nuts,~~
32 ~~artichokes, or other farm crops of the same variety and weight~~
33 ~~exceeded two hundred fifty dollars (\$250) in wholesale value.~~

~~(2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or other aquacultural products are taken from a commercial or research operation which is producing that product, of a value exceeding two hundred fifty dollars (\$250).~~

~~(3) Where the money, labor, real property, or personal property is taken by a servant, agent, or employee from their principal or employer and aggregates nine hundred fifty dollars (\$950) or more in any 12 consecutive month period.~~

~~(c) When the property is taken from the person of another.~~

~~(d) When the property taken is any of the following:~~

~~(1) An automobile.~~

~~(2) A firearm.~~

~~(e) If the value of the money, labor, real property, or personal property taken exceeds nine hundred fifty dollars (\$950) over the course of distinct but related acts, including acts committed against multiple victims or in counties other than the county of the current offense, the value of the money, labor, real property, or personal property taken may properly be aggregated to charge a count of grand theft, if the acts are motivated by one intention, one general impulse, and one plan. Evidence that distinct acts are motivated by one intention, one general impulse, and one plan may include, but is not limited to, evidence that the acts involve the same defendant or defendants, are substantially similar in nature, or occur within a 90-day period.~~

~~(f) If the proposed initiative measure titled “The Homelessness, Drug Addiction, and Theft Reduction Act” (Initiative 23-0017A1) is approved by the voters at the statewide general election on November 5, 2024, this section shall become inoperative on the fifth day after the Secretary of State files the statement of the vote for the election, and shall be repealed on January 1, 2025.~~

~~SEC. 2.5. Section 487 of the Penal Code is amended to read:~~

~~487. Grand theft is theft committed in any of the following cases:~~

~~(a) When the money, labor, real property, or personal property taken is of a value exceeding nine hundred fifty dollars (\$950), except as provided in subdivision (b).~~

~~(b) Notwithstanding subdivision (a), grand theft is committed in any of the following cases:~~

~~(1) (A) When domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other~~

1 farm crops are taken of a value exceeding two hundred fifty dollars
2 (\$250):

3 (B) For the purposes of establishing that the value of domestic
4 fowls, avocados, olives, citrus or deciduous fruits, other fruits,
5 vegetables, nuts, artichokes, or other farm crops under this
6 paragraph exceeds two hundred fifty dollars (\$250), that value
7 may be shown by the presentation of credible evidence which
8 establishes that on the day of the theft domestic fowls, avocados,
9 olives, citrus or deciduous fruits, other fruits, vegetables, nuts,
10 artichokes, or other farm crops of the same variety and weight
11 exceeded two hundred fifty dollars (\$250) in wholesale value:

12 (2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or
13 other aquacultural products are taken from a commercial or
14 research operation which is producing that product, of a value
15 exceeding two hundred fifty dollars (\$250):

16 (3) Where the money, labor, real property, or personal property
17 is taken by a servant, agent, or employee from their principal or
18 employer and aggregates nine hundred fifty dollars (\$950) or more
19 in any 12 consecutive month period:

20 (c) When the property is taken from the person of another:

21 (d) When the property taken is any of the following:

22 (1) An automobile:

23 (2) A firearm:

24 (e) (1) If the value of the money, labor, real property, or
25 personal property taken exceeds nine hundred fifty dollars (\$950)
26 over the course of distinct but related acts, including acts
27 committed against multiple victims or in counties other than the
28 county of the current offense, the value of the money, labor, real
29 property, or personal property taken may properly be aggregated
30 to charge a count of grand theft, if the acts are motivated by one
31 intention, one general impulse, and one plan:

32 (2) Circumstantial evidence may be used to determine whether
33 multiple takings are motivated by one intention, general impulse,
34 and plan. The following types of evidence are relevant, but not
35 exclusive, in determining whether a defendant acted with a single
36 intent, impulse, and plan in committing a series of thefts:

37 (A) Whether the defendant took particular items of property:

38 (B) Whether the defendant took the property within a 90-day
39 period or from a similar location:

1 ~~(C) Whether the defendant employed a single method to take~~
2 ~~the property or the acts are substantially similar in nature.~~

3 ~~(D) Whether the acts involved the same defendant or defendants.~~

4 ~~(f) If the proposed initiative measure titled “The Homelessness,~~
5 ~~Drug Addiction, and Theft Reduction Act” (Initiative 23-0017A1)~~
6 ~~is approved by the voters at the statewide general election on~~
7 ~~November 5, 2024, this section shall become inoperative on the~~
8 ~~fifth day after the Secretary of State files the statement of the vote~~
9 ~~for the election, and shall be repealed on January 1, 2025.~~

10 ~~SEC. 3. Section 487 is added to the Penal Code, to read:~~

11 ~~487. Grand theft is theft committed in any of the following~~
12 ~~cases:~~

13 ~~(a) When the money, labor, real property, or personal property~~
14 ~~taken is of a value exceeding nine hundred fifty dollars (\$950);~~
15 ~~except as provided in subdivision (b):~~

16 ~~(b) Notwithstanding subdivision (a), grand theft is committed~~
17 ~~in any of the following cases:~~

18 ~~(1) (A) When domestic fowls, avocados, olives, citrus or~~
19 ~~deciduous fruits, other fruits, vegetables, nuts, artichokes, or other~~
20 ~~farm crops are taken of a value exceeding two hundred fifty dollars~~
21 ~~(\$250):~~

22 ~~(B) For the purposes of establishing that the value of domestic~~
23 ~~fowls, avocados, olives, citrus or deciduous fruits, other fruits,~~
24 ~~vegetables, nuts, artichokes, or other farm crops under this~~
25 ~~paragraph exceeds two hundred fifty dollars (\$250), that value~~
26 ~~may be shown by the presentation of credible evidence which~~
27 ~~establishes that on the day of the theft domestic fowls, avocados,~~
28 ~~olives, citrus or deciduous fruits, other fruits, vegetables, nuts,~~
29 ~~artichokes, or other farm crops of the same variety and weight~~
30 ~~exceeded two hundred fifty dollars (\$250) in wholesale value.~~

31 ~~(2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or~~
32 ~~other aquacultural products are taken from a commercial or~~
33 ~~research operation which is producing that product, of a value~~
34 ~~exceeding two hundred fifty dollars (\$250):~~

35 ~~(3) Where the money, labor, real property, or personal property~~
36 ~~is taken by a servant, agent, or employee from their principal or~~
37 ~~employer and aggregates nine hundred fifty dollars (\$950) or more~~
38 ~~in any 12 consecutive month period.~~

