

AMENDED IN SENATE MAY 21, 2019

AMENDED IN SENATE MARCH 27, 2019

SENATE BILL

No. 144

Introduced by Senators Mitchell and Hertzberg
(Coauthor: Senator Skinner)

January 18, 2019

An act to amend Sections 7158, 7159.5, 7159.14, 7161, 9807, 9848, and 9882.14 of the Business and Professions Code, to amend Sections ~~6157, 27706, 27707, 27750, 27752, 27756, 27757, 29550, 29551, 50050, 68085, 68085.1, 68085.5, 68085.7, 68085.8, 71380, 71386, 76000.10, 76223, 77009, 77203, and 77205~~ and 76223 of, to add Section 6111 to, *and* to repeal Sections 22712, 27753, 29550.1, 29550.2, and 29550.3 of, ~~and to repeal and add Section 68635 of the Government Code, to amend Section 11374.5 of, to add Section 11470.5 to, and to repeal Section 11470.2 of, the Health and Safety Code, to amend Sections 273a, 273d, 273.1, 273.6, 290.06, 295, 597.3, 670, 987, 987.2, 1000.3, 1001.90, 1202.4, 1202.42, 1203, 1203.016, 1203.018, 1203.066, 1203.067, 1203.097, 1203.1, 1203.1a, 1203.1ab, 1203.1d, 1203.1i, 1203.4, 1203.4a, 1203.41, 1203.42, 1203.45, 1203.9, 1205, 1208, 1208.2, 1208.3, 1210.1, 1211, 1462.5, 1463, 1463.007, 1463.010, 1463.011, 1463.012, 1463.14, 1464.8, 2085.5, 2085.6, 2085.7, 3000.07, 4011.1, 4018.6, 4024.2, and 5008.2~~ *and* 4024.2 of, to add Section 1465.9 to, *and* to repeal Sections 987.4, 987.5, 987.8, 987.81, 1001.15, 1001.16, 1203.1b, 1203.1bb, 1203.1c, 1203.1e, ~~1203.1h, 1203.1m, 1209, 1210.15, 1214.1, 1214.5, 1463.07, 3010.8, 4011.2, 5007.5, and 6266~~ of, the Penal Code, to amend Sections ~~11208, 13386, 21212, 23573, 23575.3, 40509, 40510.5, 40512, 42003, 42007, 42007.1, 42007.3, 42007.4, 42008.5, 42008.7, and 42008.8~~ *and* 42008.7 of, to add Section 44237 to, *and* to repeal Sections ~~40508.5, 40508.6, and 40611, Section 40508.5~~ of, the

Vehicle Code, and to amend Sections 903.45 and 904 of, and to repeal Section 903.3 of, the Welfare and Institutions Code, relating to fees.

LEGISLATIVE COUNSEL'S DIGEST

SB 144, as amended, Mitchell. Criminal fees.

(1) Existing law imposes various fees contingent upon a criminal arrest, prosecution, or conviction for the cost of administering the criminal justice system, including administering probation and diversion programs, collecting restitution orders, processing arrests and citations, administering drug testing, ~~incarcerating inmates, facilitating medical visits, and sealing or expunging criminal records.~~ *and incarcerating inmates.*

This bill would repeal the authority to collect *most of* these fees, among others. The bill would make the unpaid balance of ~~any~~ *most* court-imposed costs unenforceable and uncollectible and would require any portion of a judgment imposing those costs to be vacated. ~~The bill would also prohibit the imposition of trial court filing fees or costs related to the persons underlying criminal conviction.~~

(2) Existing law allows the board of supervisors of any county to establish the office of the public defender and requires the public defender to defend, without expense to the defendant, any person who is not financially able to employ counsel and who is charged with the commission of a crime. Existing law allows the court to hold a hearing to determine whether a defendant owns an interest in real property or other assets and to impose a lien on the property. Upon conclusion of trial, existing law allows the court to make a determination of a defendant's present ability to pay all or a portion of the cost of the public defender. If the court finds that the defendant has the financial ability to pay, existing law requires the court to order the defendant to pay all or a part of the costs the court believes reasonable and compatible with the defendant's financial ability.

This bill would delete the authority of the court to impose liens on the defendant's property and make a post-trial determination of the defendant's ability to pay and to order the defendant to pay the costs of the public defender. By requiring a county to provide a public defender without charge to a defendant who may have the ability to pay, this bill would impose a state-mandated local program.

~~(3) Existing law, as added by the Substance Abuse and Crime Prevention Act of 2000, adopted by voters as Proposition 36 at the~~

~~November 7, 2000, statewide general election, requires that persons convicted of certain nonviolent drug possession offenses be granted probation and be placed in an appropriate drug treatment program. The act allows the trial judge to require a person convicted of a nonviolent drug possession offense to contribute to the cost of their placement in a drug treatment program. The act allows its amendment by a statute passed by $\frac{2}{3}$ of both houses of the Legislature and requires that all amendments further the act and be consistent with its purposes.~~

~~This bill would amend the act by deleting the authority of the court to require a person convicted of a nonviolent drug possession offense to contribute to the cost of their placement in a drug treatment program.~~

~~(4)~~

~~(3) Existing law allows the court to impose a civil assessment of up to \$300 against a defendant who fails, after notice and without good cause, to appear in court or who fails to pay all or any portion of a fine ordered by the court.~~

~~This bill would repeal the authority of the court to impose that assessment.~~

~~(5) Existing law, the Sexual Predator Punishment and Control Act: Jessica's Law, adopted by voters as Proposition 83 at the November 7, 2006, statewide general election, requires every person paroled after being committed to prison for a registerable sex offense to be monitored by a global positioning system for the term of their parole. The act requires the inmate to pay for the costs associated with the monitoring by a global positioning system unless the Department of Corrections and Rehabilitation finds the inmate has an inability to pay. The act allows its amendment by a statute passed by $\frac{2}{3}$ of both houses of the Legislature.~~

~~This bill would amend the act by deleting the requirement that a parolee pay for the costs associated with being monitored by a global positioning system.~~

~~(6)~~

~~(4) Existing law requires a person who has been convicted of driving a motor vehicle under the influence of an alcoholic beverage or drug to install an ignition interlock device on the vehicle that person operates. Existing law requires a manufacturer certified to provide ignition interlock devices to adopt a fee schedule for the payment of costs of the device in an amount commensurate with a defendant's ability to pay. Existing law requires that a person subject to this requirement pay a percentage of the cost of the ignition interlock device program, up to~~

the full cost, based on the person's ~~income and to pay a fee to the Department of Motor Vehicles to cover the costs of administering the program.~~ *income.*

~~This bill would delete the requirement that the person pay the costs of the ignition interlock device program and the requirement that the person pay the fee to the department.~~

This bill would prohibit the person from being responsible for the costs of the certified ignition interlock device or servicing by the installer of the device.

(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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Approximately 80 percent of Californians in jail are indigent
- 4 and too many enter the criminal justice system due to the
- 5 criminalization of their poverty.
- 6 (b) Incarcerated people are disproportionately Black or Latinx
- 7 because these populations are overpoliced, have higher rates of
- 8 convictions following an arrest, and have the highest rates of
- 9 poverty. In fact, while Black Californians represent only 7 percent
- 10 of the state population, they make up 23 percent of the Californians
- 11 on probation and are also grossly overrepresented in felony and
- 12 misdemeanor arrests.
- 13 (c) People exiting jail or prison face higher rates of
- 14 unemployment and homelessness, due in part to racial
- 15 discrimination and the impact of their criminal conviction.
- 16 (d) The inability to meet basic needs has been found to
- 17 contribute to higher rates of recidivism and is a barrier to family
- 18 reunification.

1 (e) According to a report by the Ella Baker Center for Human
2 Rights, the average debt incurred for court-ordered fines and fees
3 was roughly equal to the annual income for respondents in the
4 survey.

5 (f) A national survey of formerly incarcerated people found that
6 families often bear the burden of fees, and that 83 percent of the
7 people responsible for paying these costs are women.

8 (g) Because these fees are often assigned to people who simply
9 cannot afford to pay them, they make poor people, their families,
10 and their communities poorer.

11 (h) Criminal justice fees have no formal punitive or public safety
12 function. Instead, they undermine public safety because the debt
13 they cause can limit access to employment, housing, education,
14 and public benefits, which creates additional barriers to successful
15 reentry. Research also shows that criminal justice fees can push
16 individuals into underground economies and can result in
17 individuals turning to criminal activity or predatory lending to pay
18 their debts.

19 (i) Research shows that criminal justice fees are difficult to
20 collect and typically cost counties almost as much or more than
21 they end up collecting in revenue.

22 (j) The use of criminal justice fees has been argued by some to
23 be unconstitutional. On February 20, 2019, the United States
24 Supreme Court ruled unanimously in *Timbs v. Indiana* that the
25 Eighth Amendment's Excessive Fines Clause is an incorporated
26 protection applicable to the states and "protects people against
27 abuses of government's punitive or criminal-law-enforcement
28 authority." Justice Ginsburg wrote in her decision that the
29 constitutional protection against excessive fines is "~~fundamental~~
30 *fundamental* to our scheme of ordered liberty with deep roots in
31 our history and tradition."

32 SEC. 2. It is the intent of the Legislature to eliminate the range
33 of administrative fees that agencies and courts are authorized to
34 impose to fund elements of the criminal legal system and to
35 eliminate all outstanding debt incurred as a result of the imposition
36 of administrative fees.

37 SEC. 3. Section 7158 of the Business and Professions Code is
38 amended to read:

39 7158. (a) Any person who shall accept or receive a completion
40 certificate or other evidence that performance of a contract for a

1 work of improvement, ~~including~~ *including*, but not limited to, ~~to~~,
2 a home improvement, is complete or satisfactorily concluded, with
3 knowledge that the document is false and that the performance is
4 not substantially completed, and who shall utter, offer, or use the
5 document in connection with the making or accepting of any
6 assignment or negotiation of the right to receive any payment from
7 the owner, under or in connection with a contract, or for the
8 purpose of obtaining or granting any credit or loan on the security
9 of the right to receive any payment shall be guilty of a
10 misdemeanor and subject to a fine of not less than five hundred
11 dollars (\$500) nor more than five thousand dollars (\$5,000), or to
12 imprisonment in the county jail for a term of not less than one
13 month nor more than one year, or both.

14 (b) Any person who violates this section as part of a plan or
15 scheme to defraud an owner of a residential or nonresidential
16 structure, including a mobilehome or manufactured home, in
17 connection with the offer or performance of repairs to the structure
18 for damage caused by a natural disaster, shall be ordered by the
19 court to make full restitution to the victim based on the person's
20 ability to pay, as defined in paragraph (2) of subdivision (b) of
21 Section 27755 of the Government Code. In addition to full
22 restitution, and imprisonment authorized by subdivision (a), the
23 court may impose a fine of not less than five hundred dollars (\$500)
24 nor more than twenty-five thousand dollars (\$25,000), based upon
25 the defendant's ability to pay. This subdivision applies to natural
26 disasters for which a state of emergency is proclaimed by the
27 Governor pursuant to Section 8625 of the Government Code or
28 for which an emergency or major disaster is declared by the
29 President of the United States.

30 SEC. 4. Section 7159.5 of the Business and Professions Code
31 is amended to read:

32 7159.5. This section applies to all home improvement contracts,
33 as defined in Section 7151.2, between an owner or tenant and a
34 contractor, whether a general contractor or a specialty contractor,
35 that is licensed or subject to be licensed pursuant to this chapter
36 with regard to the transaction.

37 (a) Failure by the licensee or a person subject to be licensed
38 under this chapter, or by their agent or salesperson, to comply with
39 the following provisions is cause for discipline:

1 (1) The contract shall be in writing and shall include the agreed
2 contract amount in dollars and cents. The contract amount shall
3 include the entire cost of the contract, including profit, labor, and
4 materials, but excluding finance charges.

5 (2) If there is a separate finance charge between the contractor
6 and the person contracting for home improvement, the finance
7 charge shall be set out separately from the contract amount.

8 (3) If a downpayment will be charged, the downpayment shall
9 not exceed one thousand dollars (\$1,000) or 10 percent of the
10 contract amount, whichever amount is less.

11 (4) If, in addition to a downpayment, the contract provides for
12 payments to be made prior to completion of the work, the contract
13 shall include a schedule of payments in dollars and cents
14 specifically referencing the amount of work or services to be
15 performed and any materials and equipment to be supplied.

16 (5) Except for a downpayment, the contractor shall neither
17 request nor accept payment that exceeds the value of the work
18 performed or material delivered.

19 (6) Upon any payment by the person contracting for home
20 improvement, and prior to any further payment being made, the
21 contractor shall, if requested, obtain and furnish to the person a
22 full and unconditional release from any potential lien claimant
23 claim or mechanics lien authorized pursuant to Sections 8400 and
24 8404 of the Civil Code for any portion of the work for which
25 payment has been made. The person contracting for home
26 improvement may withhold all further payments until these releases
27 are furnished.

28 (7) If the contract provides for a payment of a salesperson's
29 commission out of the contract price, that payment shall be made
30 on a pro rata basis in proportion to the schedule of payments made
31 to the contractor by the disbursing party in accordance with
32 paragraph (4).

33 (8) A contractor furnishing a performance and payment bond,
34 lien and completion bond, or a bond equivalent or joint control
35 approved by the registrar covering full performance and payment
36 is exempt from paragraphs (3), (4), and (5), and need not include,
37 as part of the contract, the statement regarding the downpayment
38 specified in subparagraph (C) of paragraph (8) of subdivision (d)
39 of Section 7159, the details and statement regarding progress
40 payments specified in paragraph (9) of subdivision (d) of Section

1 7159, or the Mechanics Lien Warning specified in paragraph (4)
2 of subdivision (e) of Section 7159. A contractor furnishing these
3 bonds, bond equivalents, or a joint control approved by the registrar
4 may accept payment prior to completion. If the contract provides
5 for a contractor to furnish joint control, the contractor shall not
6 have any financial or other interest in the joint control.
7 Notwithstanding any other law, a licensee shall be licensed in this
8 state in an active status for not less than two years prior to
9 submitting an Application for Approval of Blanket Performance
10 and Payment Bond as provided in Section 858.2 of Title 16 of the
11 California Code of Regulations as it read on January 1, 2016.

12 (b) A violation of paragraph (1), (3), or (5) of subdivision (a)
13 by a licensee or a person subject to be licensed under this chapter,
14 or by their agent or salesperson, is a misdemeanor punishable by
15 a fine of not less than one hundred dollars (\$100) nor more than
16 five thousand dollars (\$5,000), or by imprisonment in a county
17 jail not exceeding one year, or by both that fine and imprisonment.

18 (1) An indictment or information against a person who is not
19 licensed but who is required to be licensed under this chapter shall
20 be brought, or a criminal complaint filed, for a violation of this
21 section, in accordance with paragraph (4) of subdivision (d) of
22 Section 802 of the Penal Code, within four years from the date of
23 the contract or, if the contract is not reduced to writing, from the
24 date the buyer makes the first payment to the contractor.

25 (2) An indictment or information against a person who is
26 licensed under this chapter shall be brought, or a criminal complaint
27 filed, for a violation of this section, in accordance with paragraph
28 (2) of subdivision (d) of Section 802 of the Penal Code, within
29 two years from the date of the contract or, if the contract is not
30 reduced to writing, from the date the buyer makes the first payment
31 to the contractor.

32 (3) The limitations on actions in this subdivision shall not apply
33 to any administrative action filed against a licensed contractor.

34 (c) Any person who violates this section as part of a plan or
35 scheme to defraud an owner or tenant of a residential or
36 nonresidential structure, including a mobilehome or manufactured
37 home, in connection with the offer or performance of repairs to
38 the structure for damage caused by a natural disaster, shall be
39 ordered by the court to make full restitution to the victim based
40 on the person's ability to pay, as defined in paragraph (2) of

subdivision (b) of Section 27755 of the Government Code. In addition to full restitution, and imprisonment authorized by this section, the court may impose a fine of not less than five hundred dollars (\$500) nor more than twenty-five thousand dollars (\$25,000), based upon the defendant's ability to pay. This subdivision applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States.

SEC. 5. Section 7159.14 of the Business and Professions Code is amended to read:

7159.14. (a) This section applies to a service and repair contract as defined in Section 7159.10. A violation of this section by a licensee or a person subject to be licensed under this chapter, or by their agent or salesperson, is cause for discipline.

(1) The contract shall not exceed seven hundred fifty dollars (\$750).

(2) The contract shall be in writing and shall state the agreed contract amount, which may be stated as either a fixed contract amount in dollars and cents or, if a time and materials formula is used, as an estimated contract amount in dollars and cents.

(3) The contract amount shall include the entire cost of the contract including profit, labor, and materials, but excluding finance charges.

(4) The actual contract amount of a time and materials contract may not exceed the estimated contract amount without written authorization from the buyer.

(5) The prospective buyer shall have initiated contact with the contractor to request work.

(6) The contractor shall not sell the buyer goods or services beyond those reasonably necessary to take care of the particular problem that caused the buyer to contact the contractor.

(7) Payment shall not be due before the project is completed.

(8) A service and repair contractor shall charge only one service charge. For purposes of this chapter, a service charge includes charges such as a service or trip charge, or an inspection fee.

(9) A service and repair contractor charging a service charge shall disclose in all advertisements that there is a service charge and, when the customer initiates the call for service, shall disclose the amount of the service charge.

1 (10) The service and repair contractor shall offer to the customer
2 any parts that were replaced.

3 (11) Upon any payment by the buyer, the contractor shall, if
4 requested, obtain and furnish to the buyer a full and unconditional
5 release from any potential lien claimant claim or mechanics lien
6 authorized pursuant to Sections 8400 and 8404 of the Civil Code
7 for any portion of the work for which payment has been made.

8 (b) A violation of paragraph (1), (2), (3), (4), (5), (6), or (8) of
9 subdivision (a) by a licensee or a person subject to be licensed
10 under this chapter, or by their agent or salesperson, is a
11 misdemeanor punishable by a fine of not less than one hundred
12 dollars (\$100) nor more than five thousand dollars (\$5,000), or by
13 imprisonment in a county jail not exceeding one year, or by both
14 that fine and imprisonment.

15 (1) An indictment or information against a person who is not
16 licensed but who is required to be licensed under this chapter shall
17 be brought, or a criminal complaint filed, for a violation of this
18 section, in accordance with paragraph (4) of subdivision (d) of
19 Section 802 of the Penal Code, within four years from the date of
20 the contract or, if the contract is not reduced to writing, from the
21 date the buyer makes the first payment to the contractor.

22 (2) An indictment or information against a person who is
23 licensed under this chapter shall be brought, or a criminal complaint
24 filed, for a violation of this section, in accordance with paragraph
25 (2) of subdivision (d) of Section 802 of the Penal Code, within
26 two years from the date of the contract or, if the contract is not
27 reduced to writing, from the date the buyer makes the first payment
28 to the contractor.

29 (3) The limitations on actions in this subdivision do not apply
30 to any administrative action filed against a licensed contractor.