39 ~~(c) When the property is taken from the person of another.~~

40 ~~(d) When the property taken is any of the following:~~

1 ~~(1) An automobile.~~

2 ~~(2) A firearm.~~

3 ~~(e) If the value of the money, labor, real property, or personal~~
4 ~~property taken exceeds nine hundred fifty dollars (\$950) over the~~
5 ~~course of distinct but related acts, the value of the money, labor,~~
6 ~~real property, or personal property taken may properly be~~
7 ~~aggregated to charge a count of grand theft, if the acts are motivated~~
8 ~~by one intention, one general impulse, and one plan.~~

9 ~~(f) If the proposed initiative measure titled “The Homelessness,~~
10 ~~Drug Addiction, and Theft Reduction Act” (Initiative 23-0017A1)~~
11 ~~is approved by the voters at the statewide general election on~~
12 ~~November 5, 2024, this section shall become operative on the fifth~~
13 ~~day after the Secretary of State files the statement of the vote for~~
14 ~~the election.~~

15 SEC. 4. ~~Section 496.6 is added to the Penal Code, to read:~~

16 ~~496.6. (a) Any person who possesses property unlawfully that~~
17 ~~was acquired through one or more acts of shoplifting, theft, or~~
18 ~~burglary from a retail business, whether or not the person~~
19 ~~committed the act of shoplifting, theft, or burglary, is guilty of the~~
20 ~~unlawful deprivation of a retail business opportunity when both~~
21 ~~of the following apply:~~

22 ~~(1) The property is not possessed for personal use and the person~~
23 ~~has the intent to sell, exchange, or return the merchandise for value,~~
24 ~~or the intent to act in concert with one or more persons to sell,~~
25 ~~exchange, or return the merchandise for value.~~

26 ~~(2) The value of the possessed property exceeds nine hundred~~
27 ~~fifty dollars (\$950). For purposes of determining the value of the~~
28 ~~property, the property described in paragraph (1) can be considered~~
29 ~~in the aggregate with either of the following:~~

30 ~~(A) Any other such property possessed by the person with such~~
31 ~~intent within the prior two years.~~

32 ~~(B) Any property possessed by another person acting in concert~~
33 ~~with the first person to sell, exchange, or return the merchandise~~
34 ~~for value, when such property was acquired through one or more~~
35 ~~acts of shoplifting, theft, or burglary from a retail business,~~
36 ~~regardless of the identity of the person committing the act of~~
37 ~~shoplifting, theft, or burglary.~~

38 ~~(b) For the purpose of determining in any proceeding whether~~
39 ~~the defendant has the intent to sell, exchange, or return the~~

merchandise for value, the trier of fact may consider any competent evidence, including, but not limited to, the following:

(1) Whether the defendant has in the prior two years sold, exchanged, or returned for value merchandise acquired through shoplifting, theft, or burglary from a retail business, or through any related offense, including any conduct that occurred in other jurisdictions, if relevant to demonstrate a fact other than the defendant's disposition to commit the act, as provided by subdivision (b) of Section 1101 of the Evidence Code.

(2) The property involved in the offense is of a type or quantity that would not normally be purchased for personal use or consumption, including use or consumption by one's immediate family.

(c) The criminal deprivation of a retail business opportunity is punishable by imprisonment in the county jail for up to one year or pursuant to subdivision (h) of Section 1170.

(d) If the proposed initiative measure titled "The Homelessness, Drug Addiction, and Theft Reduction Act" (Initiative 23-0017A1) is approved by the voters at the statewide general election on November 5, 2024, this section shall become inoperative on the fifth day after the Secretary of State files the statement of the vote for the election, and shall be repealed on January 1, 2025.

SEC. 5.

SEC. 2. Section 836 of the Penal Code is amended to read:

836. (a) A peace officer may arrest a person in obedience to a warrant, or, pursuant to the authority granted by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, without a warrant, may arrest a person whenever any of the following circumstances occur:

(1) The officer has probable cause to believe that the person to be arrested has committed a public offense in the officer's presence.

(2) The person arrested has committed a felony, although not in the officer's presence.

(3) The officer has probable cause to believe that the person to be arrested has committed a felony, whether or not a felony, in fact, has been committed.

(b) Any time a peace officer is called out on a domestic violence call, it shall be mandatory that the officer make a good faith effort to inform the victim of their right to make a citizen's arrest, unless the peace officer makes an arrest for a violation of paragraph (1)

1 of subdivision (e) of Section 243 or of Section 273.5. This
2 information shall include advising the victim how to safely execute
3 the arrest.

4 (c) (1) When a peace officer is responding to a call alleging a
5 violation of a domestic violence protective or restraining order
6 issued under Section 527.6 of the Code of Civil Procedure, the
7 Family Code, Section 136.2, 646.91, or paragraph (2) of
8 subdivision (a) of Section 1203.097 of this code, Section 213.5 or
9 15657.03 of the Welfare and Institutions Code, or of a domestic
10 violence protective or restraining order issued by the court of
11 another state, tribe, or territory and the peace officer has probable
12 cause to believe that the person against whom the order is issued
13 has notice of the order and has committed an act in violation of
14 the order, the officer shall, consistent with subdivision (b) of
15 Section 13701, make a lawful arrest of the person without a warrant
16 and take that person into custody whether or not the violation
17 occurred in the presence of the arresting officer. The officer shall,
18 as soon as possible after the arrest, confirm with the appropriate
19 authorities or the Domestic Violence Protection Order Registry
20 maintained pursuant to Section 6380 of the Family Code that a
21 true copy of the protective order has been registered, unless the
22 victim provides the officer with a copy of the protective order.

23 (2) The person against whom a protective order has been issued
24 shall be deemed to have notice of the order if the victim presents
25 to the officer proof of service of the order, the officer confirms
26 with the appropriate authorities that a true copy of the proof of
27 service is on file, or the person against whom the protective order
28 was issued was present at the protective order hearing or was
29 informed by a peace officer of the contents of the protective order.

30 (3) In situations where mutual protective orders have been issued
31 under Division 10 (commencing with Section 6200) of the Family
32 Code, liability for arrest under this subdivision applies only to
33 those persons who are reasonably believed to have been the
34 dominant aggressor. In those situations, prior to making an arrest
35 under this subdivision, the peace officer shall make reasonable
36 efforts to identify, and may arrest, the dominant aggressor involved
37 in the incident. The dominant aggressor is the person determined
38 to be the most significant, rather than the first, aggressor. In
39 identifying the dominant aggressor, an officer shall consider (A)
40 the intent of the law to protect victims of domestic violence from

1 continuing abuse, (B) the threats creating fear of physical injury,
2 (C) the history of domestic violence between the persons involved,
3 and (D) whether either person involved acted in self-defense.

4 (d) Notwithstanding paragraph (1) of subdivision (a), if a suspect
5 commits an assault or battery upon a current or former spouse,
6 fiancé, fiancée, a current or former cohabitant as defined in Section
7 6209 of the Family Code, a person with whom the suspect currently
8 is having or has previously had an engagement or dating
9 relationship, as defined in paragraph (10) of subdivision (f) of
10 Section 243, a person with whom the suspect has parented a child,
11 or is presumed to have parented a child pursuant to the Uniform
12 Parentage Act (Part 3 (commencing with Section 7600) of Division
13 12 of the Family Code), a child of the suspect, a child whose
14 parentage by the suspect is the subject of an action under the
15 Uniform Parentage Act, a child of a person in one of the above
16 categories, any other person related to the suspect by consanguinity
17 or affinity within the second degree, or any person who is 65 years
18 of age or older and who is related to the suspect by blood or legal
19 guardianship, a peace officer may arrest the suspect without a
20 warrant where both of the following circumstances apply:

21 (1) The peace officer has probable cause to believe that the
22 person to be arrested has committed the assault or battery, whether
23 or not it has in fact been committed.

24 (2) The peace officer makes the arrest as soon as probable cause
25 arises to believe that the person to be arrested has committed the
26 assault or battery, whether or not it has in fact been committed.

27 (e) In addition to the authority to make an arrest without a
28 warrant pursuant to paragraphs (1) and (3) of subdivision (a), a
29 peace officer may, without a warrant, arrest a person for a violation
30 of Section 25400 when all of the following apply:

31 (1) The officer has reasonable cause to believe that the person
32 to be arrested has committed the violation of Section 25400.

33 (2) The violation of Section 25400 occurred within an airport,
34 as defined in Section 21013 of the Public Utilities Code, in an area
35 to which access is controlled by the inspection of persons and
36 property.

37 (3) The peace officer makes the arrest as soon as reasonable
38 cause arises to believe that the person to be arrested has committed
39 the violation of Section 25400.

(f) In addition to the authority to make an arrest without a warrant pursuant to paragraphs (1) and (3) of subdivision (a), a peace officer may, without a warrant, arrest a person for a violation of Section 459.5 when the violation was not committed in the officer's presence if all of the following conditions are met:

(1) The officer has probable cause to believe the person committed the violation.

(2) The arrest is made without undue delay after the violation.

(3) Any of the following takes place:

(A) The officer obtains a sworn statement from a person who witnessed the person to be arrested committing the alleged violation.

(B) The officer observes video footage that shows the person to be arrested committing the alleged violation.

(C) The person to be arrested possesses a quantity of goods inconsistent with personal use and the goods bear security devices affixed by a retailer that would customarily be removed upon purchase.

(D) The person to be arrested confesses to the alleged violation to the arresting officer.

~~(g) If the proposed initiative measure titled "The Homelessness, Drug Addiction, and Theft Reduction Act" (Initiative 23-0017A1) is approved by the voters at the statewide general election on November 5, 2024, this section shall become inoperative on the fifth day after the Secretary of State files the statement of the vote for the election, and shall be repealed on January 1, 2025.~~

~~SEC. 6. Section 836 is added to the Penal Code, to read:~~

~~836. (a) A peace officer may arrest a person in obedience to a warrant, or, pursuant to the authority granted by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, without a warrant, may arrest a person whenever any of the following circumstances occur:~~

~~(1) The officer has probable cause to believe that the person to be arrested has committed a public offense in the officer's presence.~~

~~(2) The person arrested has committed a felony, although not in the officer's presence.~~

~~(3) The officer has probable cause to believe that the person to be arrested has committed a felony, whether or not a felony, in fact, has been committed.~~

~~(b) Any time a peace officer is called out on a domestic violence call, it shall be mandatory that the officer make a good faith effort to inform the victim of their right to make a citizen's arrest, unless the peace officer makes an arrest for a violation of paragraph (1) of subdivision (e) of Section 243 or of Section 273.5. This information shall include advising the victim how to safely execute the arrest.~~

~~(c) (1) When a peace officer is responding to a call alleging a violation of a domestic violence protective or restraining order issued under Section 527.6 of the Code of Civil Procedure, the Family Code, Section 136.2, 646.91, or paragraph (2) of subdivision (a) of Section 1203.097 of this code, Section 213.5 or 15657.03 of the Welfare and Institutions Code, or of a domestic violence protective or restraining order issued by the court of another state, tribe, or territory and the peace officer has probable cause to believe that the person against whom the order is issued has notice of the order and has committed an act in violation of the order, the officer shall, consistent with subdivision (b) of Section 13701, make a lawful arrest of the person without a warrant and take that person into custody whether or not the violation occurred in the presence of the arresting officer. The officer shall, as soon as possible after the arrest, confirm with the appropriate authorities or the Domestic Violence Protection Order Registry maintained pursuant to Section 6380 of the Family Code that a true copy of the protective order has been registered, unless the victim provides the officer with a copy of the protective order.~~

~~(2) The person against whom a protective order has been issued shall be deemed to have notice of the order if the victim presents to the officer proof of service of the order, the officer confirms with the appropriate authorities that a true copy of the proof of service is on file, or the person against whom the protective order was issued was present at the protective order hearing or was informed by a peace officer of the contents of the protective order.~~

~~(3) In situations where mutual protective orders have been issued under Division 10 (commencing with Section 6200) of the Family Code, liability for arrest under this subdivision applies only to those persons who are reasonably believed to have been the dominant aggressor. In those situations, prior to making an arrest under this subdivision, the peace officer shall make reasonable efforts to identify, and may arrest, the dominant aggressor involved~~

1 in the incident. The dominant aggressor is the person determined
2 to be the most significant, rather than the first, aggressor. In
3 identifying the dominant aggressor, an officer shall consider (A)
4 the intent of the law to protect victims of domestic violence from
5 continuing abuse, (B) the threats creating fear of physical injury,
6 (C) the history of domestic violence between the persons involved,
7 and (D) whether either person involved acted in self-defense.