31 (c) Any person who violates this section as part of a plan or
32 scheme to defraud an owner or tenant of a residential or
33 nonresidential structure, including a mobilehome or manufactured
34 home, in connection with the offer or performance of repairs to
35 the structure for damage caused by a natural disaster, shall be
36 ordered by the court to make full restitution to the victim based
37 on the person's ability to pay, as defined in paragraph (2) of
38 subdivision (b) of Section 27755 of the Government Code. In
39 addition to full restitution, and imprisonment authorized by this
40 section, the court may impose a fine of not less than five hundred

1 dollars (\$500) nor more than twenty-five thousand dollars
2 (\$25,000), based upon the defendant's ability to pay. This
3 subdivision applies to natural disasters for which a state of
4 emergency is proclaimed by the Governor pursuant to Section
5 8625 of the Government Code, or for which an emergency or major
6 disaster is declared by the President of the United States.

7 SEC. 6. Section 7161 of the Business and Professions Code is
8 amended to read:

9 7161. It is a misdemeanor for any person to engage in any of
10 the following acts, the commission of which is cause for
11 disciplinary action against any licensee or applicant:

12 (a) Using false, misleading, or deceptive advertising as an
13 inducement to enter into any contract for a work of improvement,
14 including, but not limited to, any home improvement contract,
15 whereby any member of the public may be misled or injured.

16 (b) Making any substantial misrepresentation in the procurement
17 of a contract for a home improvement or other work of
18 improvement or making any false promise of a character likely to
19 influence, persuade, or induce any person to enter into the contract.

20 (c) Any fraud in the execution of, or in the material alteration
21 of, any contract, trust deed, mortgage, promissory note, or other
22 document incident to a home improvement transaction or other
23 transaction involving a work of improvement.

24 (d) Preparing or accepting any trust deed, mortgage, promissory
25 note, or other evidence of indebtedness upon the obligations of a
26 home improvement transaction or other transaction for a work of
27 improvement with knowledge that it specifies a greater monetary
28 obligation than the consideration for the improvement work, which
29 consideration may be a time sale price.

30 (e) Directly or indirectly publishing any advertisement relating
31 to home improvements or other works of improvement that
32 contains an assertion, representation, or statement of fact that is
33 false, deceptive, or misleading, or by any means advertising or
34 purporting to offer to the general public this improvement work
35 with the intent not to accept contracts for the particular work or at
36 the price that is advertised or offered to the public, except that any
37 advertisement that is subject to and complies with the existing
38 rules, regulations, or guides of the Federal Trade Commission shall
39 not be deemed false, deceptive, or misleading.

(f) Any person who violates subdivision (b), (c), (d), or (e) as part of a plan or scheme to defraud an owner of a residential or nonresidential structure, including a mobilehome or manufactured home, in connection with the offer or performance of repairs to the structure for damage caused by a natural disaster, shall be ordered by the court to make full restitution to the victim based on the person's ability to pay, as defined in paragraph (2) of subdivision (b) of Section 27755 of the Government Code. In addition to full restitution and imprisonment as authorized by this section, the court may impose a fine of not less than five hundred dollars (\$500) nor more than twenty-five thousand dollars (\$25,000), based upon the defendant's ability to pay. This subdivision applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code or for which an emergency or major disaster is declared by the President of the United States.

SEC. 7. Section 9807 of the Business and Professions Code is amended to read:

9807. (a) Notwithstanding any other law, a service dealer licensed under this chapter and authorized to engage in the electronic repair industry, as defined in subdivision (p) of Section 9801, may install, calibrate, service, maintain, and monitor certified ignition interlock devices.

(b) The bureau shall adopt regulations to implement this section consistent with the standards adopted by the Bureau of Automotive Repair and the Office of Traffic Safety under Section 9882.14.

SEC. 8. Section 9848 of the Business and Professions Code is amended to read:

9848. All proceedings to deny registration or suspend, revoke, or place on probation a registration shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 9. Section 9882.14 of the Business and Professions Code is amended to read:

9882.14. (a) The bureau shall cooperate with the Office of Traffic Safety and adopt standards for the installation, maintenance, and servicing of certified ignition interlock devices by automotive repair dealers.

1 (b) The manufacturers of certified ignition interlock devices
2 shall comply with standards established by the bureau for the
3 installation of those ignition interlock devices.

4 (c) The bureau may charge manufacturers of certified interlock
5 ignition devices a fee to recover the reasonable cost of monitoring
6 installation standards.

7 SEC. 10. Section 6111 is added to the Government Code,
8 immediately following 6110, to read:

9 6111. On and after January 1, 2020, the unpaid balance of any
10 court-imposed costs pursuant to Section ~~6157~~, 27712, subdivision
11 (c) or (f) of Section 29550, *and* Sections 29550.1, ~~29550.2~~ 29550.2,
12 and 29550.3, ~~subdivision (b) of Section 68635, and Section 71386,~~
13 as those sections read on December 31, 2019, is unenforceable
14 and uncollectible and any portion of a judgment imposing those
15 costs shall be vacated. ~~The unpaid balance of any court imposed~~
16 ~~cost relating to a criminal proceeding pursuant to Section 6157 is~~
17 ~~also unenforceable and uncollectible and any portion of a judgment~~
18 ~~imposing those costs shall be vacated.~~

19 SEC. ~~11.~~ Section ~~6157~~ of the Government Code is amended
20 to read:

21 ~~6157.~~ (a) The state, and each city, whether general law or
22 chartered, county, and district, each subdivision, department, board,
23 commission, body, or agency of the foregoing, shall accept personal
24 checks, in addition to any other authorized form of payment, drawn
25 in its favor or in favor of a designated official thereof, in payment
26 for any license, permit, or fee, or in payment of any obligation
27 owing to the public agency or trust deposit, if the person issuing
28 the check furnishes to the person authorized to receive payment
29 satisfactory proof of residence in this state and if the personal
30 check is drawn on a banking institution located in this state.

31 (b) ~~If any personal check, corporate check, cashier's check,~~
32 ~~money order, or other draft method offered in payment pursuant~~
33 ~~to this section is returned without payment, for any reason, a~~
34 ~~reasonable charge for the returned check, order, or draft, not to~~
35 ~~exceed the actual costs incurred by the public agency, may be~~
36 ~~imposed to recover the public agency's processing and collection~~
37 ~~costs, except that a charge may not be imposed in regard to~~
38 ~~payment made arising from a criminal proceeding. This charge~~
39 ~~may be added to, and become part of, any underlying obligation~~
40 ~~other than an obligation which constitutes a lien on real property,~~

1 and a different method of payment for that payment and future
2 payments by this person may be prescribed.

3 (e) ~~The acceptance of a personal check, corporate check,~~
4 ~~cashier's check, money order, or other draft method pursuant to~~
5 ~~this section constitutes payment of the obligation owed to the payee~~
6 ~~public agency to the extent of the amount of the check as of the~~
7 ~~date of acceptance when, but not before, the check is duly paid.~~

8 (d) ~~The provisions in subdivision (b) prohibiting a returned~~
9 ~~check charge being added to, and becoming a part of, an obligation~~
10 ~~which constitutes a lien on real property do not apply to obligations~~
11 ~~under the Veterans' Farm and Home Purchase Act of 1974 (Article~~
12 ~~3.1 (commencing with Section 987.50) of Chapter 6 of Division~~
13 ~~4 of the Military and Veterans Code).~~

14 ~~SEC. 12.~~

15 *SEC. 11.* Section 27706 of the Government Code is amended
16 to read:

17 27706. The public defender shall perform the following duties:

18 (a) Upon request of the defendant or upon order of the court,
19 the public defender shall defend, without expense to the defendant,
20 any person who is not financially able to employ counsel and who
21 is charged with the commission of any contempt or offense triable
22 in the superior courts at all stages of the proceedings, including
23 the preliminary examination. The public defender shall, upon
24 request, give counsel and advice to such person about any charge
25 against the person upon which the public defender is conducting
26 the defense, and shall prosecute all appeals to a higher court or
27 courts of any person who has been convicted, where, in the opinion
28 of the public defender, the appeal will or might reasonably be
29 expected to result in the reversal or modification of the judgment
30 of conviction.

31 (b) Upon request, the public defender shall prosecute actions
32 for the collection of wages and other demands of any person who
33 is not financially able to employ counsel, where the sum involved
34 does not exceed one hundred dollars (\$100), and where, in the
35 judgment of the public defender, the claim urged is valid and
36 enforceable in the courts.

37 (c) Upon request, the public defender shall defend any person
38 who is not financially able to employ counsel in any civil litigation
39 in which, in the judgment of the public defender, the person is
40 being persecuted or unjustly harassed.

1 (d) Upon request, or upon order of the court, the public defender
2 shall represent any person who is not financially able to employ
3 counsel in proceedings under Division 4 (commencing with Section
4 1400) of the Probate Code and Part 1 (commencing with Section
5 5000) of Division 5 of the Welfare and Institutions Code.

6 (e) Upon order of the court, the public defender shall represent
7 any person who is entitled to be represented by counsel but is not
8 financially able to employ counsel in proceedings under Chapter
9 2 (commencing with Section 500) of Part 1 of Division 2 of the
10 Welfare and Institutions Code.

11 (f) Upon order of the court the public defender shall represent
12 any person who is required to have counsel pursuant to Section
13 686.1 of the Penal Code.

14 (g) Upon the order of the court or upon the request of the person
15 involved, the public defender may represent any person who is not
16 financially able to employ counsel in a proceeding of any nature
17 relating to the nature or conditions of detention, of other restrictions
18 prior to adjudication, of treatment, or of punishment resulting from
19 criminal or juvenile proceedings.

20 ~~SEC. 13.~~

21 *SEC. 12.* Section 27707 of the Government Code is amended
22 to read:

23 27707. The court in which the proceeding is pending may make
24 the final determination in each case as to whether a defendant or
25 person described in Section 27706 is financially able to employ
26 counsel and qualifies for the services of the public defender. The
27 public defender shall, however, render legal services as provided
28 in subdivisions (a), ~~(b)~~ (b), and (c) of Section 27706 for any person
29 the public defender determines is not financially able to employ
30 counsel until such time as a contrary determination is made by the
31 court. If a contrary determination is made, the public defender
32 thereafter may not render services for such person except in a
33 proceeding to review the determination of that issue or in an
34 unrelated proceeding. In order to assist the court or public defender
35 in making the determination, the court or the public defender may
36 require a defendant or person requesting services of the public
37 defender to file a financial statement under penalty of perjury. The
38 financial statement shall be confidential and privileged and shall
39 not be admissible as evidence in any criminal proceeding except
40 the prosecution of an alleged offense of perjury based upon false

1 material contained in the financial statement. The financial
2 statement shall be made available to the prosecution only for
3 purposes of investigation of an alleged offense of perjury based
4 upon false material contained in the financial statement at the
5 conclusion of the proceedings for which such financial statement
6 was required to be submitted.

7 ~~SEC. 14.~~

8 *SEC. 13.* Section 27712 of the Government Code is repealed.

9 ~~SEC. 15.~~

10 *SEC. 14.* Section 27750 of the Government Code is amended
11 to read:

12 27750. The board of supervisors of any county may designate
13 a county officer to make financial evaluations of defendants and
14 other persons liable for reimbursable costs under the law. A county
15 officer so designated shall be known as the county financial
16 evaluation officer, whose duties shall be to determine, according
17 to the standards set by the board of supervisors and at the direction
18 of the court, the financial ability of parties who have incurred, or
19 will incur, court-related or court-ordered costs, which costs by law
20 must be waived or the services provided free of charge if the party
21 is indigent.

22 ~~SEC. 16.~~

23 *SEC. 15.* Section 27752 of the Government Code is amended
24 to read:

25 27752. A county financial evaluation officer is authorized to
26 make financial evaluations and collect moneys pursuant to Section
27 3112 of the Family Code, Sections 1203.1 and 1205 of the Penal
28 Code, and Sections 353, 376, 700, 727, 751, 903, 903.1, 903.2,
29 and 903.45 of the Welfare and Institutions Code.

30 ~~SEC. 17.~~

31 *SEC. 16.* Section 27753 of the Government Code is repealed.

32 ~~SEC. 18.~~

33 *SEC. 17.* Section 27756 of the Government Code is amended
34 to read:

35 27756. Notwithstanding Section 903.4 of the Welfare and
36 Institutions Code, in any county where the board of supervisors
37 has designated a county financial evaluation officer, the county
38 financial evaluation officer shall make financial evaluations of
39 parental liability for reimbursements and other court-ordered costs
40 pursuant to Sections 903, 903.1, 903.2, and 903.45 of the Welfare

1 and Institutions Code, as directed by the board of supervisors, or
2 as established by order of the juvenile court, and may enforce the
3 court order as any other civil judgment, including any balance
4 remaining unpaid after jurisdiction of the minor has terminated.

5 ~~SEC. 19.~~

6 *SEC. 18.* Section 27757 of the Government Code is amended
7 to read:

8 27757. (a) Except as otherwise ordered by the juvenile court,
9 a county financial evaluation officer, upon satisfactory proof, may
10 reduce, cancel, or remit the costs and charges listed in Sections
11 903, 903.1, 903.2, and 903.45 of the Welfare and Institutions Code,
12 or established by order of the juvenile court.

13 (b) The county financial evaluation officer may, following entry
14 of an order by the juvenile court that a minor person be represented
15 by the public defender or private attorney or be placed or detained
16 in, or committed to, a county institution or other place, make an
17 investigation to determine the moneys, the property, or interest in
18 property, if any, the minor person has, and whether the minor has
19 a duly appointed and acting guardian to protect the minor's
20 property interests. The county financial evaluation officer may
21 also make an investigation to determine whether the minor person
22 has any relative or relatives responsible under the provisions of
23 this chapter, and may ascertain the financial condition of that
24 relative or those relatives to determine whether they are financially
25 able to pay those charges.

26 (c) In any case where a county has expended money for the
27 support and maintenance of any dependent child or other minor
28 person, or has furnished support and maintenance, and the court
29 has not made an order of reimbursement to the county, in whole
30 or in part, as provided by law, or the court has made and
31 subsequently revoked that order, if the dependent child or other
32 minor person or parent, guardian, or other person liable for the
33 support of the dependent child or other minor person acquires
34 property, money, or estate subsequent to the date the juvenile court
35 assumed jurisdiction over the dependent child or minor person, or
36 subsequent to the date the order of reimbursement was revoked,
37 the county shall have a claim for that reimbursement against the
38 dependent child or other minor person or parent, ~~guardian~~
39 *guardian*, or other person responsible for the support and
40 maintenance. The claim shall be enforced by the county financial

1 evaluation officer or the local child support agency, as the case
2 may be.

3 (d) (1) This section does not apply to a minor who is adjudged
4 a ward of the juvenile court, who is placed on probation pursuant
5 to Section 725 of the Welfare and Institutions Code, who is the
6 subject of a petition that has been filed to adjudge the minor a ward
7 of the juvenile court, or who is the subject of a program of
8 supervision undertaken pursuant to Section 654 of the Welfare
9 and Institutions Code.

10 (2) Notwithstanding paragraph (1), this section applies to a
11 minor who is designated as a dual status child pursuant to Section
12 241.1 of the Welfare and Institutions Code, for purposes of the
13 dependency jurisdiction only and not for purposes of the
14 delinquency jurisdiction.

15 ~~SEC. 20.~~

16 *SEC. 19.* Section 29550 of the Government Code is amended
17 to read:

18 29550. (a) (1) Subject to subdivision (d) of Section 29551, a
19 county may impose a fee upon a city, special district, school
20 district, community college district, college, or university for
21 reimbursement of county expenses incurred with respect to the
22 booking or other processing of persons arrested by an employee
23 of that city, special district, school district, community college
24 district, college, or university, where the arrested persons are
25 brought to the county jail for booking or detention. The fee imposed
26 by a county pursuant to this section shall not exceed the actual
27 administrative costs, including applicable overhead costs as
28 permitted by federal Circular A-87 standards, as defined in
29 subdivision (c), incurred in booking or otherwise processing
30 arrested persons. For the 2005–06 fiscal year and each fiscal year
31 thereafter, the fee imposed by a county pursuant to this subdivision
32 shall not exceed one-half of the actual administrative costs,
33 including applicable overhead costs as permitted by federal Circular
34 A-87 standards, as defined in subdivision (c), incurred in booking
35 or otherwise processing arrested persons. A county may submit
36 an invoice to a city, special district, school district, community
37 college district, college, or university for these expenses incurred
38 by the county on and after July 1, 1990. Counties shall fully
39 disclose the costs allocated as federal Circular A-87 overhead.

1 (2) Any county that imposes a fee pursuant to this section shall
2 negotiate a reduced fee with any city, special district, school
3 district, community college district, college, or university within
4 the county for any services that are performed by the arresting
5 agency in the processing of arrestees that do not have to be
6 duplicated by the county.

7 (3) This subdivision shall not apply to counties that are under
8 a contractual agreement with a city, special district, school district,
9 community college district, college, or university within the county
10 that is subject to the fee.

11 (b) The exemption of a local agency from the payment of a fee
12 pursuant to this subdivision does not exempt the person arrested
13 from the payment of fees for booking or other processing.

14 (1) Notwithstanding subdivision (a), a city, special district,
15 school district, community college district, college, or university
16 shall not be charged fees for arrests on any bench warrant for
17 failure to appear in court, nor on any arrest warrant issued in
18 connection with a crime not committed within the entity's
19 jurisdiction.

20 (2) Notwithstanding subdivision (a), a city, special district,
21 school district, community college district, college, or university
22 shall not be charged fees for a person who is ordered by a court to
23 be remanded to the county jail except that a county may charge a
24 fee to recover those direct costs for those functions required to
25 book a person pursuant to subdivision (g) of Section 853.6 of the
26 Penal Code.

27 (3) Notwithstanding subdivision (a), a city, special district,
28 school district, community college district, college, or university
29 shall not be charged fees for arrests made pursuant to arrest
30 warrants originating outside of its jurisdiction.

31 (4) Notwithstanding subdivision (a), no fees shall be charged
32 to a city, special district, school district, community college district,
33 college, or university on parole violation arrests or
34 probation-ordered returns to custody, unless a new charge has been
35 filed for a crime committed in the jurisdiction of the arresting city,
36 district, college, or university.

37 (5) An agency making a mutual aid request shall pay fees in
38 accordance with subdivision (a) that result from arrests made in
39 response to the mutual aid request except that in the event the
40 Governor declares a state of emergency, no agency shall be charged

1 fees for any arrest made during any riot, disturbance, or event that
2 is subject to the declaration.

3 (6) Notwithstanding subdivision (a), no fees shall be charged
4 to a city, special district, school district, community college district,
5 college, or university for the arrest of a prisoner who has escaped
6 from a county, state, or federal detention or corrections facility.

7 (7) Notwithstanding subdivision (a), no fees shall be charged
8 to a city, special district, school district, community college district,
9 college, or university for arrestees held in temporary detention at
10 a court facility for purposes of arraignment when the arrestee has
11 been previously booked at an entity detention facility.

12 (8) Notwithstanding subdivision (a), no fees shall be charged
13 to a city, special district, school district, community college district,
14 college, or university as the result of an arrest made by its officer
15 assigned to a formal multiagency task force in which the county
16 is a participant. For the purposes of this section, “formal task force”
17 means a task force that has been established by written agreement
18 of the participating agencies.

19 (9) In those counties where the cities and the county participate
20 in a consolidated booking program and where prior to arraignment
21 an arrestee is transferred from a city detention facility to a county
22 detention facility, the city shall not be charged for those tasks listed
23 in subdivision (c) that are a part of the consolidated booking
24 program which were completed by the city prior to delivering the
25 arrestee to the county detention facility. However, the county may
26 charge the actual administrative costs for those additional tasks
27 listed in subdivision (c) that are performed in order to receive the
28 arrestee into the county detention facility. For the 2005–06 fiscal
29 year and each fiscal year thereafter, the county may charge up to
30 one-half of the actual administrative costs for those additional
31 tasks listed in subdivision (c) that are performed in order to receive
32 the arrestee into the county detention facility.

33 (c) As used in this section, “actual administrative costs” include
34 only those costs for functions that are performed in order to receive
35 an arrestee into a county detention facility. Operating expenses of
36 the county jail facility including capital costs and those costs
37 involved in the housing, feeding, and care of inmates shall not be
38 included in calculating “actual administrative costs.” “Actual
39 administrative costs” may include the cost of notifying any local
40 agency, special district, school district, community college district,

1 college college, or university of any change in the fee charged by
2 a county pursuant to this section. “Actual administrative costs”
3 may include any one or more of the following as related to
4 receiving an arrestee into the county detention facility:

5 (1) The searching, wristbanding, bathing, clothing,
6 fingerprinting, photographing, and medical and mental screening
7 of an arrestee.

8 (2) Document preparation, retrieval, updating, filing, and court
9 scheduling related to receiving an arrestee into the detention
10 facility.

11 (3) Warrant service, processing, and detainer.

12 (4) Inventory of an arrestee’s money and creation of cash
13 accounts.

14 (5) Inventory and storage of an arrestee’s property.

15 (6) Inventory, laundry, and storage of an arrestee’s clothing.

16 (7) The classification of an arrestee.

17 (8) The direct costs of automated services utilized in paragraphs
18 (1) to (7), inclusive.

19 (9) Unit management and supervision of the detention function
20 as related to paragraphs (1) to (8), inclusive.

21 ~~SEC. 21.~~

22 *SEC. 20.* Section 29550.1 of the Government Code is repealed.

23 ~~SEC. 22.~~

24 *SEC. 21.* Section 29550.2 of the Government Code is repealed.

25 ~~SEC. 23.~~

26 *SEC. 22.* Section 29550.3 of the Government Code is repealed.

27 ~~SEC. 24.~~

28 *SEC. 23.* Section 29551 of the Government Code is amended
29 to read:

30 29551. (a) The board of supervisors or city council of any
31 county, city and county, or city that opts to receive funds pursuant
32 to Section 29552 shall establish a local detention facility revenue
33 account, on behalf of the sheriff or the official responsible for local
34 detention facilities in the county, city and county, or city, into
35 which shall be deposited funds paid by the Controller, pursuant to
36 Section 29552. The funds in the local detention facility revenue
37 account shall be used exclusively for the purpose of operation,
38 renovation, remodeling, or constructing local detention facilities
39 and related equipment.

1 (b) (1) If an appropriation for the purposes specified in Section
2 29552 is made in any fiscal year, a county, city and county, or city,
3 may charge a jail access fee to a local agency that exceeds the
4 agency's three-year average number of nonfelony bookings for
5 crimes listed in paragraph (2) at a rate not to exceed the actual cost
6 of booking an arrested person into the local detention facility, for
7 each booking in excess of the three-year average. A local agency's
8 three-year average number of nonfelony bookings for crimes listed
9 in paragraph (2) shall be recalculated each year. The jail access
10 fee shall be calculated and paid on a monthly basis, and all revenue
11 derived from the jail access fee shall be deposited into the local
12 detention facility revenue account created pursuant to subdivision
13 (a).

14 (2) Bookings for violations of each of the following shall be
15 used to determine a local agency's three-year average:

16 (A) Municipal code violations.

17 (B) Misdemeanor violations, except ~~driving under the influence~~
18 *driving-under-the-influence* offenses and domestic violence
19 misdemeanor offenses, including enforcement of protective orders.

20 (c) Cities that operate Type One facilities within a county shall
21 be eligible to receive funds from the county's local detention
22 facility revenue account. Cities that operate Type One facilities
23 and charged booking fees pursuant to Section 29550.3 during the
24 2006–07 fiscal year shall receive funds in an amount proportional
25 to the number of persons booked into the city's Type One facility
26 for which the city charged fees to the arresting agency.

27 (d) Every year in which at least the sum of thirty-five million
28 dollars (\$35,000,000) is appropriated for the purposes of Section
29 29552, counties, cities and counties, and cities are prohibited from
30 collecting fees pursuant to Section 29550 from other public entities.
31 In any fiscal year in which the appropriation for the purposes of
32 Section 29552 is less than thirty-five million dollars (\$35,000,000),
33 a county, city and county, or a city may collect fees pursuant to
34 Section 29550 up to a rate, adjusted as provided in subdivision
35 (e), in proportion to the amount that the amount appropriated is
36 less than thirty-five million dollars (\$35,000,000).

37 (e) The maximum rate of the fee charged by each local agency
38 pursuant to subdivision (d) shall be the rate charged as of June 30,
39 2006, pursuant to Section 29550, increased for each subsequent

1 fiscal year by the California Consumer Price Index as reported by
2 the Department of Finance plus 1 percent, compounded annually.

3 ~~SEC. 25.~~

4 *SEC. 24.* Section 50050 of the Government Code is amended
5 to read:

6 50050. For purposes of this article, “local agency” includes all
7 districts. Except as otherwise provided by law, money, excluding
8 restitution to victims, that is not the property of a local agency that
9 remains unclaimed in its treasury or in the official custody of its
10 officers for three years is the property of the local agency after
11 notice if not claimed or if no verified complaint is filed and served.
12 At any time after the expiration of the three-year period, the
13 treasurer of the local agency may cause a notice to be published
14 once a week for two successive weeks in a newspaper of general
15 circulation published in the local agency. At the expiration of the
16 three-year period, money representing restitution collected on
17 behalf of victims shall be deposited into the Restitution Fund or
18 used by the local agency for purposes of victim services. If a local
19 agency elects to use the money for purposes of victim services,
20 the local agency shall first document that it has made a reasonable
21 effort to locate and notify the victim to whom the restitution is
22 owed. With respect to moneys deposited with the county treasurer
23 pursuant to Section 7663 of the Probate Code, this three-year period
24 to claim money held by a local agency is extended for an infant
25 or person of unsound mind until one year from the date their
26 disability ceases.

27 For purposes of this section, “infant” and “person of unsound
28 mind” have the same meaning as given to those terms as used in
29 Section 1441 of the Code of Civil Procedure.

30 ~~SEC. 26.~~

31 *SEC. 25.* Section 68085 of the Government Code is amended
32 to read:

33 68085. (a) (1) There is hereby established the Trial Court
34 Trust Fund, the proceeds of which shall be apportioned for the
35 purposes authorized in this section, including apportionment to
36 the trial courts to fund trial court operations, as defined in Section
37 77003.

38 (2) The apportionment payments shall be made by the
39 Controller. The final payment from the Trial Court Trust Fund for

1 each fiscal year shall be made on or before August 31 of the
2 subsequent fiscal year.

3 (A) Notwithstanding any other provision of law, in order to
4 promote statewide efficiency, the Judicial Council may authorize
5 the direct payment or reimbursement or both of actual costs from
6 the Trial Court Trust Fund or the State Trial Court Improvement
7 and Modernization Fund to fund the costs of operating one or more
8 trial courts upon the authorization of the participating courts. These
9 paid or reimbursed costs may be for services provided to the court
10 or courts by the Administrative Office of the Courts or payment
11 for services or property of any kind contracted for by the court or
12 courts or on behalf of the courts by the Administrative Office of
13 the Courts. The amount of appropriations from the State Trial
14 Court Improvement and Modernization Fund under this subdivision
15 may not exceed 20 percent of the amount deposited in the State
16 Trial Court Improvement and Modernization Fund pursuant to
17 subdivision (a) of Section 77205. The direct payment or
18 reimbursement of costs from the Trial Court Trust Fund may be
19 supported by the reduction of a participating court's allocation
20 from the Trial Court Trust Fund to the extent that the court's
21 expenditures for the program are reduced and the court is supported
22 by the expenditure. The Judicial Council shall provide the affected
23 trial courts with quarterly reports on expenditures from the Trial
24 Court Trust Fund incurred as authorized by this subdivision. The
25 Judicial Council shall establish procedures to provide for the
26 administration of this paragraph in a way that promotes the
27 effective, efficient, reliable, and accountable operation of the trial
28 courts.

29 (B) As used in subparagraph (A), the term "costs of operating
30 one or more trial courts" includes any expenses related to operation
31 of the court or performance of its functions, including, but not
32 limited to, statewide administrative and information technology
33 infrastructure supporting the courts. The term "costs of operating
34 one or more trial courts" is not restricted to items considered "court
35 operations" pursuant to Section 77003, but is subject to policies,
36 procedures, and criteria established by the Judicial Council, and
37 may not include an item that is a cost that must otherwise be paid
38 by the county or city and county in which the court is located.

39 (b) Notwithstanding any other provision of law, the fees listed
40 in subdivision (c) shall all be deposited upon collection in a special

1 account in the county treasury, and transmitted monthly to the
2 State Treasury for deposit in the Trial Court Trust Fund.

3 (c) (1) Except as specified in subdivision (d), this section applies
4 to all fees collected on or before December 31, 2005, pursuant to
5 Sections 631.3, 116.230, and 403.060 of the Code of Civil
6 Procedure and Sections 26820.4, 26823, 26826, 26826.01, 26827,
7 26827.4, 26830, 26832.1, 26833.1, 26835.1, 26836.1, 26837.1,
8 26838, 26850.1, 26851.1, 26852.1, 26853.1, 26855.4, 26862,
9 68086, 72055, 72056, 72056.01, and 72060.

10 (2) Notwithstanding any other provision of law, except as
11 specified in subdivision (d) of this section and subdivision (a) of
12 Section 68085.7, this section applies to all fees and fines collected
13 on or before December 31, 2005, pursuant to Sections 116.390,
14 116.570, 116.760, 116.860, 177.5, 491.150, 704.750, 708.160,
15 724.100, 1134, 1161.2, and 1218 of the Code of Civil Procedure,
16 Sections 26824, 26828, 26829, 26834, and 72059 of the
17 Government Code, and subdivisions (b) and (c) of Section 166 of
18 the Penal Code.

19 (3) If any of the fees provided for in this subdivision are partially
20 waived by court order, and the fee is to be divided between the
21 Trial Court Trust Fund and any other fund, the amount of the partial
22 waiver shall be deducted from the amount to be distributed to each
23 fund in the same proportion as the amount of each distribution
24 bears to the total amount of the fee.

25 (d) This section does not apply to that portion of a filing fee
26 collected pursuant to Section 26820.4, 26826, 26827, 72055, or
27 72056 that is allocated for dispute resolution pursuant to Section
28 470.3 of the Business and Professions Code, the county law library
29 pursuant to Section 6320 of the Business and Professions Code,
30 the Judges' Retirement Fund pursuant to Section 26822.3,
31 automated recordkeeping or conversion to micrographics pursuant
32 to Sections 26863 and 68090.7, and courthouse financing pursuant
33 to Section 76238. This section also does not apply to fees collected
34 pursuant to subdivisions (a) and (c) of Section 27361.

35 (e) This section applies to all payments required to be made to
36 the State Treasury by any county or city and county pursuant to
37 Section 77201, 77201.1, or 77205.

38 (f) Notwithstanding any other provision of law, an agency shall
39 not change the amounts allocated to any of the funds described in
40 subdivision (a), (b), (c), or (d).

(g) The Judicial Council shall reimburse the Controller for the actual administrative costs that will be incurred under this section. Costs reimbursed under this section shall be determined on an annual basis in consultation with the Judicial Council.

(h) Any amounts required to be transmitted by a county or city and county to the state pursuant to this section shall be remitted to the State Treasury no later than 45 days after the end of the month in which the fees were collected. This remittance shall be accompanied by a remittance advice identifying the collection month and the appropriate account in the Trial Court Trust Fund to which it is to be deposited. Any remittance that is not made by the county or city and county in accordance with this section shall be considered delinquent, and subject to the interest and penalties specified in this section.

(i) Upon receipt of any delinquent payment required pursuant to this section, the Controller shall do the following:

(1) Calculate interest on the delinquent payment by multiplying the amount of the delinquent payment at a daily rate equivalent to the rate of return of money deposited in the Local Agency Investment Fund pursuant to Section 16429.1 from the date the payment was originally due to either 30 days after the date of the issuance by the Controller of the final audit report concerning the failure to pay or the date of payment by the entity responsible for the delinquent payment, whichever comes first.

(2) Calculate a penalty at a daily rate equivalent to 1 ½ percent per month from the date 30 days after the date of the issuance by the Controller of the final audit report concerning the failure to pay.

(j) (1) Interest or penalty amounts calculated pursuant to subdivision (i) shall be paid by the county, city and county, or court to the Trial Court Trust Fund no later than 45 days after the end of the month in which the interest or penalty was calculated. Payment shall be made by the entity responsible for the error or other action that caused the failure to pay, as determined by the Controller in notice given to that party by the Controller.

(2) Notwithstanding Section 77009, any interest or penalty on a delinquent payment that a court is required to make pursuant to this section and Section 24353 shall be paid from the Trial Court Operations Fund for that court.

1 (3) The Controller may permit a county, city and county, or
2 court to pay the interest or penalty amounts according to a payment
3 schedule in the event of a large interest or penalty amount that
4 causes a hardship to the paying entity.

5 (4) The party responsible for the error or other action that caused
6 the failure to pay may include, but is not limited to, the party that
7 collected the funds who is not the party responsible for remitting
8 the funds to the Trial Court Trust Fund, if the collecting party
9 failed or delayed in providing the remitting party with sufficient
10 information needed by the remitting party to distribute the funds.

11 (k) The Trial Court Trust Fund shall be invested in the Surplus
12 Money Investment Fund and all interest earned shall be allocated
13 to the Trial Court Trust Fund quarterly and shall be allocated
14 among the courts in accordance with the requirements of
15 subdivision (a).

16 (l) It is the intent of the Legislature that the revenues required
17 to be deposited into the Trial Court Trust Fund be remitted as soon
18 after collection by the courts as possible.

19 (m) Except for subdivisions (a) and (k), this section does not
20 apply to fees and fines that are listed in subdivision (a) of Section
21 68085.1 that are collected on or after January 1, 2006.

22 (n) The changes made to subdivisions (i) and (j) of this section
23 by the act adding this subdivision shall apply to all delinquent
24 payments for which no final audit has been issued by the Controller
25 prior to January 1, 2008.

26 (o) The Judicial Council shall not expend any of these funds on
27 the system known as the Court Case Management System, except
28 for the maintenance and operation of Court Case Management
29 System Version 2 and Version 3.

30 (p) Nothing in this section or any other provision of law shall
31 be construed to authorize the Judicial Council to redirect funds
32 from the Trial Court Trust Fund for any purpose other than for
33 allocation to trial courts or as otherwise specifically appropriated
34 by statute.

35 ~~SEC. 27.~~

36 SEC. 26. Section 68085.1 of the Government Code is amended
37 to read:

38 68085.1. (a) This section applies to all fees and fines that are
39 collected on or after January 1, 2006, under all of the following:

1 (1) Sections 177.5, 209, 403.060, 491.150, 631.3, 683.150,
2 704.750, 708.160, 724.100, 1134, 1161.2, 1218, and 1993.2 of,
3 subdivision (g) of Section 411.20 and subdivisions (c) and (g) of
4 Section 411.21 of, subdivision (b) of Section 631 of, and Chapter
5 5.5 (commencing with Section 116.110) of Title 1 of Part 1 of, the
6 Code of Civil Procedure.

7 (2) Section 3112 of the Family Code.

8 (3) Section 31622 of the Food and Agricultural Code.

9 (4) Subdivision (d) of Section 6103.5, Sections 68086 and
10 68086.1, subdivision (d) of Section 68511.3, Sections 68926.1 and
11 69953.5, and Chapter 5.8 (commencing with Section 70600).

12 (5) Section 103470 of the Health and Safety Code.

13 (6) Subdivisions (b) and (c) of Section 166 of the Penal Code.

14 (7) Sections 1835, 1851.5, 2343, 7660, and 13201 of the Probate
15 Code.

16 (8) Sections 14607.6 and 16373 of the Vehicle Code.

17 (9) Section 71386 of this code, Sections 304, 7851.5, and 9002
18 of the Family Code, and Section 1513.1 of the Probate Code, if
19 the reimbursement is for expenses incurred by the court.

20 (10) Section 3153 of the Family Code, if the amount is paid to
21 the court for the cost of counsel appointed by the court to represent
22 a child.

23 (b) Each superior court shall deposit all fees and fines listed in
24 subdivision (a), as soon as practicable after collection and on a
25 regular basis, into a bank account established for this purpose by
26 the Administrative Office of the Courts. Upon direction of the
27 Administrative Office of the Courts, the county shall deposit civil
28 assessments it collects under the sections listed in subdivision (a)
29 as soon as practicable after collection and on a regular basis into
30 the bank account established for this purpose and specified by the
31 Administrative Office of the Courts. The deposits shall be made
32 as required by rules adopted by, and financial policies and
33 procedures authorized by, the Judicial Council under subdivision
34 (a) of Section 77206. Within 15 days after the end of the month
35 in which the fees and fines are collected, each court, and each
36 county that collects any fines or fees under subdivision (a), shall
37 provide the Administrative Office of the Courts with a report of
38 the fees by categories as specified by the Administrative Office
39 of the Courts. The Administrative Office of the Courts and any
40 court may agree upon a time period greater than 15 days, but in

1 no case more than 30 days after the end of the month in which the
2 fees and fines are collected. The fees and fines listed in subdivision
3 (a) shall be distributed as provided in this section.

4 (c) (1) Within 45 calendar days after the end of the month in
5 which the fees and fines listed in subdivision (a) are collected, the
6 Administrative Office of the Courts shall make the following
7 distributions:

8 (A) To the small claims advisory services, as described in
9 subdivision (f) of Section 116.230 of the Code of Civil Procedure.

10 (B) To dispute resolution programs, as described in subdivision
11 (b) of Section 68085.3 and subdivision (b) of Section 68085.4.

12 (C) To the county law library funds, as described in Sections
13 116.230 and 116.760 of the Code of Civil Procedure, subdivision
14 (b) of Section 68085.3, subdivision (b) of Section 68085.4, and
15 Section 70621 of this code, and Section 14607.6 of the Vehicle
16 Code.

17 (D) To the courthouse construction funds in the Counties of
18 Riverside, San Bernardino, and San Francisco, as described in
19 Sections 70622, 70624, and 70625.

20 (E) To the Trial Court Trust Fund, as described in subdivision
21 (e) of Section 70626, to be used by the Judicial Council to
22 implement and administer the civil representation pilot program
23 under Section 68651.

24 (2) If any distribution under this subdivision is delinquent, the
25 Administrative Office of the Courts shall add a penalty to the
26 distribution as specified in subdivision (i).

27 (d) Within 45 calendar days after the end of the month in which
28 the fees and fines listed in subdivision (a) are collected, the
29 amounts remaining after the distributions in subdivision (c) shall
30 be transmitted to the State Treasury for deposit in the Trial Court
31 Trust Fund and other funds as required by law. This remittance
32 shall be accompanied by a remittance advice identifying the
33 collection month and the appropriate account in the Trial Court
34 Trust Fund or other fund to which it is to be deposited. Upon the
35 receipt of any delinquent payment required under this subdivision,
36 the Controller shall calculate a penalty as provided under
37 subdivision (i).