8 (d) Notwithstanding paragraph (1) of subdivision (a), if a suspect
9 commits an assault or battery upon a current or former spouse,
10 fiancé, fiancée, a current or former cohabitant as defined in Section
11 6209 of the Family Code, a person with whom the suspect currently
12 is having or has previously had an engagement or dating
13 relationship, as defined in paragraph (10) of subdivision (f) of
14 Section 243, a person with whom the suspect has parented a child,
15 or is presumed to have parented a child pursuant to the Uniform
16 Parentage Act (Part 3 (commencing with Section 7600) of Division
17 12 of the Family Code), a child of the suspect, a child whose
18 parentage by the suspect is the subject of an action under the
19 Uniform Parentage Act, a child of a person in one of the above
20 categories, any other person related to the suspect by consanguinity
21 or affinity within the second degree, or any person who is 65 years
22 of age or older and who is related to the suspect by blood or legal
23 guardianship, a peace officer may arrest the suspect without a
24 warrant where both of the following circumstances apply:

25 (1) The peace officer has probable cause to believe that the
26 person to be arrested has committed the assault or battery, whether
27 or not it has in fact been committed.

28 (2) The peace officer makes the arrest as soon as probable cause
29 arises to believe that the person to be arrested has committed the
30 assault or battery, whether or not it has in fact been committed.

31 (e) In addition to the authority to make an arrest without a
32 warrant pursuant to paragraphs (1) and (3) of subdivision (a), a
33 peace officer may, without a warrant, arrest a person for a violation
34 of Section 25400 when all of the following apply:

35 (1) The officer has reasonable cause to believe that the person
36 to be arrested has committed the violation of Section 25400.

37 (2) The violation of Section 25400 occurred within an airport,
38 as defined in Section 21013 of the Public Utilities Code, in an area
39 to which access is controlled by the inspection of persons and
40 property.

~~(3) The peace officer makes the arrest as soon as reasonable cause arises to believe that the person to be arrested has committed the violation of Section 25400.~~

~~(f) If the proposed initiative measure titled “The Homelessness, Drug Addiction, and Theft Reduction Act” (Initiative 23-0017A1) is approved by the voters at the statewide general election on November 5, 2024, this section shall become operative on the fifth day after the Secretary of State files the statement of the vote for the election.~~

~~SEC. 7.~~

SEC. 3. Section 853.6 of the Penal Code, as amended by Section 1 of Chapter 856 of the Statutes of 2022, is amended to read:

853.6. (a) (1) When a person is arrested for an offense declared to be a misdemeanor, including a violation of a city or county ordinance, and does not demand to be taken before a magistrate, that person shall, instead of being taken before a magistrate, be released according to the procedures set forth by this chapter, although nothing prevents an officer from first booking an arrestee pursuant to subdivision (g). If the person is released, the officer or the officer’s superior shall prepare in duplicate a written notice to appear in court, containing the name and address of the person, the offense charged, and the time when, and place where, the person shall appear in court. If, pursuant to subdivision (i), the person is not released prior to being booked and the officer in charge of the booking or the officer’s superior determines that the person should be released, the officer or the officer’s superior shall prepare a written notice to appear in a court.

(2) When a person is arrested for a misdemeanor violation of a protective court order involving domestic violence, as defined in Section 13700, or arrested pursuant to a policy, as described in Section 13701, the person shall be taken before a magistrate instead of being released according to the procedures set forth in this chapter, unless the arresting officer determines that there is not a reasonable likelihood that the offense will continue or resume or that the safety of persons or property would be imminently endangered by release of the person arrested. Prior to adopting these provisions, each city, county, or city and county shall develop a protocol to assist officers to determine when arrest and release is appropriate, rather than taking the arrested person before a

1 magistrate. The county shall establish a committee to develop the
2 protocol, consisting of, at a minimum, the police chief or county
3 sheriff within the jurisdiction, the district attorney, county counsel,
4 city attorney, representatives from domestic violence shelters,
5 domestic violence councils, and other relevant community
6 agencies.

7 (3) This subdivision does not apply to the crimes specified in
8 Section 1270.1, including crimes defined in each of the following:

9 (A) Paragraph (1) of subdivision (e) of Section 243.

10 (B) Section 273.5.

11 (C) Section 273.6, if the detained person made threats to kill or
12 harm, has engaged in violence against, or has gone to the residence
13 or workplace of, the protected party.

14 (D) Section 646.9.

15 (4) This subdivision shall not affect a defendant's ability to be
16 released on bail or on their own recognizance, except as specified
17 in Section 1270.1.

18 (b) Unless waived by the person, the time specified in the notice
19 to appear shall be at least 10 days after arrest if the duplicate notice
20 is to be filed by the officer with the magistrate.

21 (c) The place specified in the notice shall be the court of the
22 magistrate before whom the person would be taken if the
23 requirement of taking an arrested person before a magistrate were
24 complied with, or shall be an officer authorized by that court to
25 receive a deposit of bail.

26 (d) The officer shall deliver one copy of the notice to appear to
27 the arrested person, and the arrested person, in order to secure
28 release, shall give their written promise to appear in court as
29 specified in the notice by signing the duplicate notice, which shall
30 be retained by the officer, and the officer may require the arrested
31 person, if the arrested person has no satisfactory identification, to
32 place a right thumbprint, or a left thumbprint or fingerprint if the
33 person has a missing or disfigured right thumb, on the notice to
34 appear. Except for law enforcement purposes relating to the identity
35 of the arrestee, a person or entity shall not sell, give away, allow
36 the distribution of, include in a database, or create a database with,
37 this print. Upon the signing of the duplicate notice, the arresting
38 officer shall immediately release the person arrested from custody.

39 (e) The officer shall, as soon as practicable, file the duplicate
40 notice, as follows:

1 (1) It shall be filed with the magistrate if the offense charged is
2 an infraction.

3 (2) It shall be filed with the magistrate if the prosecuting attorney
4 has previously directed the officer to do so.

5 (3) (A) The duplicate notice and underlying police reports in
6 support of the charge or charges shall be filed with the prosecuting
7 attorney in cases other than those specified in paragraphs (1) and
8 (2).

9 (B) If the duplicate notice is filed with the prosecuting attorney,
10 the prosecuting attorney, within their discretion, may initiate
11 prosecution by filing the notice or a formal complaint with the
12 magistrate specified in the duplicate notice within 25 days from
13 the time of arrest. If the prosecution is not to be initiated, the
14 prosecutor shall send notice to the person arrested at the address
15 on the notice to appear. The failure by the prosecutor to file the
16 notice or formal complaint within 25 days of the time of the arrest
17 shall not bar further prosecution of the misdemeanor charged in
18 the notice to appear. However, any further prosecution shall be
19 preceded by a new and separate citation or an arrest warrant.