38 (e) From the money transmitted to the State Treasury under
39 subdivision (d), the Controller shall make deposits as follows:

1 (1) Into the State Court Facilities Construction Fund, the Judges’
2 Retirement Fund, and the Equal Access Fund, as described in
3 subdivision (c) of Section 68085.3 and subdivision (c) of Section
4 68085.4.

5 (2) Into the Health Statistics Special Fund, as described in
6 subdivision (b) of Section 70670 of this code and Section 103730
7 of the Health and Safety Code.

8 (3) Into the Family Law Trust Fund, as described in Section
9 70674.

10 (4) Into the Immediate and Critical Needs Account of the State
11 Court Facilities Construction Fund, established in Section 70371.5,
12 as described in Sections 68085.3, 68085.4, and 70657.5, and
13 subdivision (e) of Section 70617.

14 (5) The remainder of the money shall be deposited into the Trial
15 Court Trust Fund.

16 (f) The amounts collected by each superior court under Section
17 116.232, subdivision (g) of Section 411.20, and subdivision (g) of
18 Section 411.21 of the Code of Civil Procedure, Sections 304, 3112,
19 3153, 7851.5, and 9002 of the Family Code, subdivision (d) of
20 Section 6103.5, subdivision (d) of Section 68511.3 and Sections
21 68926.1, 69953.5, 70627, 70631, 70640, 70661, 70678, and 71386
22 of this code, and Sections 1513.1, 1835, 1851.5, and 2343 of the
23 Probate Code shall be added to the monthly apportionment for that
24 court under subdivision (a) of Section 68085.

25 (g) If any of the fees provided in subdivision (a) are partially
26 waived by court order or otherwise reduced, and the fee is to be
27 divided between the Trial Court Trust Fund and any other fund or
28 account, the amount of the reduction shall be deducted from the
29 amount to be distributed to each fund in the same proportion as
30 the amount of each distribution bears to the total amount of the
31 fee. If the fee is paid by installment payments, the amount
32 distributed to each fund or account from each installment shall
33 bear the same proportion to the installment payment as the full
34 distribution to that fund or account does to the full fee. If a court
35 collects a fee that was incurred before January 1, 2006, under a
36 provision that was the predecessor to one of the paragraphs
37 contained in subdivision (a), the fee may be deposited as if it were
38 collected under the paragraph of subdivision (a) that corresponds
39 to the predecessor of that paragraph and distributed in prorated

1 amounts to each fund or account to which the fee in subdivision
2 (a) must be distributed.

3 (h) Except as provided in Sections 470.5 and 6322.1 of the
4 Business and Professions Code, and Sections 70622, 70624, and
5 70625 of this code, an agency shall not take action to change the
6 amounts allocated to any of the funds described in subdivision (c),
7 (d), or (e).

8 (i) The amount of the penalty on any delinquent payment under
9 subdivision (c) or (d) shall be calculated by multiplying the amount
10 of the delinquent payment at a daily rate equivalent to 1 ½ percent
11 per month for the number of days the payment is delinquent. The
12 penalty shall be paid from the Trial Court Trust Fund. Penalties
13 on delinquent payments under subdivision (d) shall be calculated
14 only on the amounts to be distributed to the Trial Court Trust Fund
15 and the State Court Facilities Construction Fund, and each penalty
16 shall be distributed proportionately to the funds to which the
17 delinquent payment was to be distributed.

18 (j) If a delinquent payment under subdivision (c) or (d) results
19 from a delinquency by a superior court under subdivision (b), the
20 court shall reimburse the Trial Court Trust Fund for the amount
21 of the penalty. Notwithstanding Section 77009, any penalty on a
22 delinquent payment that a court is required to reimburse pursuant
23 to this section shall be paid from the court operations fund for that
24 court. The penalty shall be paid by the court to the Trial Court
25 Trust Fund no later than 45 days after the end of the month in
26 which the penalty was calculated. If the penalty is not paid within
27 the specified time, the Administrative Office of the Courts may
28 reduce the amount of a subsequent monthly allocation to the court
29 by the amount of the penalty on the delinquent payment.

30 (k) If a delinquent payment under subdivision (c) or (d) results
31 from a delinquency by a county in transmitting fees and fines listed
32 in subdivision (a) to the bank account established for this purpose,
33 as described in subdivision (b), the county shall reimburse the Trial
34 Court Trust Fund for the amount of the penalty. The penalty shall
35 be paid by the county to the Trial Court Trust Fund no later than
36 45 days after the end of the month in which the penalty was
37 calculated.

38 ~~SEC. 28:~~

39 *SEC. 27.* Section 68085.5 of the Government Code is amended
40 to read:

1 68085.5. (a) Notwithstanding any other provision of law,
2 except subdivision (h) and Section 68085.6, the fees and fines
3 collected pursuant to Sections 116.390, 116.570, 116.760, 116.860,
4 491.150, 704.750, 708.160, 724.100, 1134, and 1161.2 of the Code
5 of Civil Procedure, Sections 26824, 26828, 26829, 26834, and
6 72059 of the Government Code, and Section 1835 of the Probate
7 Code, that are not part of a local revenue sharing agreement or
8 practice shall be deposited in a special account in the county
9 treasury and transmitted therefrom monthly to the Controller for
10 deposit in the Trial Court Trust Fund.

11 (b) Notwithstanding any other provision of law, except
12 subdivision (h) and Section 68085.6, the fees and fines collected
13 pursuant to Sections 26827.6, 26827.7, 26840.1, 26847, 26854,
14 26855.1, 26855.2, 26859, 27293, 71386, and 72061 of the
15 Government Code, Section 103470 of the Health and Safety Code,
16 Sections 1203.4 and 1203.45 of the Penal Code, Sections 2343,
17 7660, and 13201 of the Probate Code, and Section 14607.6 of the
18 Vehicle Code, that are not subject to a local revenue sharing
19 agreement or practice, shall be deposited in a special account in
20 the county treasury.

21 (c) If a superior court incurs the cost or provides the services
22 specified in subdivision (b), the fees and fines collected shall be
23 transmitted from the special account in the county treasury monthly
24 to the Controller for deposit in the Trial Court Trust Fund.

25 (d) (1) Until July 1, 2005, each superior court and each county
26 shall maintain the distribution of revenue from the fees specified
27 in subdivisions (a) and (b) that is in effect pursuant to an agreement
28 or practice that is in place at the time this section takes effect.

29 (2) In order to ensure that expenditures from revenue sharing
30 agreements are consistent with Judicial Council fiscal and
31 budgetary policy, the Administrative Director of the Courts shall
32 review and approve all distribution of revenue agreements that are
33 negotiated after the effective date of this section. If approval of an
34 agreement negotiated after the effective date of this section is not
35 granted, the director shall advise the court and county of the reasons
36 for not granting approval and suggest modifications that will make
37 the agreement consistent with the Judicial Council fiscal and
38 budgetary policies.

39 (e) The Administrative Office of the Courts and the California
40 State Association of Counties shall jointly determine and administer

1 on or after January 1, 2004, and on or after January 1, 2005, all of
2 the following:

3 (1) The amount of revenue that was deposited in the Trial Court
4 Trust Fund pursuant to subdivisions (a) and (b) during the calendar
5 year that just ended.

6 (2) The difference between the amount specified in subdivision
7 (c) and thirty-one million dollars (\$31,000,000).

8 (3) A county-by-county transfer of the amount specified in
9 paragraph (2) to the Trial Court Trust Fund in two equal
10 installments, on February 15 and May 15, in each fiscal year.

11 (4) Any payment to correct for an overpayment or underpayment
12 made for the 2003–04 fiscal year, shall be paid to the appropriate
13 party on or before September 15, 2004. Any payment to correct
14 for an overpayment or underpayment made for the 2004–05 fiscal
15 year, shall be paid to the appropriate party on or before November
16 15, 2005.

17 (5) The sum of the amounts specified in paragraphs (1) and (2)
18 may not exceed thirty-one million dollars (\$31,000,000), and shall
19 be deposited in the Trial Court Trust Fund.

20 (6) Counties that have not paid amounts billed under this section
21 for the 2003–04 or 2004–05 fiscal year shall pay the amounts still
22 owing to the Trial Court Trust Fund on or before September 1,
23 2005. If payment is not received on or before September 1, 2005,
24 it shall be considered delinquent and subject to the penalties set
25 forth in Section 68085.

26 (7) Penalty amounts calculated under paragraph (6) shall be
27 paid by the county or the city and county to the Trial Court Trust
28 Fund no later than 45 days after the end of the month in which the
29 penalty was calculated.

30 (f) Each superior court and each county shall provide detailed
31 quarterly reports of the revenues generated by the fees and fines
32 specified in subdivisions (a) and (b), Sections 177.5 and 1218 of
33 the Code of Civil Procedure, and Section 166 of the Penal Code.
34 The reports shall include the total amount collected and retained
35 by the court or county and the existing distribution of those fees.

36 (g) No other transfers of the fees and fines specified in
37 subdivisions (a) and (b), Sections 177.5 and 1218 of the Code of
38 Civil Procedure, and Section 166 of the Penal Code shall take
39 effect prior to July 1, 2005.

(h) This section does not apply to fees and fines specified in subdivisions (a), (b), and (f) that are collected on or after July 1, 2005.

(i) Nothing in this section shall be deemed to alter or make void the shift of responsibility for court funding from the counties to the state.

~~SEC. 29.~~

SEC. 28. Section 68085.7 of the Government Code is amended to read:

68085.7. (a) (1) Notwithstanding any other provision of law, Section 68085.5 does not apply to the following fees and fines collected on or after July 1, 2005: any fees and fines specified in subdivision (a) or (b) of Section 68085.5, Section 177.5 or 1218 of the Code of Civil Procedure, or Section 166 of the Penal Code. Commencing July 1, 2005, these fees and fines shall be distributed as provided by Section 68085, except that the fees listed in subdivision (b) of Section 68085.5 and the fee in Section 1835 of the Probate Code shall be distributed to the court or the county, whichever provided the services for which the fee is charged or incurred the costs reimbursed by the fee.

(2) Notwithstanding any other provision of law, until January 1, 2006, upon direction of the Administrative Office of the Courts, the court and the county shall deposit the money each collects under the sections listed in paragraph (2) of subdivision (c) of Section 68085 as soon as practicable after collection and on a regular basis into a bank account established for this purpose and specified by the Administrative Office of the Courts. The deposits shall be made as required by rules adopted by by, and financial policies and procedures authorized by by, the Judicial Council under subdivision (a) of Section 77206 of the Government Code. Within 15 days after the end of the month in which the money is collected, the court and the county each shall provide the Administrative Office of the Courts with a report of the money it collects, as specified by the Administrative Office of the Courts. The money shall be transmitted to the State Controller for deposit in the Trial Court Trust Fund by the Administrative Office of the Courts.

(3) Commencing January 1, 2006, the fees and fines listed in Section 68085.5 shall be distributed as provided by Section 68085.1, or if no provision is made in Section 68085.1, as specified

1 in the section that provides for the fee or fine. The fees in Sections
2 26840.1, 26847, 26854, 26855.1, 26855.2, and 27293 shall be
3 distributed to the county.

4 (b) The amount of the reduction under this section for each
5 county shall be determined by agreement between the
6 Administrative Office of the Courts (AOC) and the California
7 State Association of Counties (CSAC). Each county and each
8 superior court shall exchange relevant factual information to
9 determine and jointly report to the AOC and the CSAC the total
10 amount the county received from civil assessments for the 2003–04
11 fiscal year, both gross and net after costs, on or before August 31,
12 2005. If the court and the county do not agree on the amount, the
13 court and the county shall each report the amount each believes is
14 correct to the AOC and the CSAC on or before August 31, 2005.

15 (c) The AOC and the CSAC shall agree on the amount of the
16 reduction for each county under this section on or before October
17 31, 2005. If a court or county disagrees with the amount agreed to
18 by the AOC and the CSAC for that county, the court or county
19 may appeal to the AOC and the CSAC for an adjustment. The
20 AOC and the CSAC shall determine whether to make any requested
21 adjustment.

22 (d) If the AOC and the CSAC do not agree on the amount of
23 the reduction for a county, they may request a mutually
24 agreed-upon third party to arbitrate and determine the amount. The
25 amount shall be determined on or before December 31, 2005.

26 (e) The costs of collecting civil assessments applied in
27 determining net civil assessments are only those costs used to
28 collect those civil assessments.

29 ~~SEC. 30.~~

30 *SEC. 29.* Section 68085.8 of the Government Code is amended
31 to read:

32 68085.8. (a) On or before December 31, 2005, the
33 Administrative Office of the Courts (AOC) and the California
34 State Association of Counties (CSAC) shall complete an initial
35 review of the impact upon individual counties and courts of the
36 changes in revenue distributions and payment obligations under
37 Sections ~~68085.6~~, 68085.6 and 68085.7 for the purpose of
38 correcting inequities that may result from these changes. The AOC
39 and CSAC shall work with counties and courts to develop and
40 implement procedures to correct inequities resulting from either

1 the implementation of these changes or any changes in the
2 provision of services or benefits under any of the following
3 circumstances:

4 (1) Institution of new civil assessment programs after the
5 2003–04 fiscal year.

6 (2) Substantial impacts on memoranda of understanding or other
7 agreements that are existing or pending as of June 10, 2005, or
8 practices in effect at that time, which agreements and practices
9 contemplate the use of revenues transferred under the act that
10 added this section.

11 (3) The demonstration by clear evidence that the information
12 used as the basis for determining a reduction under Section
13 68085.7, or for determining a county’s obligation under Section
14 68085.6, results in an inequity, and that the inequity imposes an
15 undue hardship on the court or county.

16 (b) Inequities may be corrected by one or more of the following
17 mechanisms:

18 (1) Adjustment of the amount of a county’s obligation under
19 subdivision (a) of Section 68085.6.

20 (2) Adjustment of allocations to a trial court from the Trial Court
21 Trust Fund under subdivision (a) of Section 68085.

22 (3) If necessary, with agreement of the court and county,
23 adjustments of the rights and duties of the parties under memoranda
24 of understanding or other agreements or practices.

25 The adjustments under paragraphs (1) to (3), inclusive, may be
26 temporary or permanent. Adjustments under this section shall be
27 made only with the mutual agreement of the AOC and CSAC.

28 ~~SEC. 31. Section 68635 of the Government Code is repealed.~~

29 ~~SEC. 32. Section 68635 is added to the Government Code, to~~
30 ~~read:~~

31 ~~68635. Notwithstanding any other law, a person who is~~
32 ~~sentenced to state prison or confined in a county jail shall not be~~
33 ~~required to pay any trial court filing fees or costs related to the~~
34 ~~person’s underlying criminal conviction for which the person is~~
35 ~~incarcerated.~~

36 ~~SEC. 33. Section 71380 of the Government Code is amended~~
37 ~~to read:~~

38 ~~71380. The Controller shall establish, supervise, and maintain~~
39 ~~trial court revenue distribution guidelines, including a program to~~
40 ~~audit the accuracy of distributions as provided by law, to ensure~~

1 that all fines, penalties, and forfeitures assessed by courts, and
2 their collection and appropriate disbursement, shall be properly
3 accounted for and distributed. The trial court revenue distribution
4 guidelines shall apply to superior courts, counties, including
5 counties' probation departments, central collection bureaus, and
6 any other agencies or entities having a role in this process.

7 SEC. 34. Section 71386 of the Government Code is amended
8 to read:

9 71386. (a) Each superior court shall adopt a written policy,
10 consistent with rules adopted by, or trial court financial policies
11 and procedures authorized by, the Judicial Council under
12 subdivision (a) of Section 77206, governing the acceptance of
13 checks and money orders in payment of any fines or bail deposits.
14 The policy shall permit clerks to accept checks and money orders
15 under conditions that tend to assure their validity.

16 (b) A court shall accept a personal check, bank cashier's check,
17 or money order for payment of any fee or fine, or for a deposit of
18 bail for any offense that is not declared to be a felony, provided
19 the check or money order meets the criteria established in
20 subdivision (a). However, no court shall be required to accept a
21 check in excess of three hundred dollars (\$300) from a defendant
22 in custody as a deposit of bail for any alleged violation of the Penal
23 Code.

24 (c) The acceptance of a check pursuant to this section constitutes
25 payment of the obligation owed to the payee public agency to the
26 extent of the amount of the check as of the date of acceptance.

27 SEC. 35.

28 SEC. 30. Section 76000.10 of the Government Code is amended
29 to read:

30 76000.10. (a) This section shall be known, and may be cited,
31 as the Emergency Medical Air Transportation Act.

32 (b) For purposes of this section:

33 (1) "Department" means the State Department of Health Care
34 Services.

35 (2) "Director" means the Director of Health Care Services.

36 (3) "Provider" means a provider of emergency medical air
37 transportation services.

38 (4) "Rotary wing" means a type of aircraft, commonly referred
39 to as a helicopter, that generates lift through the use of wings,
40 known as rotor blades, that revolve around a mast.

(5) “Fixed wing” means a type of aircraft, commonly referred to as an airplane, that generates lift through the use of the forward motion of the aircraft and wings that do not revolve around a mast but are fixed in relation to the fuselage of the aircraft.

(6) “Air mileage rate” means the per-mileage reimbursement rate paid for services rendered by rotary-wing and fixed-wing providers.

(c) (1) For purposes of implementing this section, a penalty of four dollars (\$4) shall be imposed upon every conviction for a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code, except parking offenses subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(2) The penalty described in this subdivision is in addition to the state penalty assessed pursuant to Section 1464 of the Penal Code. However, this penalty shall not be included in the base fine used to calculate the state penalty assessment pursuant to subdivision (a) of Section 1464 of the Penal Code, the state surcharge levied pursuant to Section 1465.7 of the Penal Code, and the state court construction penalty pursuant to Section 70372 of this code, and to calculate the other additional penalties levied pursuant to this chapter.

(d) The county or the court that imposed the fine shall, in accordance with the procedures set out in Section 68101, transfer moneys collected pursuant to this section to the Treasurer for deposit into the Emergency Medical Air Transportation and Children’s Coverage Fund, which is hereby established in the State Treasury. Notwithstanding Section 16305.7, the Emergency Medical Air Transportation and Children’s Coverage Fund shall include interest and dividends earned on money in the fund. Any law that references the Emergency Medical Air Transportation Act Fund, as previously established by this subdivision, shall be construed to reference the Emergency Medical Air Transportation and Children’s Coverage Fund, effective January 1, 2018.

(e) (1) The Emergency Medical Air Transportation and Children’s Coverage Fund shall be administered by the State Department of Health Care Services. Moneys in the Emergency Medical Air Transportation and Children’s Coverage Fund shall be made available, upon appropriation by the Legislature, to the department for any of the following purposes:

1 (A) For children's health care coverage.

2 (B) For emergency medical air transportation provider payments,
3 as follows:

4 (i) For payment of the administrative costs of the department
5 in administering emergency medical air transportation provider
6 payments.

7 (ii) Twenty percent of the appropriated money remaining after
8 payment of administrative costs pursuant to clause (i) shall be used
9 to offset the state portion of the Medi-Cal reimbursement rate for
10 emergency medical air transportation services.

11 (iii) Eighty percent of the appropriated money remaining after
12 payment of administrative costs pursuant to clause (i) shall be used
13 to augment emergency medical air transportation reimbursement
14 payments made through the Medi-Cal program, as set forth in
15 paragraphs (2) and (3).

16 (2) If money in the Emergency Medical Air Transportation and
17 Children's Coverage Fund is made available to the department for
18 the purpose described in subparagraph (B) of paragraph (1), both
19 of the following shall occur:

20 (A) The department shall seek to obtain federal matching funds
21 by using the moneys in the Emergency Medical Air Transportation
22 and Children's Coverage Fund for the purpose of augmenting
23 Medi-Cal reimbursement paid to emergency medical air
24 transportation providers.

25 (B) The director shall augment emergency medical air
26 transportation provider payments in accordance with a federally
27 approved reimbursement methodology. The director may seek
28 federal approvals or waivers as may be necessary to implement
29 this section and to obtain federal financial participation to the
30 maximum extent possible for the payments under this section.

31 (3) (A) Upon appropriation by the Legislature, the department
32 shall use moneys in the Emergency Medical Air Transportation
33 and Children's Coverage Fund and any federal matching funds to
34 do any of the following:

35 (i) Fund children's health care coverage.

36 (ii) Increase the Medi-Cal reimbursement for emergency medical
37 air transportation services in an amount not to exceed normal and
38 customary charges charged by the providers.

39 (B) Notwithstanding any other law, and pursuant to this section,
40 if money in the Emergency Medical Air Transportation and

Children's Coverage Fund is made available to the department for the purpose described in subparagraph (B) of paragraph (1), the department shall increase the Medi-Cal reimbursement for emergency medical air transportation services if both of the following conditions are met:

(i) Moneys in the Emergency Medical Air Transportation and Children's Coverage Fund will cover the cost of increased payments pursuant to clause (iii) of subparagraph (B) of paragraph (1).

(ii) The state does not incur any General Fund expense to pay for the Medi-Cal emergency medical air transportation services increase.

(f) The assessment of penalties pursuant to this section shall terminate on January 1, 2020. Penalties assessed before January 1, 2020, shall cease to be collected, administered, and distributed as of that date. On January 1, 2020, moneys remaining unexpended and unencumbered in the Emergency Medical Air Transportation and Children's Coverage Fund shall be transferred to the General Fund, to be available, upon appropriation by the Legislature, for the purposes of augmenting Medi-Cal reimbursement for emergency medical air transportation and related costs, generally, or funding children's health care coverage.

(g) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, the department may implement, interpret, or make specific this section and any applicable federal waivers and state plan amendments by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions without taking regulatory action.

(h) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

~~SEC. 36.~~

SEC. 31. Section 76223 of the Government Code is amended to read:

76223. Notwithstanding any other provision of law, the following conditions pertain to the construction of court facilities in Merced County by the County of Merced for any construction pursuant to a written agreement entered into prior to January 1,

2004, between the board of supervisors and the presiding judge of the superior court:

(a) The presiding judge of the superior court may agree to make available court funds, up to a stated amount, other than funds received from the Trial Court Trust Fund or other state sources, in the courthouse construction fund.

(b) The total amounts deposited under subdivision (a) may not exceed in any fiscal year the amount payable on the construction costs less (1) any amounts paid by the courthouse construction fund and (2) any other amounts paid from other sources except for any amounts paid pursuant to subdivision (b).

(c) The total amounts deposited under subdivision (b) shall not exceed in any fiscal year the amount payable on the construction costs less (1) any amounts paid by the courthouse construction fund, (2) any amounts paid pursuant to subdivision (a) of this section, and (3) any other amounts paid from other sources except for any amounts paid pursuant to subdivision (b).

(d) If legislation is passed and becomes effective transferring the responsibility for court facilities to the state, and the legislation permits the transfer of the bonded indebtedness or other encumbrance on court facilities together with revenue sources for payment of the bonded indebtedness or other encumbrance, the revenue sources provided for by this section may also be transferred to the state.

(e) As used in this section, the costs of construction also includes the payment on the bonded indebtedness or other encumbrance used to finance the construction.

~~SEC. 37. Section 77009 of the Government Code is amended to read:~~

~~77009. (a) The Judicial Council may establish bank accounts for the superior courts and require the courts to deposit moneys for trial court operations, and any other moneys under the control of the courts, into those accounts. Deposits to these accounts shall include, but are not limited to, the following:~~

~~(1) Moneys appropriated in the Budget Act and allocated or reallocated to the superior court by the Judicial Council.~~

~~(2) Moneys held in trust.~~

~~(3) Other moneys as deemed necessary or appropriate.~~

~~(b) Subdivision (a) shall not apply to payments from a party or a defendant received by the superior court for any criminal fines~~

1 or forfeitures. However, the court and county may enter into a
2 contract for the court to provide depository services in an account
3 established by the Judicial Council for criminal fines and
4 forfeitures, with the approval of the Administrative Director of the
5 Courts. The contract shall identify the scope of service, method
6 of service delivery, term of agreement, anticipated service
7 outcomes, and the cost of the service. The amount of any indirect
8 or overhead costs shall be individually stated with the method of
9 calculation of the indirect or overhead costs.

10 (e) Moneys deposited into a bank account established pursuant
11 to subdivision (a) for the Trial Court Operations Fund that are
12 appropriated in the Budget Act and allocated or reallocated to the
13 superior court by the Judicial Council shall be payable only for
14 the purposes set forth in Sections 77003 and 77006.5, and for
15 services purchased by the court pursuant to subdivisions (b) and
16 (e) of Section 77212.

17 (d) (1) All moneys received by a superior court from any source
18 for court operating and program purposes shall be deposited into
19 a bank account established pursuant to subdivision (a) and
20 accounted for in the Trial Court Operations Fund. Moneys that are
21 received to fulfill the requirements of Article 4 (commencing with
22 Section 4250) of Chapter 2 of Part 2 of Division 9 and Division
23 14 (commencing with Section 10000) of the Family Code shall be
24 identified and maintained in a separate account established in the
25 fund for this purpose.

26 (2) All other moneys deposited into a bank account established
27 pursuant to subdivision (a) and accounted for in the Trial Court
28 Operations Fund that are received for purposes other than court
29 operations, as defined in Section 77003 and Rule 10.810 of the
30 California Rules of Court, shall be identified and maintained in
31 separate accounts in the fund.

32 (3) This subdivision shall not apply to either of the following:

33 (A) Moneys received by the courts pursuant to paragraph (2)
34 of subdivision (a) of this section and Section 68084, if those
35 moneys are not for court operating or program purposes.

36 (B) Payments from a party or a defendant received by the county
37 for any fines or forfeitures; moneys collected by the superior court
38 under Chapter 5.8 (commencing with Section 70600); or fines to
39 which Section 68085.1 applies.

1 ~~(e) The presiding judge of the superior court, or the judge's~~
2 ~~designee, shall authorize and direct all expenditures by the court~~
3 ~~for operating and program purposes from any account established~~
4 ~~under subdivision (b) or (c).~~

5 ~~(f) The Judicial Council, in consultation with the Controller's~~
6 ~~office, shall establish procedures to implement this section and to~~
7 ~~provide for payment of trial court operations expenses, as described~~
8 ~~in Sections 77003 and 77006.5, incurred on July 1, 1997, and~~
9 ~~thereafter.~~

10 ~~(g) (1) If the Judicial Council has not established bank accounts~~
11 ~~pursuant to subdivision (a), the court shall contract with the county~~
12 ~~for fiscal services. Each board of supervisors shall maintain in the~~
13 ~~county treasury a Trial Court Operations Fund, which will operate~~
14 ~~as an agency fund. All moneys appropriated in the Budget Act and~~
15 ~~allocated and reallocated to the superior court in the county by the~~
16 ~~Judicial Council shall be deposited into the fund.~~

17 ~~(2) Moneys deposited into the fund that are appropriated for the~~
18 ~~Trial Court Operations Fund in the Budget Act and allocated or~~
19 ~~reallocated to the superior court by the Judicial Council shall be~~
20 ~~payable only for the purposes set forth in Sections 77003 and~~
21 ~~77006.5, and for services purchased by the court pursuant to~~
22 ~~subdivisions (b) and (c) of Section 77212. The presiding judge of~~
23 ~~the superior court, or the judge's designee, shall authorize and~~
24 ~~direct expenditures from the fund and the county auditor-controller~~
25 ~~shall make payments from the funds as directed. Approval of the~~
26 ~~board of supervisors is not required for expenditure from this fund.~~

27 ~~(3) All moneys received by a superior court from any source~~
28 ~~for court operating and program purposes shall be deposited in the~~
29 ~~fund, except as provided in this subdivision. Moneys that are~~
30 ~~received to fulfill the requirements of Article 4 (commencing with~~
31 ~~Section 4250) of Chapter 2 of Part 2 of Division 9 and Division~~
32 ~~14 (commencing with Section 10000) of the Family Code shall be~~
33 ~~identified and maintained in a separate account established in the~~
34 ~~fund for this purpose. All other moneys that are received for~~
35 ~~purposes other than court operations, as defined in Section 77003~~
36 ~~and Rule 10.810 of the California Rules of Court, shall be identified~~
37 ~~and maintained in one or more separate accounts established in~~
38 ~~the fund pursuant to procedures adopted by the Judicial Council.~~
39 ~~This subdivision shall only apply to moneys received by the courts~~

1 for operating and program purposes. This subdivision shall not
2 apply to either of the following:

3 (A) Moneys received by the courts pursuant to Section 68084,
4 if those funds are not for court operating or program purposes.

5 (B) Payments from a party or a defendant received by the county
6 for any fines or forfeitures; moneys collected by the superior court
7 under Chapter 5.8 (commencing with Section 70600); or fines to
8 which Section 68085.1 applies.

9 (4) Interest received by a county that is attributable to investment
10 of moneys, which interest is required by this subdivision to be
11 deposited in the superior court's fund, shall be deposited in the
12 fund and shall be used for trial court operations purposes.

13 (5) In no event shall interest be charged to the superior court's
14 fund, except as provided in Section 77009.1.

15 (6) Reasonable administrative expenses incurred by the county
16 associated with the operation of this fund shall be charged to the
17 superior court.

18 (7) A county, or city and county, may bill the superior court
19 within its jurisdiction for costs for services provided by the county,
20 or city and county, as described in Sections 77003 and 77212,
21 including indirect costs as described in paragraph (7) of subdivision
22 (a) of Section 77003 and Section 77212. The costs billed by the
23 county, or the city and the county, pursuant to this subdivision
24 shall not exceed the costs incurred by the county, or the city and
25 the county, of providing similar services to county departments or
26 special districts.

27 (8) Pursuant to Section 77206, the Controller, at the request of
28 the Legislature, may perform financial and fiscal compliance audits
29 of this fund. The Judicial Council or its representatives may
30 perform audits, reviews, and investigations of this fund wherever
31 the records may be located.

32 (h) The Judicial Council or its representatives may perform
33 audits, reviews, and investigations of superior court operations
34 and records wherever they may be located.

35 SEC. 38. Section 77203 of the Government Code is amended
36 to read:

37 77203. (a) Prior to June 30, 2014, a trial court may carry over
38 all unexpended funds from the courts operating budget from the
39 prior fiscal year.

1 ~~(b) Commencing June 30, 2014, a trial court may carry over~~
2 ~~unexpended funds in an amount not to exceed 1 percent of the~~
3 ~~court's operating budget from the prior fiscal year. The calculation~~
4 ~~of the 1 percent authorized to be carried over from the previous~~
5 ~~fiscal year shall not include funds received by the court pursuant~~
6 ~~to the following:~~

7 ~~(1) Section 470.5 of the Business and Professions Code.~~

8 ~~(2) Section 116.230 of the Code of Civil Procedure, except for~~
9 ~~those funds transmitted to the Controller for deposit in the Trial~~
10 ~~Court Trust Fund pursuant to subdivision (h) of that section.~~

11 ~~(3) Subdivision (f) of Section 13963, Sections 26731, 66006,~~
12 ~~68090.8, 70640, 70678, and 76223, subdivision (b) of Section~~
13 ~~77207.5, and subdivision (h) of Section 77209.~~

14 ~~(4) The portion of filing fees collected for conversion to~~
15 ~~micrographics pursuant to former Section 26863, as that section~~
16 ~~read immediately before its repeal, and Section 27361.4.~~

17 ~~(5) Sections 1027 and 1463.007, subdivision (a) of Section~~
18 ~~1463.22, and Sections 4750 and 6005, of the Penal Code.~~

19 ~~(6) Section 11205.2 of the Vehicle Code.~~

20 ~~SEC. 39. Section 77205 of the Government Code is amended~~
21 ~~to read:~~

22 ~~77205. (a) Notwithstanding any other provision of law, in any~~
23 ~~year in which a county collects fee, fine, and forfeiture revenue~~
24 ~~for deposit into the county general fund pursuant to Sections~~
25 ~~1463.001 and 1464 of the Penal Code, Sections 42007 and 42008~~
26 ~~of the Vehicle Code, and Sections 27361 and 76000 of the~~
27 ~~Government Code that would have been deposited into the General~~
28 ~~Fund pursuant to these sections as they read on December 31,~~
29 ~~1997, and that exceeds the amount specified in paragraph (2) of~~
30 ~~subdivision (b) of Section 77201 for the 1997–98 fiscal year, and~~
31 ~~paragraph (2) of subdivision (b) of Section 77201.1 for the 1998–99~~
32 ~~fiscal year, and thereafter, the excess amount shall be divided~~
33 ~~between the county or city and county and the state, with 50 percent~~
34 ~~of the excess transferred to the state for deposit in the State Trial~~
35 ~~Court Improvement and Modernization Fund and 50 percent of~~
36 ~~the excess deposited into the county general fund. The Judicial~~
37 ~~Council shall allocate 80 percent of the amount deposited in the~~
38 ~~State Trial Court Improvement and Modernization Fund pursuant~~
39 ~~to this subdivision each fiscal year that exceeds the amount~~
40 ~~deposited in the 2002–03 fiscal year among:~~

~~(1) The trial court in the county from which the revenue was deposited.~~

~~(2) Other trial courts, as provided in paragraph (1) of subdivision (a) of Section 68085.~~

~~(3) For retention in the State Trial Court Improvement and Modernization Fund.~~

~~For the purpose of this subdivision, fee, fine, and forfeiture revenue shall only include revenue that would otherwise have been deposited in the General Fund prior to January 1, 1998.~~

~~(b) Any amounts required to be distributed to the state pursuant to subdivision (a) shall be remitted to the Controller no later than 45 days after the end of the fiscal year in which those fees, fines, and forfeitures were collected. This remittance shall be accompanied by a remittance advice identifying the quarter of collection and stating that the amount should be deposited in the State Trial Court Improvement and Modernization Fund.~~

~~(c) Notwithstanding subdivision (a), the following counties whose base-year remittance requirement was reduced pursuant to subdivision (c) of Section 77201.1 shall not be required to split their annual fee, fine, and forfeiture revenues as provided in this section until such revenues exceed the following amounts:~~

County	Amount
Placer	\$ 1,554,677
Riverside	11,028,078
San Joaquin	3,694,810
San Mateo	5,304,995
Ventura	4,637,294

~~SEC. 40. Section 11374.5 of the Health and Safety Code is amended to read:~~

~~11374.5. (a) Any manufacturer of a controlled substance who disposes of any hazardous substance that is a controlled substance or a chemical used in, or is a byproduct of, the manufacture of a controlled substance in violation of any law regulating the disposal of hazardous substances or hazardous waste is guilty of a public offense punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years or in the county jail not exceeding one year.~~

1 ~~(b) As used in this section the following terms have the~~
2 ~~following meaning:~~

3 ~~(1) “Dispose” means to abandon, deposit, intern, or otherwise~~
4 ~~discard as a final action after use has been achieved or a use is no~~
5 ~~longer intended.~~

6 ~~(2) “Hazardous substance” has the same meaning as defined~~
7 ~~in Section 25316.~~

8 ~~(3) “Hazardous waste” has the same meaning as defined in~~
9 ~~Section 25117.~~

10 ~~SEC. 41. Section 11470.2 of the Health and Safety Code is~~
11 ~~repealed.~~

12 ~~SEC. 42. Section 11470.5 is added to the Health and Safety~~
13 ~~Code, to read:~~

14 ~~11470.5. On and after January 1, 2020, the unpaid balance of~~
15 ~~any court-imposed costs pursuant to Sections 11374.5 and 11470.2,~~
16 ~~as those sections read on December 31, 2019, is unenforceable~~
17 ~~and uncollectible and any portion of a judgment imposing those~~
18 ~~costs shall be vacated.~~

19 ~~SEC. 43.~~

20 ~~SEC. 32. Section 273a of the Penal Code is amended to read:~~

21 ~~273a. (a) Any person who, under circumstances or conditions~~
22 ~~likely to produce great bodily harm or death, willfully causes or~~
23 ~~permits any child to suffer, or inflicts thereon unjustifiable physical~~
24 ~~pain or mental suffering, or having the care or custody of any child,~~
25 ~~willfully causes or permits the person or health of that child to be~~
26 ~~injured, or willfully causes or permits that child to be placed in a~~
27 ~~situation where the child’s person or health is endangered, shall~~
28 ~~be punished by imprisonment in a county jail not exceeding one~~
29 ~~year, or in the state prison for two, four, or six years.~~

30 ~~(b) Any person who, under circumstances or conditions other~~
31 ~~than those likely to produce great bodily harm or death, willfully~~
32 ~~causes or permits any child to suffer, or inflicts thereon~~
33 ~~unjustifiable physical pain or mental suffering, or having the care~~
34 ~~or custody of any child, willfully causes or permits the person or~~
35 ~~health of that child to be injured, or willfully causes or permits~~
36 ~~that child to be placed in a situation where the child’s person or~~
37 ~~health may be endangered, is guilty of a misdemeanor.~~

38 ~~(c) If a person is convicted of violating this section and probation~~
39 ~~is granted, the court shall require the following minimum~~
40 ~~conditions of probation:~~

1 (1) A mandatory minimum period of probation of 48 months.

2 (2) A criminal court protective order protecting the victim from
3 further acts of violence or threats, and, if appropriate, residence
4 exclusion or stay-away conditions.

5 (3) Successful completion of no less than one year of a child
6 abuser's treatment counseling program approved by the probation
7 department. The defendant shall be ordered to begin participation
8 in the program immediately upon the grant of probation. The
9 counseling program shall meet the criteria specified in Section
10 273.1. The defendant shall produce documentation of program
11 enrollment to the court within 30 days of enrollment, along with
12 quarterly progress reports.

13 (4) If the offense was committed while the defendant was under
14 the influence of drugs or alcohol, the defendant shall abstain from
15 the use of drugs or alcohol during the period of probation and shall
16 be subject to random drug testing by the defendant's probation
17 officer.

18 (5) The court may waive any of the minimum conditions of
19 probation of this subdivision upon a finding that the condition
20 would not be in the best interests of justice. The court shall state
21 on the record its reasons for any waiver.

22 ~~SEC. 44.~~

23 *SEC. 33.* Section 273d of the Penal Code is amended to read:

24 273d. (a) Any person who willfully inflicts upon a child any
25 cruel or inhuman corporal punishment or an injury resulting in a
26 traumatic condition is guilty of a felony and shall be punished by
27 imprisonment pursuant to subdivision (h) of Section 1170 for two,
28 four, or six years, or in a county jail for not more than one year,
29 by a fine of up to six thousand dollars (\$6,000), or by both that
30 imprisonment and fine.