20 (C) Upon the filing of the notice with the magistrate by the
21 officer, or the filing of the notice or formal complaint by the
22 prosecutor, the magistrate may fix the amount of bail that in the
23 magistrate's judgment, in accordance with Section 1275, is
24 reasonable and sufficient for the appearance of the defendant and
25 shall endorse upon the notice a statement signed by the magistrate
26 in the form set forth in Section 815a. The defendant may, prior to
27 the date upon which the defendant promised to appear in court,
28 deposit with the magistrate the amount of bail set by the magistrate.
29 At the time the case is called for arraignment before the magistrate,
30 if the defendant does not appear, either in person or by counsel,
31 the magistrate may declare the bail forfeited, and may, in the
32 magistrate's discretion, order that further proceedings shall not be
33 had in the case, unless the defendant has been charged with a
34 violation of Section 374.3 or 374.7 of this code or of Section
35 11357, 11360, or 13002 of the Health and Safety Code, or a
36 violation punishable under Section 5008.7 of the Public Resources
37 Code, and the defendant has previously been convicted of a
38 violation of that section or a violation that is punishable under that
39 section, except when the magistrate finds that undue hardship will
40 be imposed upon the defendant by requiring the defendant to

1 appear, the magistrate may declare the bail forfeited and order that
2 further proceedings not be had in the case.

3 (D) Upon the making of the order that further proceedings not
4 be had, all sums deposited as bail shall immediately be paid into
5 the county treasury for distribution pursuant to Section 1463.

6 (f) A warrant shall not be issued for the arrest of a person who
7 has given a written promise to appear in court, unless and until the
8 person has violated that promise or has failed to deposit bail, to
9 appear for arraignment, trial, or judgment, or to comply with the
10 terms and provisions of the judgment, as required by law.

11 (g) The officer may book the arrested person at the scene or at
12 the arresting agency prior to release or indicate on the citation that
13 the arrested person shall appear at the arresting agency to be booked
14 or indicate on the citation that the arrested person shall appear at
15 the arresting agency to be fingerprinted prior to the date the arrested
16 person appears in court. If it is indicated on the citation that the
17 arrested person shall be booked or fingerprinted prior to the date
18 of the person's court appearance, the arresting agency, at the time
19 of booking or fingerprinting, shall provide the arrested person with
20 verification of the booking or fingerprinting by making an entry
21 on the citation. If it is indicated on the citation that the arrested
22 person is to be booked or fingerprinted, the magistrate, judge, or
23 court shall, before the proceedings begin, order the defendant to
24 provide verification that the defendant was booked or fingerprinted
25 by the arresting agency. If the defendant cannot produce the
26 verification, the magistrate, judge, or court shall require that the
27 defendant be booked or fingerprinted by the arresting agency before
28 the next court appearance, and that the defendant provide the
29 verification at the next court appearance unless both parties
30 stipulate that booking or fingerprinting is not necessary.

31 (h) A peace officer shall use the written notice to appear
32 procedure set forth in this section for any misdemeanor offense in
33 which the officer has arrested a person without a warrant pursuant
34 to Section 836 or in which the officer has taken custody of a person
35 pursuant to Section 847.

36 (i) When a person is arrested by a peace officer for a
37 misdemeanor, that person shall be released according to the
38 procedures set forth in this chapter unless one of the following is
39 a reason for nonrelease, in which case the arresting officer may
40 release the person, except as provided in subdivision (a), or the

1 arresting officer shall indicate, on a form to be established by the
2 officer's employing law enforcement agency, which of the
3 following was a reason for the nonrelease:

4 (1) The person arrested was so intoxicated that they could have
5 been a danger to themselves or to others.

6 (2) The person arrested required medical examination or medical
7 care or was otherwise unable to care for their own safety.

8 (3) The person was arrested under one or more of the
9 circumstances listed in Sections 40302 and 40303 of the Vehicle
10 Code.

11 (4) There were one or more outstanding arrest warrants for the
12 person.

13 (5) The person could not provide satisfactory evidence of
14 personal identification.

15 (6) The prosecution of the offense or offenses for which the
16 person was arrested, or the prosecution of any other offense or
17 offenses, would be jeopardized by immediate release of the person
18 arrested.

19 (7) There was a reasonable likelihood that the offense or offenses
20 would continue or resume, or that the safety of persons or property
21 would be imminently endangered by release of the person arrested.

22 (8) The person arrested demanded to be taken before a
23 magistrate or refused to sign the notice to appear.

24 (9) There is reason to believe that the person would not appear
25 at the time and place specified in the notice. The basis for this
26 determination shall be specifically stated.

27 (10) (A) The person was subject to Section 1270.1.

28 (B) The form shall be filed with the arresting agency as soon
29 as practicable and shall be made available to any party having
30 custody of the arrested person, subsequent to the arresting officer,
31 and to any person authorized by law to release the arrested person
32 from custody before trial.

33 (11) The person has been cited, arrested, or convicted for
34 misdemeanor or felony theft from a store in the previous six
35 months.

36 (12) There is probable cause to believe that the person arrested
37 is guilty of committing organized retail theft, as defined in
38 subdivision (a) of Section 490.4.

39 (j) (1) Once the arresting officer has prepared the written notice
40 to appear and has delivered a copy to the person arrested, the officer

1 shall deliver the remaining original and all copies as provided by
2 subdivision (e).

3 (2) Any person, including the arresting officer and any member
4 of the officer's department or agency, or any peace officer, who
5 alters, conceals, modifies, nullifies, or destroys, or causes to be
6 altered, concealed, modified, nullified, or destroyed, the face side
7 of the remaining original or a copy of a citation that was retained
8 by the officer, for any reason, before it is filed with the magistrate
9 or with a person authorized by the magistrate to receive deposit
10 of bail, is guilty of a misdemeanor.

11 (3) If, after an arrested person has signed and received a copy
12 of a notice to appear, the arresting officer determines that, in the
13 interest of justice, the citation or notice should be dismissed, the
14 arresting agency may recommend, in writing, to the magistrate
15 that the charges be dismissed. The recommendation shall cite the
16 reasons for the recommendation and shall be filed with the court.

17 (4) If the magistrate makes a finding that there are grounds for
18 dismissal, the finding shall be entered in the record and the charges
19 dismissed.

20 (5) A personal relationship with any officer, public official, or
21 law enforcement agency shall not be grounds for dismissal.

22 (k) (1) A person contesting a charge by claiming under penalty
23 of perjury not to be the person issued the notice to appear may
24 choose to submit a right thumbprint, or a left thumbprint if the
25 person has a missing or disfigured right thumb, to the issuing court
26 through the person's local law enforcement agency for comparison
27 with the one placed on the notice to appear. A local law
28 enforcement agency providing this service may charge the requester
29 no more than the actual costs. The issuing court may refer the
30 thumbprint submitted and the notice to appear to the prosecuting
31 attorney for comparison of the thumbprints. When there is no
32 thumbprint or fingerprint on the notice to appear, or when the
33 comparison of thumbprints is inconclusive, the court shall refer
34 the notice to appear or copy thereof back to the issuing agency for
35 further investigation, unless the court finds that referral is not in
36 the interest of justice.