31 (b) Any person who is found guilty of violating subdivision (a)
32 shall receive a four-year enhancement for a prior conviction of
33 that offense provided that no additional term shall be imposed
34 under this subdivision for any prison term or term imposed under
35 the provisions of subdivision (h) of Section 1170 served prior to
36 a period of 10 years in which the defendant remained free of both
37 the commission of an offense that results in a felony conviction
38 and prison custody or custody in a county jail under the provisions
39 of subdivision (h) of Section 1170.

1 (c) If a person is convicted of violating this section and probation
2 is granted, the court shall require the following minimum
3 conditions of probation:

4 (1) A mandatory minimum period of probation of 36 months.

5 (2) A criminal court protective order protecting the victim from
6 further acts of violence or threats, and, if appropriate, residence
7 exclusion or stay-away conditions.

8 (3) Successful completion of no less than one year of a child
9 abuser's treatment counseling program. The defendant shall be
10 ordered to begin participation in the program immediately upon
11 the grant of probation. The counseling program shall meet the
12 criteria specified in Section 273.1. The defendant shall produce
13 documentation of program enrollment to the court within 30 days
14 of enrollment, along with quarterly progress reports.

15 (4) If the offense was committed while the defendant was under
16 the influence of drugs or alcohol, the defendant shall abstain from
17 the use of drugs or alcohol during the period of probation and shall
18 be subject to random drug testing by the defendant's probation
19 officer.

20 (5) The court may waive any of the minimum conditions of
21 probation specified in this subdivision upon a finding that the
22 condition would not be in the best interests of justice. The court
23 shall state on the record its reasons for any waiver.

24 ~~SEC. 45.~~

25 *SEC. 34.* Section 273.1 of the Penal Code is amended to read:

26 273.1. (a) Any treatment program to which a child abuser
27 convicted of a violation of Section 273a or 273d is referred as a
28 condition of probation shall meet the following criteria:

29 (1) Substantial expertise and experience in the treatment of
30 victims of child abuse and the families in which abuse and violence
31 have occurred.

32 (2) Staff providing direct service are therapists licensed to
33 practice in this state or are under the direct supervision of a
34 therapist licensed to practice in this state.

35 (3) Utilization of a treatment regimen designed to specifically
36 address the offense, including methods of preventing and breaking
37 the cycle of family violence, anger management, and parenting
38 education that focuses, among other things, on means of identifying
39 the developmental and emotional needs of the child.

1 (4) Utilization of group and individual therapy and counseling,
2 with groups no larger than 12 persons.

3 (5) Capability of identifying substance abuse and either treating
4 the abuse or referring the offender to a substance abuse program,
5 to the extent that the court has not already done so.

6 (6) Entry into a written agreement with the defendant that
7 includes an outline of the components of the program, the
8 attendance requirements, a requirement to attend group session
9 free of chemical influence, and a statement that the defendant may
10 be removed from the program if it is determined that the defendant
11 is not benefiting from the program or is disruptive to the program.

12 (7) The program may include, on the recommendation of the
13 treatment counselor, family counseling. However, no child victim
14 shall be compelled or required to participate in the program,
15 including family counseling, and no program may condition a
16 defendant's enrollment on participation by the child victim. The
17 treatment counselor shall privately advise the child victim that
18 their participation is voluntary.

19 (b) If the program finds that the defendant is unsuitable, the
20 program shall immediately contact the probation department or
21 the court. The probation department or court shall either recalendar
22 the case for hearing or refer the defendant to an appropriate
23 alternative child abuser's treatment counseling program.

24 (c) Upon request by the child abuser's treatment counseling
25 program, the court shall provide the defendant's arrest report, prior
26 incidents of violence, and treatment history to the program.

27 (d) The child abuser's treatment counseling program shall
28 provide the probation department and the court with periodic
29 progress reports at least every three months that include attendance,
30 fee payment history, and program compliance. The program shall
31 submit a final evaluation that includes the program's evaluation
32 of the defendant's progress, and recommendation for either
33 successful or unsuccessful termination of the program.

34 SEC. 46. Section 273.6 of the Penal Code is amended to read:

35 273.6. (a) ~~Any intentional and knowing violation of a~~
36 ~~protective order, as defined in Section 6218 of the Family Code,~~
37 ~~or of an order issued pursuant to Section 527.6, 527.8, or 527.85~~
38 ~~of the Code of Civil Procedure, or Section 15657.03 of the Welfare~~
39 ~~and Institutions Code, is a misdemeanor punishable by a fine of~~
40 ~~not more than one thousand dollars (\$1,000), or by imprisonment~~

1 in a county jail for not more than one year, or by both that fine and
2 imprisonment.

3 ~~(b) In the event of a violation of subdivision (a) that results in~~
4 ~~physical injury, the person shall be punished by a fine of not more~~
5 ~~than two thousand dollars (\$2,000), or by imprisonment in a county~~
6 ~~jail for not less than 30 days nor more than one year, or by both~~
7 ~~that fine and imprisonment. However, if the person is imprisoned~~
8 ~~in a county jail for at least 48 hours, the court may, in the interest~~
9 ~~of justice and for reasons stated on the record, reduce or eliminate~~
10 ~~the 30-day minimum imprisonment required by this subdivision.~~
11 ~~In determining whether to reduce or eliminate the minimum~~
12 ~~imprisonment pursuant to this subdivision, the court shall consider~~
13 ~~the seriousness of the facts before the court, whether there are~~
14 ~~additional allegations of a violation of the order during the~~
15 ~~pendency of the case before the court, the probability of future~~
16 ~~violations, the safety of the victim, and whether the defendant has~~
17 ~~successfully completed or is making progress with counseling.~~

18 ~~(c) Subdivisions (a) and (b) shall apply to the following court~~
19 ~~orders:~~

20 ~~(1) Any order issued pursuant to Section 6320 or 6389 of the~~
21 ~~Family Code.~~

22 ~~(2) An order excluding one party from the family dwelling or~~
23 ~~from the dwelling of the other.~~

24 ~~(3) An order enjoining a party from specified behavior that the~~
25 ~~court determined was necessary to effectuate the order described~~
26 ~~in subdivision (a).~~

27 ~~(4) Any order issued by another state that is recognized under~~
28 ~~Part 5 (commencing with Section 6400) of Division 10 of the~~
29 ~~Family Code.~~

30 ~~(d) A subsequent conviction for a violation of an order described~~
31 ~~in subdivision (a), occurring within seven years of a prior~~
32 ~~conviction for a violation of an order described in subdivision (a)~~
33 ~~and involving an act of violence or “a credible threat” of violence,~~
34 ~~as defined in subdivision (c) of Section 139, is punishable by~~
35 ~~imprisonment in a county jail not to exceed one year, or pursuant~~
36 ~~to subdivision (h) of Section 1170.~~

37 ~~(e) In the event of a subsequent conviction for a violation of an~~
38 ~~order described in subdivision (a) for an act occurring within one~~
39 ~~year of a prior conviction for a violation of an order described in~~
40 ~~subdivision (a) that results in physical injury to a victim, the person~~

1 shall be punished by a fine of not more than two thousand dollars
2 (\$2,000), or by imprisonment in a county jail for not less than six
3 months nor more than one year, by both that fine and
4 imprisonment, or by imprisonment pursuant to subdivision (h) of
5 Section 1170. However, if the person is imprisoned in a county
6 jail for at least 30 days, the court may, in the interest of justice and
7 for reasons stated in the record, reduce or eliminate the six-month
8 minimum imprisonment required by this subdivision. In
9 determining whether to reduce or eliminate the minimum
10 imprisonment pursuant to this subdivision, the court shall consider
11 the seriousness of the facts before the court, whether there are
12 additional allegations of a violation of the order during the
13 pendency of the case before the court, the probability of future
14 violations, the safety of the victim, and whether the defendant has
15 successfully completed or is making progress with counseling.

16 (f) The prosecuting agency of each county shall have the primary
17 responsibility for the enforcement of orders described in
18 subdivisions (a), (b), (d), and (e).

19 (g) (1) Every person who owns, possesses, purchases, or
20 receives a firearm knowing the person is prohibited from doing so
21 by the provisions of a protective order as defined in Section 136.2
22 of this code, Section 6218 of the Family Code, or Section 527.6,
23 527.8, or 527.85 of the Code of Civil Procedure, or Section
24 15657.03 of the Welfare and Institutions Code, shall be punished
25 under Section 29825.

26 (2) Every person subject to a protective order described in
27 paragraph (1) shall not be prosecuted under this section for owning,
28 possessing, purchasing, or receiving a firearm to the extent that
29 firearm is granted an exemption pursuant to subdivision (f) of
30 Section 527.9 of the Code of Civil Procedure, or subdivision (h)
31 of Section 6389 of the Family Code.

32 (h) If probation is granted upon conviction of a violation of
33 subdivision (a), (b), (c), (d), or (e), the court shall impose probation
34 consistent with Section 1203.097, and the conditions of probation
35 may include, in lieu of a fine, that the defendant reimburse the
36 victim for reasonable costs of counseling and other reasonable
37 expenses that the court finds are the direct result of the defendant's
38 offense.

39 (i) For any order to pay a fine, make payments to a battered
40 women's shelter, or pay restitution as a condition of probation

1 under subdivision (e), the court shall make a determination of the
2 defendant's ability to pay. In no event shall any order to make
3 payments to a battered women's shelter be made if it would impair
4 the ability of the defendant to pay direct restitution to the victim
5 or court-ordered child support. Where the injury to a married person
6 is caused in whole or in part by the criminal acts of the person's
7 spouse in violation of this section, the community property may
8 not be used to discharge the liability of the offending spouse for
9 restitution to the injured spouse, required by Section 1203.04, as
10 operative on or before August 2, 1995, or Section 1202.4, or to a
11 shelter for costs with regard to the injured spouse and dependents,
12 required by this section, until all separate property of the offending
13 spouse is exhausted.

14 SEC. 47. Section 290.06 of the Penal Code is amended to read:
15 290.06. The static SARATSO, as set forth in Section 290.04,
16 shall be administered as follows:

17 (a) (1) The Department of Corrections and Rehabilitation shall
18 assess every eligible person who is incarcerated in state prison.
19 Whenever possible, the assessment shall take place at least four
20 months, but no sooner than 10 months, prior to release from
21 incarceration.

22 (2) The department shall assess every eligible person who is on
23 parole if the person was not assessed prior to release from state
24 prison. Whenever possible, the assessment shall take place at least
25 four months, but no sooner than 10 months, prior to termination
26 of parole. The department shall record in a database the risk
27 assessment scores of persons assessed pursuant to this paragraph
28 and paragraph (1), and any risk assessment score that was
29 submitted to the department by a probation officer pursuant to
30 Section 1203.

31 (3) The department shall assess every person on parole
32 transferred from any other state or by the federal government to
33 this state who has been, or is hereafter convicted in any other court,
34 including any state, federal, or military court, of any offense that,
35 if committed or attempted in this state, would have been punishable
36 as one or more of the offenses described in subdivision (e) of
37 Section 290. The assessment required by this paragraph shall occur
38 no later than 60 days after a determination by the Department of
39 Justice that the person is required to register as a sex offender in
40 California pursuant to Section 290.005.

~~(4) The State Department of State Hospitals shall assess every eligible person who is committed to that department. Whenever possible, the assessment shall take place at least four months, but no sooner than 10 months, prior to release from commitment. The State Department of State Hospitals shall record in a database the risk assessment scores of persons assessed pursuant to this paragraph and any risk assessment score that was submitted to the department by a probation officer pursuant to Section 1203.~~

~~(5) Commencing January 1, 2010, the Department of Corrections and Rehabilitation and the State Department of State Hospitals shall send the scores obtained in accordance with paragraphs (2), (3), and (4) to the Department of Justice not later than 30 days after the date of the assessment. The risk assessment score of an offender shall be made part of the offender's file maintained by the Department of Justice as soon as possible without financial impact, but no later than January 1, 2012.~~

~~(6) Each probation department shall, prior to sentencing, assess every eligible person as defined in subdivision (e), whether or not a report is prepared pursuant to Section 1203.~~

~~(7) Each probation department shall assess every eligible person under its supervision who was not assessed pursuant to paragraph (6). The assessment shall take place prior to the termination of probation, but no later than January 1, 2010.~~

~~(b) Eligible persons not assessed pursuant to subdivision (a) may be assessed as follows:~~

~~(1) Upon request of the law enforcement agency in the jurisdiction in which the person is registered pursuant to Sections 290 to 290.023, inclusive, the person shall be assessed. The law enforcement agency may enter into a memorandum of understanding with a probation department to perform the assessment. In the alternative, the law enforcement agency may arrange to have personnel trained to perform the risk assessment in accordance with subdivision (d) of Section 290.05.~~

~~(2) Eligible persons not assessed pursuant to subdivision (a) may request that a risk assessment be performed. A request form shall be available at registering law enforcement agencies. The risk assessment so requested shall be performed either by the probation department, if a memorandum of understanding is established between the law enforcement agency and the probation~~

1 department, or by personnel who have been trained to perform risk
2 assessment in accordance with subdivision (d) of Section 290.05.

3 (e) ~~For purposes of this section, “eligible person” means a person~~
4 ~~who was convicted of an offense that requires the person to register~~
5 ~~as a sex offender pursuant to the Sex Offender Registration Act~~
6 ~~and who is eligible for assessment, pursuant to the official Coding~~
7 ~~Rules designated for use with the risk assessment instrument by~~
8 ~~the author of any risk assessment instrument (SARATSO) selected~~
9 ~~by the SARATSO Review Committee.~~

10 (d) ~~Persons authorized to perform risk assessments pursuant to~~
11 ~~this section, Section 1203, and Section 706 of the Welfare and~~
12 ~~Institutions Code shall be immune from liability for good faith~~
13 ~~conduct under this act.~~

14 ~~SEC. 48:~~

15 *SEC. 35.* Section 295 of the Penal Code is amended to read:

16 295. (a) This chapter shall be known and may be cited as the
17 DNA and Forensic Identification Database and Data Bank Act of
18 1998, as amended.

19 (b) The people of the State of California set forth all of the
20 following:

21 (1) Deoxyribonucleic acid (DNA) and forensic identification
22 analysis is a useful law enforcement tool for identifying and
23 prosecuting criminal offenders and exonerating the innocent.

24 (2) It is the intent of the people of the State of California, in
25 order to further the purposes of this chapter, to require DNA and
26 forensic identification data bank samples from all persons,
27 including juveniles, for the felony and misdemeanor offenses
28 described in subdivision (a) of Section 296.

29 (3) It is necessary to enact this act defining and governing the
30 state’s DNA and forensic identification database and data bank in
31 order to clarify existing law and to enable the state’s DNA and
32 Forensic Identification Database and Data Bank Program to become
33 a more effective law enforcement tool.

34 (c) The purpose of the DNA and Forensic Identification
35 Database and Data Bank Program is to assist federal, state, and
36 local criminal justice and law enforcement agencies within and
37 outside California in the expeditious and accurate detection and
38 prosecution of individuals responsible for sex offenses and other
39 crimes, the exclusion of suspects who are being investigated for

1 these crimes, and the identification of missing and unidentified
2 persons, particularly abducted children.

3 (d) Like the collection of fingerprints, the collection of DNA
4 samples pursuant to this chapter is an administrative requirement
5 to assist in the accurate identification of criminal offenders.

6 (e) Unless otherwise requested by the Department of Justice,
7 collection of biological samples for DNA analysis from qualifying
8 persons under this chapter is limited to collection of inner cheek
9 cells of the mouth (buccal swab samples).

10 (f) The Department of Justice DNA Laboratory may obtain
11 through federal, state, or local law enforcement agencies blood
12 specimens from qualifying persons as defined in subdivision (a)
13 of Section 296, and according to procedures set forth in Section
14 298, when it is determined in the discretion of the Department of
15 Justice that such specimens are necessary in a particular case or
16 would aid the department in obtaining an accurate forensic DNA
17 profile for identification purposes.

18 (g) The Department of Justice, through its DNA Laboratory,
19 shall be responsible for the management and administration of the
20 state's DNA and Forensic Identification Database and Data Bank
21 Program and for liaison with the Federal Bureau of Investigation
22 (FBI) regarding the state's participation in a national or
23 international DNA database and data bank program such as the
24 FBI's Combined DNA Index System (CODIS) that allows the
25 storage and exchange of DNA records submitted by state and local
26 forensic DNA laboratories nationwide.

27 (h) The Department of Justice shall be responsible for
28 implementing this chapter.

29 (1) The Department of Justice DNA Laboratory, and the
30 Department of Corrections and Rehabilitation may adopt policies
31 and enact regulations for the implementation of this chapter, as
32 necessary, to give effect to the intent and purpose of this chapter,
33 and to ensure that data bank blood specimens, buccal swab samples,
34 and thumb and palm print impressions as required by this chapter
35 are collected from qualifying persons in a timely manner, as soon
36 as possible after arrest, conviction, or a plea or finding of guilty,
37 no contest, or not guilty by reason of insanity, or upon any
38 disposition rendered in the case of a juvenile who is adjudicated
39 under Section 602 of the Welfare and Institutions Code for
40 commission of any of this chapter's enumerated qualifying

1 offenses, including attempts, or when it is determined that a
2 qualifying person has not given the required specimens, ~~samples~~
3 *samples*, or print impressions. Before adopting any policy or
4 regulation implementing this chapter, the Department of
5 Corrections and Rehabilitation shall seek advice from and consult
6 with the Department of Justice DNA Laboratory Director.

7 (2) Given the specificity of this chapter, and except as provided
8 in subdivision (c) of Section 298.1, any administrative bulletins,
9 notices, regulations, policies, procedures, or guidelines adopted
10 by the Department of Justice and its DNA Laboratory or the
11 Department of Corrections and Rehabilitation for the purpose of
12 ~~the~~ implementing this chapter are exempt from the provisions of
13 the Administrative Procedure Act, Chapter 3.5 (commencing with
14 Section 11340), Chapter 4 (commencing with Section 11370),
15 Chapter 4.5 (commencing with Section 11400), and Chapter 5
16 (commencing with Section 11500) of Part 1 of Division 3 of Title
17 2 of the Government Code.

18 (3) The Department of Corrections and Rehabilitation shall
19 submit copies of any of its policies and regulations with respect
20 to this chapter to the Department of Justice DNA Laboratory
21 Director, and quarterly shall submit to the director written reports
22 updating the director as to the status of its compliance with this
23 chapter.

24 (4) On or before April 1 in the year following adoption of the
25 act that added this paragraph, and quarterly thereafter, the
26 Department of Justice DNA Laboratory shall submit a quarterly
27 report to be published electronically on a Department of Justice
28 internet website and made available for public review. The
29 quarterly report shall state the total number of samples received,
30 the number of samples received from the Department of
31 Corrections and Rehabilitation, the number of samples fully
32 analyzed for inclusion in the CODIS database, and the number of
33 profiles uploaded into the CODIS database for the reporting period.
34 Each quarterly report shall state the total, annual, and quarterly
35 number of qualifying profiles in the Department of Justice DNA
36 Laboratory data bank both from persons and case evidence, and
37 the number of hits and investigations aided, as reported to the
38 National DNA Index System. The quarterly report shall also
39 confirm the laboratory's accreditation status and participation in

1 CODIS and shall include an accounting of the funds collected,
2 expended, and disbursed pursuant to subdivision (k).

3 (5) On or before April 1 in the year following adoption of the
4 act that added this paragraph, and quarterly thereafter, the
5 Department of Corrections and Rehabilitation shall submit a
6 quarterly report to be published electronically on a Department of
7 Corrections and Rehabilitation internet website and made available
8 for public review. The quarterly report shall state the total number
9 of inmates housed in state correctional facilities, including a
10 breakdown of those housed in state prisons, camps, community
11 correctional facilities, and other facilities such as prisoner mother
12 facilities. Each quarterly report shall also state the total, annual,
13 and quarterly number of inmates who have yet to provide
14 specimens, ~~samples~~ *samples*, and print impressions pursuant to
15 this chapter and the number of specimens, ~~samples~~ *samples*, and
16 print impressions that have yet to be forwarded to the Department
17 of Justice DNA Laboratory within 30 days of collection.

18 (i) (1) When the specimens, samples, and print impressions
19 required by this chapter are collected at a county jail or other
20 county facility, including a private community correctional facility,
21 the county sheriff or chief administrative officer of the county jail
22 or other *county* facility shall be responsible for ensuring all of the
23 following:

24 (A) The requisite specimens, samples, and print impressions
25 are collected from qualifying persons immediately following arrest,
26 conviction, or adjudication, or during the booking or intake or
27 reception center process at that facility, or reasonably promptly
28 thereafter.

29 (B) The requisite specimens, samples, and print impressions
30 are collected as soon as administratively practicable after a
31 qualifying person reports to the facility for the purpose of providing
32 specimens, samples, and print impressions.

33 (C) The specimens, samples, and print impressions collected
34 pursuant to this chapter are forwarded immediately to the
35 Department of Justice, and in compliance with department policies.

36 (2) The specimens, samples, and print impressions required by
37 this chapter shall be collected by a person using a collection kit
38 approved by the Department of Justice and in accordance with the
39 requirements and procedures set forth in subdivision (b) of Section
40 298.

1 (3) The counties shall be reimbursed for the costs of obtaining
2 specimens, samples, and print impressions subject to the conditions
3 and limitations set forth by the Department of Justice policies
4 governing reimbursement for collecting specimens, samples, and
5 print impressions pursuant to Section 76104.6 of the Government
6 Code.

7 (j) The trial court may order that the defendant be assessed a
8 reasonable portion of the cost of obtaining specimens, samples,
9 and print impressions in furtherance of this chapter and the funds
10 collected pursuant to this subdivision shall be deposited in the
11 DNA Identification Fund as created by Section 76104.6 of the
12 Government Code.

13 (k) The Department of Justice DNA Laboratory shall be known
14 as the Jan Bashinski DNA Laboratory.

15 ~~SEC. 49. Section 597.3 of the Penal Code is amended to read:~~

16 ~~597.3. (a) Every person who operates a live animal market~~
17 ~~shall do all of the following:~~

18 ~~(1) Provide that no animal will be dismembered, flayed, cut~~
19 ~~open, or have its skin, scales, feathers, or shell removed while the~~
20 ~~animal is still alive.~~

21 ~~(2) Provide that no live animals will be confined, held, or~~
22 ~~displayed in a manner that results, or is likely to result, in injury,~~
23 ~~starvation, dehydration, or suffocation.~~

24 ~~(b) As used in this section:~~

25 ~~(1) "Animal" means frogs, turtles, and birds sold for the purpose~~
26 ~~of human consumption, with the exception of poultry.~~

27 ~~(2) "Live animal market" means a retail food market where, in~~
28 ~~the regular course of business, animals are stored alive and sold~~
29 ~~to consumers for the purpose of human consumption.~~

30 ~~(c) Any person who fails to comply with any requirement of~~
31 ~~subdivision (a) shall for the first violation, be given a written~~
32 ~~warning in a written language that is understood by the person~~
33 ~~receiving the warning. A second or subsequent violation of~~
34 ~~subdivision (a) shall be an infraction, punishable by a fine of not~~
35 ~~less than two hundred fifty dollars (\$250), nor more than one~~
36 ~~thousand dollars (\$1,000). However, a fine paid for a second~~
37 ~~violation of subdivision (a) shall be deferred for six months if a~~
38 ~~course is available that is administered by a state or local agency~~
39 ~~on state law and local ordinances relating to live animal markets.~~

1 ~~If the defendant successfully completes that course within six~~
2 ~~months of entry of judgment, the fine shall be waived.~~

3 ~~SEC. 50.~~

4 *SEC. 36.* Section 670 of the Penal Code is amended to read:

5 670. (a) Any person who violates Section 7158 or 7159 of, or
6 subdivision (b), (c), (d), or (e) of Section 7161 of, the Business
7 and Professions Code or Section 470, 484, 487, or 532 of this code
8 as part of a plan or scheme to defraud an owner or lessee of a
9 residential or nonresidential structure in connection with the offer
10 or performance of repairs to the structure for damage caused by a
11 natural disaster specified in subdivision (b), shall be subject to the
12 penalties and enhancements specified in subdivisions (c) and (d).
13 The existence of any fact which would bring a person under this
14 section shall be alleged in the information or indictment and either
15 admitted by the defendant in open court, or found to be true by the
16 jury trying the issue of guilt or by the court where guilt is
17 established by a plea of guilty or nolo contendere or by trial by
18 the court sitting without a jury.

19 (b) This section applies to natural disasters for which a state of
20 emergency is proclaimed by the Governor pursuant to Section
21 8625 of the Government Code or for which an emergency or major
22 disaster is declared by the President of the United States.

23 (c) The maximum or prescribed amounts of fines for offenses
24 subject to this section shall be doubled. If the person has been
25 previously convicted of a felony offense specified in subdivision
26 (a), the person shall receive a one-year enhancement in addition
27 to, and to run consecutively to, the term of imprisonment for any
28 felony otherwise prescribed by this subdivision.

29 (d) Additionally, the court shall order any person sentenced
30 pursuant to this section to make full restitution to the victim or to
31 make restitution to the victim based on the person's ability to pay,
32 as defined in paragraph (2) of subdivision (b) of Section 27755 of
33 the Government Code. The payment of the restitution ordered by
34 the court pursuant to this subdivision shall be made a condition of
35 any probation granted by the court for an offense punishable under
36 this section. Notwithstanding any other provision of law, the period
37 of probation shall be at least five years or until full restitution is
38 made to the victim, whichever first occurs.

39 (e) Notwithstanding any other provision of law, the prosecuting
40 agency shall be entitled to recover its costs of investigation and

1 prosecution from any fines imposed for a conviction under this
2 section.

3 ~~SEC. 51.~~

4 *SEC. 37.* Section 987 of the Penal Code is amended to read:

5 987. (a) In a noncapital case, if the defendant appears for
6 arraignment without counsel, the defendant shall be informed by
7 the court that it is their right to have counsel before being arraigned,
8 and shall be asked if they desire the assistance of counsel. If the
9 defendant desires and is unable to employ counsel the court shall
10 assign counsel to defend them.

11 (b) In a capital case, if the defendant appears for arraignment
12 without counsel, the court shall inform the defendant that they
13 shall be represented by counsel at all stages of the preliminary and
14 trial proceedings and that the representation is at their expense if
15 they are able to employ counsel or at public expense if they are
16 unable to employ counsel, inquire of them whether they are able
17 to employ counsel and, if so, whether they desire to employ counsel
18 of their choice or to have counsel assigned, and allow them a
19 reasonable time to send for their chosen or assigned counsel. If
20 the defendant is unable to employ counsel, the court shall assign
21 counsel to defend them. If the defendant is able to employ counsel
22 and either refuses to employ counsel or appears without counsel
23 after having had a reasonable time to employ counsel, the court
24 shall assign counsel.

25 The court shall at the first opportunity inform the defendant's
26 trial counsel, whether retained by the defendant or court-appointed,
27 of the additional duties imposed upon trial counsel in any capital
28 case as set forth in paragraph (1) of subdivision (b) of Section
29 1240.1.

30 (c) In order to assist the court in determining whether a
31 defendant is able to employ counsel in any case, the court may
32 require a defendant to file a financial statement or other financial
33 information under penalty of perjury with the court or, in its
34 discretion, order a defendant to appear before a county officer
35 designated by the court to make an inquiry into the ability of the
36 defendant to employ their own counsel. If a county officer is
37 designated, the county officer shall provide to the court a written
38 recommendation and the reason or reasons in support of the
39 recommendation. The determination by the court shall be made
40 on the record. Except as provided in Section 1214, the financial

1 statement or other financial information obtained from the
2 defendant shall be confidential and privileged and shall not be
3 admissible in evidence in any criminal proceeding except the
4 prosecution of an alleged offense of perjury based upon false
5 material contained in the financial statement. The financial
6 statement shall be made available to the prosecution only for
7 purposes of investigation of an alleged offense of perjury based
8 upon false material contained in the financial statement at the
9 conclusion of the proceedings for which the financial statement
10 was required to be submitted.

11 (d) In a capital case, the court may appoint an additional attorney
12 as a cocounsel upon a written request of the first attorney
13 appointed. The request shall be supported by an affidavit of the
14 first attorney setting forth in detail the reasons why a second
15 attorney should be appointed. Any affidavit filed with the court
16 shall be confidential and privileged. The court shall appoint a
17 second attorney when it is convinced by the reasons stated in the
18 affidavit that the appointment is necessary to provide the defendant
19 with effective representation. If the request is denied, the court
20 shall state on the record its reasons for denial of the request.

21 ~~SEC. 52.~~

22 *SEC. 38.* Section 987.2 of the Penal Code is amended to read:

23 987.2. (a) In any case in which a person, including a person
24 who is a minor, desires but is unable to employ counsel, and in
25 which counsel is assigned in the superior court to represent the
26 person in a criminal trial, proceeding, or appeal, the following
27 assigned counsel shall receive a reasonable sum for compensation
28 and for necessary expenses, the amount of which shall be
29 determined by the court, to be paid out of the general fund of the
30 county:

31 (1) In a county or city and county in which there is no public
32 defender.

33 (2) In a county of the first, second, or third class where there is
34 no contract for criminal defense services between the county and
35 one or more responsible attorneys.

36 (3) In a case in which the court finds that, because of a conflict
37 of interest or other reasons, the public defender has properly
38 refused.

39 (4) In a county of the first, second, or third class where attorneys
40 contracted by the county are unable to represent the person accused.

1 (b) The sum provided for in subdivision (a) may be determined
2 by contract between the court and one or more responsible
3 attorneys after consultation with the board of supervisors as to the
4 total amount of compensation and expenses to be paid, which shall
5 be within the amount of funds allocated by the board of supervisors
6 for the cost of assigned counsel in those cases.

7 (c) In counties that utilize an assigned private counsel system
8 as either the primary method of public defense or as the method
9 of appointing counsel in cases where the public defender is
10 unavailable, the county, the courts, or the local county bar
11 association working with the courts are encouraged to do all of
12 the following:

13 (1) Establish panels that shall be open to members of the State
14 Bar of California.

15 (2) Categorize attorneys for panel placement on the basis of
16 experience.

17 (3) Refer cases to panel members on a rotational basis within
18 the level of experience of each panel, except that a judge may
19 exclude an individual attorney from appointment to an individual
20 case for good cause.

21 (4) Seek to educate those panel members through an approved
22 training program.

23 (d) In a county of the first, second, or third class, the court shall
24 first utilize the services of the public defender to provide criminal
25 defense services for indigent defendants. In the event that the public
26 defender is unavailable and the county and the courts have
27 contracted with one or more responsible attorneys or with a panel
28 of attorneys to provide criminal defense services for indigent
29 defendants, the court shall utilize the services of the
30 county-contracted attorneys prior to assigning any other private
31 counsel. Nothing in this subdivision shall be construed to require
32 the appointment of counsel in any case in which the counsel has
33 a conflict of interest. In the interest of justice, a court may depart
34 from that portion of the procedure requiring appointment of a
35 county-contracted attorney after making a finding of good cause
36 and stating the reasons therefor on the record.

37 (e) In a county of the first, second, or third class, the court shall
38 first utilize the services of the public defender to provide criminal
39 defense services for indigent defendants. In the event that the public
40 defender is unavailable and the county has created a second public

1 defender and contracted with one or more responsible attorneys
2 or with a panel of attorneys to provide criminal defense services
3 for indigent defendants, and if the quality of representation
4 provided by the second public defender is comparable to the quality
5 of representation provided by the public defender, the court shall
6 next utilize the services of the second public defender and then
7 the services of the county-contracted attorneys prior to assigning
8 any other private counsel. Nothing in this subdivision shall be
9 construed to require the appointment of counsel in any case in
10 which the counsel has a conflict of interest. In the interest of justice,
11 a court may depart from that portion of the procedure requiring
12 appointment of the second public defender or a county-contracted
13 attorney after making a finding of good cause and stating the
14 reasons therefor on the record.

15 (f) In any case in which counsel is assigned as provided in
16 subdivision (a), that counsel appointed by the court and any
17 court-appointed licensed private investigator shall have the same
18 rights and privileges to information as the public defender and the
19 public defender investigator. It is the intent of the Legislature in
20 enacting this subdivision to equalize any disparity that exists
21 between the ability of private, court-appointed counsel and
22 investigators, and public defenders and public defender
23 investigators, to represent their clients. This subdivision is not
24 intended to grant to private investigators access to any confidential
25 Department of Motor Vehicles' information not otherwise available
26 to them. This subdivision is not intended to extend to private
27 investigators the right to issue subpoenas.

28 (g) Notwithstanding any other provision of this section, where
29 an indigent defendant is first charged in one county and establishes
30 an attorney-client relationship with the public defender, defense
31 services contract attorney, or private attorney, and where the
32 defendant is then charged with an offense in a second or subsequent
33 county, the court in the second or subsequent county may appoint
34 the same counsel as was appointed in the first county to represent
35 the defendant when all of the following conditions are met:

36 (1) The offense charged in the second or subsequent county
37 would be joinable for trial with the offense charged in the first if
38 it took place in the same county, or involves evidence which would
39 be cross-admissible.

1 (2) The court finds that the interests of justice and economy will
2 be best served by unitary representation.

3 (3) Counsel appointed in the first county consents to the
4 appointment.

5 (h) The county may recover costs of public defender services
6 under Chapter 6 (commencing with Section 4750) of Title 5 of
7 Part 3 for any case subject to Section 4750.

8 (i) Counsel shall be appointed to represent, in a misdemeanor
9 case, a person who desires but is unable to employ counsel, when
10 it appears that the appointment is necessary to provide an adequate
11 and effective defense for the defendant. Appointment of counsel
12 in an infraction case is governed by Section 19.6.

13 (j) As used in this section, “county of the first, second, or third
14 class” means the county of the first class, county of the second
15 class, and county of the third class as provided by Sections 28020,
16 28022, 28023, and 28024 of the Government Code.

17 ~~SEC. 53.~~

18 *SEC. 39.* Section 987.4 of the Penal Code is repealed.

19 ~~SEC. 54.~~

20 *SEC. 40.* Section 987.5 of the Penal Code is repealed.

21 ~~SEC. 55.~~

22 *SEC. 41.* Section 987.8 of the Penal Code is repealed.

23 ~~SEC. 56.~~

24 *SEC. 42.* Section 987.81 of the Penal Code is repealed.

25 ~~SEC. 57.~~

26 *SEC. 43.* Section 1000.3 of the Penal Code is amended to read:

27 1000.3. (a) If it appears to the prosecuting attorney, the court,
28 or the probation department that the defendant is performing
29 unsatisfactorily in the assigned program, that the defendant is
30 convicted of an offense that reflects the defendant’s propensity for
31 violence, or that the defendant is convicted of a felony, the
32 prosecuting attorney, the court on its own, or the probation
33 department may make a motion for termination from pretrial
34 diversion.

35 (b) After notice to the defendant, the court shall hold a hearing
36 to determine whether pretrial diversion shall be terminated.

37 (c) If the court finds that the defendant is not performing
38 satisfactorily in the assigned program, or the court finds that the
39 defendant has been convicted of a crime as indicated in subdivision

1 (a), the court shall schedule the matter for further proceedings as
2 otherwise provided in this code.

3 (d) If the defendant has completed pretrial diversion, at the end
4 of that period, the criminal charge or charges shall be dismissed.

5 (e) Prior to dismissing the charge or charges or terminating
6 pretrial diversion, the court shall consider the defendant's ability
7 to pay and whether the defendant has paid a diversion restitution
8 fee pursuant to Section 1001.90, if ordered, and has met their
9 financial obligation to the program, if any.

10 ~~SEC. 58.~~

11 *SEC. 44.* Section 1001.15 of the Penal Code is repealed.

12 ~~SEC. 59.~~

13 *SEC. 45.* Section 1001.16 of the Penal Code is repealed.

14 ~~SEC. 60.~~

15 *SEC. 46.* Section 1001.90 of the Penal Code is amended to
16 read:

17 1001.90. (a) For all persons charged with a felony or
18 misdemeanor whose case is diverted by the court pursuant to this
19 title, the court shall impose on the defendant a diversion restitution
20 fee in addition to any other administrative fee provided or imposed
21 under the law. This fee shall not be imposed upon persons whose
22 case is diverted by the court pursuant to Chapter 2.8 (commencing
23 with Section 1001.20).

24 (b) The diversion restitution fee imposed pursuant to this section
25 shall be set at the discretion of the court and shall be commensurate
26 with the seriousness of the offense, but shall not be less than one
27 hundred dollars (\$100), and not more than one thousand dollars
28 (\$1,000).

29 (c) The diversion restitution fee shall be ordered regardless of
30 the defendant's present ability to pay. However, if the court finds
31 that there are compelling and extraordinary reasons, the court may
32 waive imposition of the fee. When the waiver is granted, the court
33 shall state on the record all reasons supporting the waiver. Except
34 as provided in this subdivision, the court shall impose the separate
35 and additional diversion restitution fee required by this section.

36 (d) In setting the amount of the diversion restitution fee in excess
37 of the ~~one hundred dollar~~ *one-hundred-dollar* (\$100) minimum,
38 the court shall consider any relevant factors, including, but not
39 limited to, the defendant's ability to pay, the seriousness and
40 gravity of the offense and the circumstances of its commission,

1 any economic gain derived by the defendant as a result of the
2 crime, and the extent to which any other person suffered any losses
3 as a result of the crime. Those losses may include pecuniary losses
4 to the victim or the victim's dependents as well as intangible losses,
5 such as psychological harm caused by the crime. Consideration
6 of a defendant's ability to pay may include the defendant's future
7 earning capacity. A defendant shall bear the burden of
8 demonstrating the lack of the defendant's ability to pay. Express
9 findings by the court as to the factors bearing on the amount of
10 the fee shall not be required. A separate hearing for the diversion
11 restitution fee shall not be required.

12 (e) The court shall not limit the ability of the state to enforce
13 the fee imposed by this section in the manner of a judgment in a
14 civil action. The court shall not modify the amount of this fee
15 except to correct an error in the setting of the amount of the fee
16 imposed.

17 (f) The fee imposed pursuant to this section shall be immediately
18 deposited in the Restitution Fund for use pursuant to Section 13967
19 of the Government Code.

20 (g) As used in this section, "diversion" also means deferred
21 entry of judgment pursuant to Chapter 2.5 (commencing with
22 Section 1000).