37 (2) Upon initiation of the investigation or comparison process
38 by referral of the court, the court shall continue the case and the
39 speedy trial period shall be tolled for 45 days.

(3) Upon receipt of the issuing agency's or prosecuting attorney's response, the court may make a finding of factual innocence pursuant to Section 530.6 if the court determines that there is insufficient evidence that the person cited is the person charged and shall immediately notify the Department of Motor Vehicles of its determination. If the Department of Motor Vehicles determines the citation or citations in question formed the basis of a suspension or revocation of the person's driving privilege, the department shall immediately set aside the action.

(4) If the prosecuting attorney or issuing agency fails to respond to a court referral within 45 days, the court shall make a finding of factual innocence pursuant to Section 530.6, unless the court finds that a finding of factual innocence is not in the interest of justice.

(5) The citation or notice to appear may be held by the prosecuting attorney or issuing agency for future adjudication should the arrestee who received the citation or notice to appear be found.

(l) For purposes of this section, the term "arresting agency" includes any other agency designated by the arresting agency to provide booking or fingerprinting services.

~~(m) (1) If the proposed initiative measure titled "The Homelessness, Drug Addiction, and Theft Reduction Act" (Initiative 23-0017A1) is approved by the voters at the statewide general election on November 5, 2024, this section shall become inoperative on January 1, 2026, and as of that date is repealed.~~

~~(2) If the proposed initiative measure titled "The Homelessness, Drug Addiction, and Theft Reduction Act" (Initiative 23-0017A1) is not approved by the voters at the statewide general election on November 5, 2024, this section shall become inoperative on January 1, 2031, and as of that date is repealed.~~

~~(m) This section shall remain in effect only until January 1, 2031, and as of that date is repealed.~~

~~SEC. 8.~~

SEC. 4. Section 853.6 of the Penal Code, as added by Section 2 of Chapter 856 of the Statutes of 2022, is amended to read:

853.6. (a) (1) When a person is arrested for an offense declared to be a misdemeanor, including a violation of a city or county ordinance, and does not demand to be taken before a magistrate, that person shall, instead of being taken before a magistrate, be

released according to the procedures set forth by this chapter, however an officer may first book an arrestee pursuant to subdivision (g). If the person is released, the officer or the officer's superior shall prepare, in duplicate, a written notice to appear in court, containing the name and address of the person, the offense charged, and the time when, and place where, the person shall appear in court. If, pursuant to subdivision (i), the person is not released prior to being booked and the officer in charge of the booking or the officer's superior determines that the person should be released, the officer or the officer's superior shall prepare a written notice to appear in a court.

(2) When a person is arrested for a misdemeanor violation of a protective court order involving domestic violence, as defined in subdivision (b) of Section 13700, or arrested pursuant to a policy described in Section 13701, the person shall be taken before a magistrate instead of being released according to the procedures set forth in this chapter, unless the arresting officer determines that there is not a reasonable likelihood that the offense will continue or resume or that the safety of persons or property would be imminently endangered by release of the person arrested. Prior to adopting these provisions, each city, county, or city and county shall develop a protocol to assist officers to determine when arrest and release is appropriate, rather than taking the arrested person before a magistrate. The county shall establish a committee to develop the protocol, consisting of, at a minimum, the police chief or county sheriff within the jurisdiction, the district attorney, county counsel, city attorney, representatives from domestic violence shelters, domestic violence councils, and other relevant community agencies.

(3) This subdivision shall not apply to the crimes specified in Section 1270.1, including crimes defined in each of the following:

- (A) Paragraph (1) of subdivision (e) of Section 243.
- (B) Section 273.5.
- (C) Section 273.6, if the detained person made threats to kill or harm, has engaged in violence against, or has gone to the residence or workplace of, the protected party.
- (D) Section 646.9.

(4) This subdivision does not affect a defendant's ability to be released on bail or on their own recognizance, except as specified in Section 1270.1.

1 (b) Unless waived by the person, the time specified in the notice
2 to appear shall be at least 10 days after arrest if the duplicate notice
3 is to be filed by the officer with the magistrate.

4 (c) The place specified in the notice shall be the court of the
5 magistrate before whom the person would be taken if the
6 requirement of taking an arrested person before a magistrate were
7 complied with, or shall be an officer authorized by that court to
8 receive a deposit of bail.

9 (d) The officer shall deliver one copy of the notice to appear to
10 the arrested person, and the arrested person, in order to secure
11 release, shall give their written promise to appear in court as
12 specified in the notice by signing the duplicate notice, which shall
13 be retained by the officer. The officer may require the arrested
14 person, if the arrested person has no satisfactory identification, to
15 place a right thumbprint, or a left thumbprint or fingerprint if the
16 person has a missing or disfigured right thumb, on the notice to
17 appear. Except for law enforcement purposes relating to the identity
18 of the arrestee, a person or entity may not sell, give away, allow
19 the distribution of, include in a database, or create a database with,
20 this print. Upon the person signing the duplicate notice, the
21 arresting officer shall immediately release the person arrested from
22 custody.

23 (e) The officer shall, as soon as practicable, file the duplicate
24 notice, as follows:

25 (1) It shall be filed with the magistrate if the offense charged is
26 an infraction.

27 (2) It shall be filed with the magistrate if the prosecuting attorney
28 has previously directed the officer to do so.

29 (3) (A) The duplicate notice and underlying police reports in
30 support of the charge or charges shall be filed with the prosecuting
31 attorney in cases other than those specified in paragraphs (1) and
32 (2).

33 (B) If the duplicate notice is filed with the prosecuting attorney,
34 the prosecuting attorney, within their discretion, may initiate
35 prosecution by filing the notice or a formal complaint with the
36 magistrate specified in the duplicate notice within 25 days from
37 the time of arrest. If the prosecution is not to be initiated, the
38 prosecutor shall send notice to the person arrested at the address
39 on the notice to appear. The failure by the prosecutor to file the
40 notice or formal complaint within 25 days of the time of the arrest

1 shall not bar further prosecution of the misdemeanor charged in
2 the notice to appear. However, any further prosecution shall be
3 preceded by a new and separate citation or an arrest warrant.

4 (C) Upon the filing of the notice with the magistrate by the
5 officer, or the filing of the notice or formal complaint by the
6 prosecutor, the magistrate may fix the amount of bail that in the
7 magistrate's judgment, in accordance with Section 1275, is
8 reasonable and sufficient for the appearance of the defendant and
9 shall endorse upon the notice a statement signed by the magistrate
10 in the form set forth in Section 815a. The defendant may, prior to
11 the date upon which the defendant promised to appear in court,
12 deposit with the magistrate the amount of bail set by the magistrate.
13 When the case is called for arraignment before the magistrate, if
14 the defendant does not appear, either in person or by counsel, the
15 magistrate may declare the bail forfeited, and may, in the
16 magistrate's discretion, order that no further proceedings shall be
17 had in the case, unless the defendant has been charged with a
18 violation of Section 374.3 or 374.7 of this code or of Section
19 11357, 11360, or 13002 of the Health and Safety Code, or a
20 violation punishable under Section 5008.7 of the Public Resources
21 Code, and the defendant has previously been convicted of a
22 violation of that section or a violation that is punishable under that
23 section, except in cases where the magistrate finds that undue
24 hardship will be imposed upon the defendant by requiring the
25 defendant to appear, the magistrate may declare the bail forfeited
26 and order that no further proceedings be had in the case.

27 (D) Upon the making of the order that no further proceedings
28 be had, all sums deposited as bail shall immediately be paid into
29 the county treasury for distribution pursuant to Section 1463.

30 (f) A warrant shall not be issued for the arrest of a person who
31 has given a written promise to appear in court, unless and until the
32 person has violated that promise or has failed to deposit bail, to
33 appear for arraignment, trial, or judgment or to comply with the
34 terms and provisions of the judgment, as required by law.

35 (g) The officer may book the arrested person at the scene or at
36 the arresting agency prior to release or indicate on the citation that
37 the arrested person shall appear at the arresting agency to be booked
38 or indicate on the citation that the arrested person shall appear at
39 the arresting agency to be fingerprinted prior to the date the arrested
40 person appears in court. If it is indicated on the citation that the

1 arrested person shall be booked or fingerprinted prior to the date
2 of the person's court appearance, the arresting agency, at the time
3 of booking or fingerprinting, shall provide the arrested person with
4 verification of the booking or fingerprinting by making an entry
5 on the citation. If it is indicated on the citation that the arrested
6 person is to be booked or fingerprinted, the magistrate, judge, or
7 court shall, before the proceedings begin, order the defendant to
8 provide verification that the defendant was booked or fingerprinted
9 by the arresting agency. If the defendant cannot produce the
10 verification, the magistrate, judge, or court shall require that the
11 defendant be booked or fingerprinted by the arresting agency before
12 the next court appearance, and that the defendant provide the
13 verification at the next court appearance unless both parties
14 stipulate that booking or fingerprinting is not necessary.

15 (h) A peace officer shall use the written notice to appear
16 procedure set forth in this section for any misdemeanor offense in
17 which the officer has arrested a person without a warrant pursuant
18 to Section 836 or in which the officer has taken custody of a person
19 pursuant to Section 847.

20 (i) When a person is arrested by a peace officer for a
21 misdemeanor, that person shall be released according to the
22 procedures set forth by this chapter unless one of the following is
23 a reason for nonrelease, in which case the arresting officer may
24 release the person, except as provided in subdivision (a), or the
25 arresting officer shall indicate, on a form to be established by the
26 officer's employing law enforcement agency, which of the
27 following was a reason for the nonrelease:

28 (1) The person arrested was so intoxicated that they could have
29 been a danger to themselves or to others.

30 (2) The person arrested required medical examination or medical
31 care or was otherwise unable to care for their own safety.

32 (3) The person was arrested under one or more of the
33 circumstances listed in Sections 40302 and 40303 of the Vehicle
34 Code.

35 (4) There were one or more outstanding arrest warrants for the
36 person.

37 (5) The person could not provide satisfactory evidence of
38 personal identification.

39 (6) The prosecution of the offense or offenses for which the
40 person was arrested, or the prosecution of any other offense or

1 offenses, would be jeopardized by immediate release of the person
2 arrested.

3 (7) There was a reasonable likelihood that the offense or offenses
4 would continue or resume, or that the safety of persons or property
5 would be imminently endangered by release of the person arrested.

6 (8) The person arrested demanded to be taken before a
7 magistrate or refused to sign the notice to appear.

8 (9) There is reason to believe that the person would not appear
9 at the time and place specified in the notice. The basis for this
10 determination shall be specifically stated.

11 (10) (A) The person was subject to Section 1270.1.

12 (B) The form shall be filed with the arresting agency as soon
13 as practicable and shall be made available to any party having
14 custody of the arrested person, subsequent to the arresting officer,
15 and to any person authorized by law to release the arrested person
16 from custody before trial.

17 (j) (1) Once the arresting officer has prepared the written notice
18 to appear and has delivered a copy to the person arrested, the officer
19 shall deliver the remaining original and all copies as provided by
20 subdivision (e).

21 (2) A person, including the arresting officer and any member
22 of the officer's department or agency, or any peace officer, who
23 alters, conceals, modifies, nullifies, or destroys, or causes to be
24 altered, concealed, modified, nullified, or destroyed, the face side
25 of the remaining original or any copy of a citation that was retained
26 by the officer, for any reason, before it is filed with the magistrate
27 or with a person authorized by the magistrate to receive deposit
28 of bail, is guilty of a misdemeanor.

29 (3) If, after an arrested person has signed and received a copy
30 of a notice to appear, the arresting officer determines that, in the
31 interest of justice, the citation or notice should be dismissed, the
32 arresting agency may recommend, in writing, to the magistrate
33 that the charges be dismissed. The recommendation shall cite the
34 reasons for the recommendation and shall be filed with the court.

35 (4) If the magistrate makes a finding that there are grounds for
36 dismissal, the finding shall be entered in the record and the charges
37 dismissed.

38 (5) A personal relationship with any officer, public official, or
39 law enforcement agency shall not be grounds for dismissal.

(k) (1) A person contesting a charge by claiming under penalty of perjury not to be the person issued the notice to appear may choose to submit a right thumbprint, or a left thumbprint if the person has a missing or disfigured right thumb, to the issuing court through the person's local law enforcement agency for comparison with the one placed on the notice to appear. A local law enforcement agency providing this service may charge the requester no more than the actual costs. The issuing court may refer the thumbprint submitted and the notice to appear to the prosecuting attorney for comparison of the thumbprints. When there is no thumbprint or fingerprint on the notice to appear, or when the comparison of thumbprints is inconclusive, the court shall refer the notice to appear, or a copy thereof, back to the issuing agency for further investigation, unless the court finds that referral is not in the interest of justice.

(2) Upon initiation of the investigation or comparison process by referral of the court, the court shall continue the case and the speedy trial period shall be tolled for 45 days.

(3) Upon receipt of the issuing agency's or prosecuting attorney's response, the court may make a finding of factual innocence pursuant to Section 530.6 if the court determines that there is insufficient evidence that the person cited is the person charged and shall immediately notify the Department of Motor Vehicles of its determination. If the Department of Motor Vehicles determines the citation or citations in question formed the basis of a suspension or revocation of the person's driving privilege, the department shall immediately set aside the action.

(4) If the prosecuting attorney or issuing agency fails to respond to a court referral within 45 days, the court shall make a finding of factual innocence pursuant to Section 530.6, unless the court finds that a finding of factual innocence is not in the interest of justice.

(5) The citation or notice to appear may be held by the prosecuting attorney or issuing agency for future adjudication should the arrestee who received the citation or notice to appear be found.

(l) For purposes of this section, the term "arresting agency" includes any other agency designated by the arresting agency to provide booking or fingerprinting services.

~~(m) (1) If the proposed initiative measure titled “The Homelessness, Drug Addiction, and Theft Reduction Act” (Initiative 23-0017A1) is approved by the voters at the statewide general election on November 5, 2024, this section shall become operative on January 1, 2026.~~

~~(2) If the proposed initiative measure titled “The Homelessness, Drug Addiction, and Theft Reduction Act” (Initiative 23-0017A1) is not approved by the voters at the statewide general election on November 5, 2024, this section shall become operative on January 1, 2031.~~

(m) This section shall become operative on January 1, 2031.

~~SEC. 9. Section 1001.82 of the Penal Code is repealed.~~

~~SEC. 10. Section 1001.82 is added to the Penal Code, to read:~~

~~1001.82. (a) If the proposed initiative measure titled “The Homelessness, Drug Addiction, and Theft Reduction Act” (Initiative 23-0017A1) is approved by the voters at the statewide general election on November 5, 2024, this chapter shall become inoperative on January 1, 2026, and as of that date is repealed.~~

~~(b) If the proposed initiative measure titled “The Homelessness, Drug Addiction, and Theft Reduction Act” (Initiative 23-0017A1) is not approved by the voters at the statewide general election on November 5, 2024, this chapter shall become inoperative on January 1, 2031, and as of that date is repealed.~~

SEC. 5. Section 1001.82 of the Penal Code is amended to read:

1001.82. This chapter shall remain in effect only until January 1, 2026, 2031, and as of that date is repealed.

~~SEC. 11.~~

SEC. 6. Section 1203g is added to the Penal Code, to read:

1203g. (a) Notwithstanding Section 1203a, for a violation of shoplifting, as defined in Section 459.5, or petty theft, as described in Section 488 or 490.2, the court may suspend the imposition or execution of the sentence and make and enforce the terms of probation for a period not to exceed two years.

(b) If a court imposes a term of probation that exceeds the maximum period of time specified in subdivision (a) of Section 1203a, the court, as a condition of probation, shall consider referring the defendant to a collaborative court or rehabilitation program that is relevant to the underlying factor or factors that led to the commission of the offense. If the defendant who is referred to a rehabilitative program is under 25 years of age, the court shall,

1 to the extent such a program is available, refer the defendant to a
2 program modeled on healing-centered, restorative,
3 trauma-informed, and positive youth development approaches and
4 that is provided in collaboration with community-based
5 organizations. If the court finds that referral to a collaborative court
6 or rehabilitation program is not an appropriate condition of
7 probation, it must state the reasons for its finding on the record.

8 (c) Upon successful completion of the rehabilitation program,
9 as determined by the program provider, or successful participation
10 in the collaborative court, as determined by the collaborative court,
11 the court shall discharge the defendant from probation.

12 (d) Participation in a collaborative court or a rehabilitation
13 program by the defendant shall not exceed the maximum period
14 of time of probation specified in subdivision (a), except with the
15 consent of the defendant.

16 ~~(e) If the proposed initiative measure titled “The Homelessness,~~
17 ~~Drug Addiction, and Theft Reduction Act” (Initiative 23-0017A1)~~
18 ~~is approved by the voters at the statewide general election on~~
19 ~~November 5, 2024, this section shall become inoperative on the~~
20 ~~fifth day after the Secretary of State files the statement of the vote~~
21 ~~for the election, and shall be repealed on January 1, 2025.~~

22 SEC. 12. ~~No reimbursement is required by this act pursuant to~~
23 ~~Section 6 of Article XIII B of the California Constitution for certain~~
24 ~~costs that may be incurred by a local agency or school district~~
25 ~~because, in that regard, this act creates a new crime or infraction,~~
26 ~~eliminates a crime or infraction, or changes the penalty for a crime~~
27 ~~or infraction, within the meaning of Section 17556 of the~~
28 ~~Government Code, or changes the definition of a crime within the~~
29 ~~meaning of Section 6 of Article XIII B of the California~~
30 ~~Constitution.~~

31 ~~However, if the Commission on State Mandates determines that~~
32 ~~this act contains other costs mandated by the state, reimbursement~~
33 ~~to local agencies and school districts for those costs shall be made~~
34 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
35 ~~4 of Title 2 of the Government Code.~~

36 SEC. 13. ~~Section 2.5 of this bill incorporates amendments to~~
37 ~~Section 487 of the Penal Code proposed by this bill and Assembly~~
38 ~~Bill 1794. That section of this bill shall only become operative if~~
39 ~~(1) both bills are enacted and become effective on or before January~~
40 ~~1, 2025, (2) each bill amends Section 487 of the Penal Code, and~~

1 ~~(3) this bill is enacted after Assembly Bill 1794, in which case~~
2 ~~Section 487 of the Penal Code, as amended by Assembly Bill 1794,~~
3 ~~shall remain operative only until the operative date of this bill, at~~
4 ~~which time Section 2.5 of this bill shall become operative, and~~
5 ~~Sections 2 and 3 of this bill shall not become operative.~~

6 ~~SEC. 14. This act is an urgency statute necessary for the~~
7 ~~immediate preservation of the public peace, health, or safety within~~
8 ~~the meaning of Article IV of the California Constitution and shall~~
9 ~~go into immediate effect. The facts constituting the necessity are:~~

10 ~~To address the increase in community-based crime and retail~~
11 ~~theft and to provide broader public safety, it is necessary that this~~
12 ~~act take effect immediately.~~

13 *SEC. 7. If the Commission on State Mandates determines that*
14 *this act contains costs mandated by the state, reimbursement to*
15 *local agencies and school districts for those costs shall be made*
16 *pursuant to Part 7 (commencing with Section 17500) of Division*
17 *4 of Title 2 of the Government Code.*