23 ~~SEC. 61.~~

24 *SEC. 47.* Section 1202.4 of the Penal Code is amended to read:

25 1202.4. (a) (1) It is the intent of the Legislature that a victim
26 of crime who incurs an economic loss as a result of the commission
27 of a crime shall receive restitution directly from a defendant
28 convicted of that crime.

29 (2) Upon a person being convicted of a crime in the State of
30 California, the court shall order the defendant to pay a fine in the
31 form of a penalty assessment in accordance with Section 1464.

32 (3) The court, in addition to any other penalty provided or
33 imposed under the law, shall order the defendant to pay both of
34 the following:

35 (A) A restitution fine in accordance with subdivision (b).

36 (B) Restitution to the victim or victims, if any, in accordance
37 with subdivision (f), which shall be enforceable as if the order
38 were a civil judgment.

39 (b) In every case where a person is convicted of a crime, the
40 court shall impose a separate and additional restitution fine, unless

1 it finds compelling and extraordinary reasons for not doing so and
2 states those reasons on the record.

3 (1) The restitution fine shall be set at the discretion of the court
4 and commensurate with the seriousness of the offense. If the person
5 is convicted of a felony, the fine shall not be less than three hundred
6 dollars (\$300) and not more than ten thousand dollars (\$10,000).
7 If the person is convicted of a misdemeanor, the fine shall not be
8 less than one hundred fifty dollars (\$150) and not more than one
9 thousand dollars (\$1,000).

10 (2) In setting a felony restitution fine, the court may determine
11 the amount of the fine as the product of the minimum fine pursuant
12 to paragraph (1) multiplied by the number of years of imprisonment
13 the defendant is ordered to serve, multiplied by the number of
14 felony counts of which the defendant is convicted.

15 (c) The court shall impose the restitution fine unless it finds
16 compelling and extraordinary reasons for not doing so and states
17 those reasons on the record. A defendant's inability to pay shall
18 not be considered a compelling and extraordinary reason not to
19 impose a restitution fine. Inability to pay may be considered only
20 in increasing the amount of the restitution fine in excess of the
21 minimum fine pursuant to paragraph (1) of subdivision (b). The
22 court may specify that funds confiscated at the time of the
23 defendant's arrest, except for funds confiscated pursuant to Chapter
24 8 (commencing with Section 11469) of Division 10 of the Health
25 and Safety Code, be applied to the restitution fine if the funds are
26 not exempt for spousal or child support or subject to any other
27 legal exemption.

28 (d) In setting the amount of the fine pursuant to subdivision (b)
29 in excess of the minimum fine pursuant to paragraph (1) of
30 subdivision (b), the court shall consider any relevant factors,
31 including, but not limited to, the defendant's inability to pay, the
32 seriousness and gravity of the offense and the circumstances of its
33 commission, any economic gain derived by the defendant as a
34 result of the crime, the extent to which any other person suffered
35 losses as a result of the crime, and the number of victims involved
36 in the crime. Those losses may include pecuniary losses to the
37 victim or the victim's dependents as well as intangible losses, such
38 as psychological harm caused by the crime. Consideration of a
39 defendant's inability to pay may include the defendant's future
40 earning capacity. A defendant shall bear the burden of

1 demonstrating the defendant's inability to pay. Express findings
2 by the court as to the factors bearing on the amount of the fine
3 shall not be required. A separate hearing for the fine shall not be
4 required.

5 (e) The restitution fine shall not be subject to penalty
6 assessments authorized in Section 1464 or Chapter 12
7 (commencing with Section 76000) of Title 8 of the Government
8 Code, or the state surcharge authorized in Section 1465.7, and
9 shall be deposited in the Restitution Fund in the State Treasury.

10 (f) Except as provided in subdivisions (p) and (q), in every case
11 in which a victim has suffered economic loss as a result of the
12 defendant's conduct, the court shall require that the defendant
13 make restitution to the victim or victims in an amount established
14 by court order, based on the amount of loss claimed by the victim
15 or victims or any other showing to the court. If the amount of loss
16 cannot be ascertained at the time of sentencing, the restitution
17 order shall include a provision that the amount shall be determined
18 at the direction of the court. The court shall order full restitution.
19 The court may specify that funds confiscated at the time of the
20 defendant's arrest, except for funds confiscated pursuant to Chapter
21 8 (commencing with Section 11469) of Division 10 of the Health
22 and Safety Code, be applied to the restitution order if the funds
23 are not exempt for spousal or child support or subject to any other
24 legal exemption.

25 (1) The defendant has the right to a hearing before a judge to
26 dispute the determination of the amount of restitution. The court
27 may modify the amount, on its own motion or on the motion of
28 the district attorney, the victim or victims, or the defendant. If a
29 motion is made for modification of a restitution order, the victim
30 shall be notified of that motion at least 10 days prior to the
31 proceeding held to decide the motion. A victim at a restitution
32 hearing or modification hearing described in this paragraph may
33 testify by live, two-way audio and video transmission, if testimony
34 by live, two-way audio and video transmission is available at the
35 court.

36 (2) Determination of the amount of restitution ordered pursuant
37 to this subdivision shall not be affected by the indemnification or
38 subrogation rights of a third party. Restitution ordered pursuant to
39 this subdivision shall be ordered to be deposited in the Restitution
40 Fund to the extent that the victim, as defined in subdivision (k),

1 has received assistance from the California Victim Compensation
2 Board pursuant to Chapter 5 (commencing with Section 13950)
3 of Part 4 of Division 3 of Title 2 of the Government Code.

4 (3) To the extent possible, the restitution order shall be prepared
5 by the sentencing court, shall identify each victim and each loss
6 to which it pertains, and shall be of a dollar amount that is sufficient
7 to fully reimburse the victim or victims for every determined
8 economic loss incurred as the result of the defendant's criminal
9 conduct, including, but not limited to, all of the following:

10 (A) Full or partial payment for the value of stolen or damaged
11 property. The value of stolen or damaged property shall be the
12 replacement cost of like property, or the actual cost of repairing
13 the property when repair is possible.

14 (B) Medical expenses.

15 (C) Mental health counseling expenses.

16 (D) Wages or profits lost due to injury incurred by the victim,
17 and if the victim is a minor, wages or profits lost by the minor's
18 parent, parents, guardian, or guardians, while caring for the injured
19 minor. Lost wages shall include commission income as well as
20 base wages. Commission income shall be established by evidence
21 of commission income during the 12-month period prior to the
22 date of the crime for which restitution is being ordered, unless
23 good cause for a shorter time period is shown.

24 (E) Wages or profits lost by the victim, and if the victim is a
25 minor, wages or profits lost by the minor's parent, parents,
26 guardian, or guardians, due to time spent as a witness or in assisting
27 the police or prosecution. Lost wages shall include commission
28 income as well as base wages. Commission income shall be
29 established by evidence of commission income during the
30 12-month period prior to the date of the crime for which restitution
31 is being ordered, unless good cause for a shorter time period is
32 shown.

33 (F) Noneconomic losses, including, but not limited to,
34 psychological harm, for felony violations of Section 288, 288.5,
35 or 288.7.

36 (G) Interest, at the rate of 10 percent per annum, that accrues
37 as of the date of sentencing or loss, as determined by the court.

38 (H) Actual and reasonable attorney's fees and other costs of
39 collection accrued by a private entity on behalf of the victim.

1 (I) Expenses incurred by an adult victim in relocating away
2 from the defendant, including, but not limited to, deposits for
3 utilities and telephone service, deposits for rental housing,
4 temporary lodging and food expenses, clothing, and personal items.
5 Expenses incurred pursuant to this section shall be verified by law
6 enforcement to be necessary for the personal safety of the victim
7 or by a mental health treatment provider to be necessary for the
8 emotional well-being of the victim.

9 (J) Expenses to install or increase residential security incurred
10 related to a violation of Section 273.5, or a violent felony as defined
11 in subdivision (c) of Section 667.5, including, but not limited to,
12 a home security device or system, or replacing or increasing the
13 number of locks.

14 (K) Expenses to retrofit a residence or vehicle, or both, to make
15 the residence accessible to or the vehicle operational by the victim,
16 if the victim is permanently disabled, whether the disability is
17 partial or total, as a direct result of the crime.

18 (L) Expenses for a period of time reasonably necessary to make
19 the victim whole, for the costs to monitor the credit report of, and
20 for the costs to repair the credit of, a victim of identity theft, as
21 defined in Section 530.5.

22 (4) (A) If, as a result of the defendant's conduct, the Restitution
23 Fund has provided assistance to or on behalf of a victim or
24 derivative victim pursuant to Chapter 5 (commencing with Section
25 13950) of Part 4 of Division 3 of Title 2 of the Government Code,
26 the amount of assistance provided shall be presumed to be a direct
27 result of the defendant's criminal conduct and shall be included
28 in the amount of the restitution ordered.

29 (B) The amount of assistance provided by the Restitution Fund
30 shall be established by copies of bills submitted to the California
31 Victim Compensation Board reflecting the amount paid by the
32 board and whether the services for which payment was made were
33 for medical or dental expenses, funeral or burial expenses, mental
34 health counseling, wage or support losses, or rehabilitation.
35 Certified copies of these bills provided by the board and redacted
36 to protect the privacy and safety of the victim or any legal privilege,
37 together with a statement made under penalty of perjury by the
38 custodian of records that those bills were submitted to and were
39 paid by the board, shall be sufficient to meet this requirement.

1 (C) If the defendant offers evidence to rebut the presumption
2 established by this paragraph, the court may release additional
3 information contained in the records of the board to the defendant
4 only after reviewing that information in camera and finding that
5 the information is necessary for the defendant to dispute the amount
6 of the restitution order.

7 (5) Except as provided in paragraph (6), in any case in which
8 an order may be entered pursuant to this subdivision, the defendant
9 shall prepare and file a disclosure identifying all assets, income,
10 and liabilities in which the defendant held or controlled a present
11 or future interest as of the date of the defendant's arrest for the
12 crime for which restitution may be ordered. The financial disclosure
13 statements shall be made available to the victim and the board
14 pursuant to Section 1214. The disclosure shall be signed by the
15 defendant upon a form approved or adopted by the Judicial Council
16 for the purpose of facilitating the disclosure. A defendant who
17 willfully states as true a material matter that the defendant knows
18 to be false on the disclosure required by this subdivision is guilty
19 of a misdemeanor, unless this conduct is punishable as perjury or
20 another provision of law provides for a greater penalty.

21 (6) A defendant who fails to file the financial disclosure required
22 in paragraph (5), but who has filed a financial affidavit or financial
23 information pursuant to subdivision (c) of Section 987, shall be
24 deemed to have waived the confidentiality of that affidavit or
25 financial information as to a victim in whose favor the order of
26 restitution is entered pursuant to subdivision (f). The affidavit or
27 information shall serve in lieu of the financial disclosure required
28 in paragraph (5), and paragraphs (7) to (10), inclusive, shall not
29 apply.

30 (7) Except as provided in paragraph (6), the defendant shall file
31 the disclosure with the clerk of the court no later than the date set
32 for the defendant's sentencing, unless otherwise directed by the
33 court. The disclosure may be inspected or copied as provided by
34 subdivision (b), (c), or (d) of Section 1203.05.

35 (8) In its discretion, the court may relieve the defendant of the
36 duty under paragraph (7) of filing with the clerk by requiring that
37 the defendant's disclosure be submitted as an attachment to, and
38 be available to, those authorized to receive the following:

1 (A) A report submitted pursuant to subparagraph (D) of
2 paragraph (2) of subdivision (b) of Section 1203 or subdivision
3 (g) of Section 1203.

4 (B) A stipulation submitted pursuant to paragraph (4) of
5 subdivision (b) of Section 1203.

6 (C) A report by the probation officer, or information submitted
7 by the defendant applying for a conditional sentence pursuant to
8 subdivision (d) of Section 1203.

9 (9) The court may consider a defendant's unreasonable failure
10 to make a complete disclosure pursuant to paragraph (5) as any of
11 the following:

12 (A) A circumstance in aggravation of the crime in imposing a
13 term under subdivision (b) of Section 1170.

14 (B) A factor indicating that the interests of justice would not be
15 served by admitting the defendant to probation under Section 1203.

16 (C) A factor indicating that the interests of justice would not be
17 served by conditionally sentencing the defendant under Section
18 1203.

19 (D) A factor indicating that the interests of justice would not
20 be served by imposing less than the maximum fine and sentence
21 fixed by law for the case.

22 (10) A defendant's failure or refusal to make the required
23 disclosure pursuant to paragraph (5) shall not delay entry of an
24 order of restitution or pronouncement of sentence. In appropriate
25 cases, the court may do any of the following:

26 (A) Require the defendant to be examined by the district attorney
27 pursuant to subdivision (h).

28 (B) If sentencing the defendant under Section 1170, provide
29 that the victim shall receive a copy of the portion of the probation
30 report filed pursuant to Section 1203.10 concerning the defendant's
31 employment, occupation, finances, and liabilities.

32 (C) If sentencing the defendant under Section 1203, set a date
33 and place for submission of the disclosure required by paragraph
34 (5) as a condition of probation or suspended sentence.

35 (11) If a defendant has any remaining unpaid balance on a
36 restitution order or fine 120 days prior to the defendant's scheduled
37 release from probation or 120 days prior to the defendant's
38 completion of a conditional sentence, the defendant shall prepare
39 and file a new and updated financial disclosure identifying all
40 assets, income, and liabilities in which the defendant holds or

1 controls or has held or controlled a present or future interest during
2 the defendant's period of probation or conditional sentence. The
3 financial disclosure shall be made available to the victim and the
4 board pursuant to Section 1214. The disclosure shall be signed
5 and prepared by the defendant on the same form as described in
6 paragraph (5). A defendant who willfully states as true a material
7 matter that the defendant knows to be false on the disclosure
8 required by this subdivision is guilty of a misdemeanor, unless
9 this conduct is punishable as perjury or another provision of law
10 provides for a greater penalty. The financial disclosure required
11 by this paragraph shall be filed with the clerk of the court no later
12 than 90 days prior to the defendant's scheduled release from
13 probation or completion of the defendant's conditional sentence.

14 (12) In cases where an employer is convicted of a crime against
15 an employee, a payment to the employee or the employee's
16 dependent that is made by the employer's workers' compensation
17 insurance carrier shall not be used to offset the amount of the
18 restitution order unless the court finds that the defendant
19 substantially met the obligation to pay premiums for that insurance
20 coverage.

21 (g) A defendant's inability to pay shall not be a consideration
22 in determining the amount of a restitution order.

23 (h) The district attorney may request an order of examination
24 pursuant to the procedures specified in Article 2 (commencing
25 with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part
26 2 of the Code of Civil Procedure, in order to determine the
27 defendant's financial assets for purposes of collecting on the
28 restitution order.

29 (i) A restitution order imposed pursuant to subdivision (f) shall
30 be enforceable as if the order were a civil judgment.

31 (j) The making of a restitution order pursuant to subdivision (f)
32 shall not affect the right of a victim to recovery from the Restitution
33 Fund as otherwise provided by law, except to the extent that
34 restitution is actually collected pursuant to the order. Restitution
35 collected pursuant to this subdivision shall be credited to any other
36 judgments for the same losses obtained against the defendant
37 arising out of the crime for which the defendant was convicted.

38 (k) For purposes of this section, "victim" shall include all of
39 the following:

40 (1) The immediate surviving family of the actual victim.

1 (2) A corporation, business trust, estate, trust, partnership,
2 association, joint venture, government, governmental subdivision,
3 agency, or instrumentality, or any other legal or commercial entity
4 when that entity is a direct victim of a crime.

5 (3) A person who has sustained economic loss as the result of
6 a crime and who satisfies any of the following conditions:

7 (A) At the time of the crime was the parent, grandparent, sibling,
8 spouse, child, or grandchild of the victim.

9 (B) At the time of the crime was living in the household of the
10 victim.

11 (C) At the time of the crime was a person who had previously
12 lived in the household of the victim for a period of not less than
13 two years in a relationship substantially similar to a relationship
14 listed in subparagraph (A).

15 (D) Is another family member of the victim, including, but not
16 limited to, the victim's ~~fiancé or fiancée~~, *fiance*, and who witnessed
17 the crime.

18 (E) Is the primary caretaker of a minor victim.

19 (4) A person who is eligible to receive assistance from the
20 Restitution Fund pursuant to Chapter 5 (commencing with Section
21 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

22 (5) A governmental entity that is responsible for repairing,
23 replacing, or restoring public or privately owned property that has
24 been defaced with graffiti or other inscribed material, as defined
25 in subdivision (e) of Section 594, and that has sustained an
26 economic loss as the result of a violation of Section 594, 594.3,
27 594.4, 640.5, 640.6, or 640.7.

28 (l) In every case in which the defendant is granted probation,
29 the court shall make the payment of restitution fines and orders
30 imposed pursuant to this section a condition of probation. Any
31 portion of a restitution order that remains unsatisfied after a
32 defendant is no longer on probation shall continue to be enforceable
33 by a victim pursuant to Section 1214 until the obligation is
34 satisfied.

35 (m) If the court finds and states on the record compelling and
36 extraordinary reasons why a restitution fine should not be required,
37 the court shall order, as a condition of probation, that the defendant
38 perform specified community service, unless it finds and states on
39 the record compelling and extraordinary reasons not to require
40 community service in addition to the finding that a restitution fine

1 should not be required. Upon revocation of probation, the court
2 shall impose the restitution fine pursuant to this section.

3 (n) The provisions of Section 13963 of the Government Code
4 shall apply to restitution imposed pursuant to this section.

5 (o) The court clerk shall notify the California Victim
6 Compensation and Government Claims Board within 90 days of
7 an order of restitution being imposed if the defendant is ordered
8 to pay restitution to the board due to the victim receiving
9 compensation from the Restitution Fund. Notification shall be
10 accomplished by mailing a copy of the court order to the board,
11 which may be done periodically by bulk mail or email.

12 (p) Upon conviction for a violation of Section 236.1, the court
13 shall, in addition to any other penalty or restitution, order the
14 defendant to pay restitution to the victim in a case in which a victim
15 has suffered economic loss as a result of the defendant's conduct.
16 The court shall require that the defendant make restitution to the
17 victim or victims in an amount established by court order, based
18 on the amount of loss claimed by the victim or victims or another
19 showing to the court. In determining restitution pursuant to this
20 section, the court shall base its order upon the greater of the
21 following: the gross value of the victim's labor or services based
22 upon the comparable value of similar services in the labor market
23 in which the offense occurred, or the value of the victim's labor
24 as guaranteed under California law, or the actual income derived
25 by the defendant from the victim's labor or services or any other
26 appropriate means to provide reparations to the victim.

27 (q) (1) In addition to any other penalty or fine, the court shall
28 order a person who has been convicted of a violation of Section
29 350, 653h, 653s, 653u, 653w, or 653aa that involves a recording
30 or audiovisual work to make restitution to an owner or lawful
31 producer, or trade association acting on behalf of the owner or
32 lawful producer, of a phonograph record, disc, wire, tape, film, or
33 other device or article from which sounds or visual images are
34 derived that suffered economic loss resulting from the violation.
35 The order of restitution shall be based on the aggregate wholesale
36 value of lawfully manufactured and authorized devices or articles
37 from which sounds or visual images are devised corresponding to
38 the number of nonconforming devices or articles involved in the
39 offense, unless a higher value can be proved in the case of (A) an
40 unreleased audio work, or (B) an audiovisual work that, at the time

1 of unauthorized distribution, has not been made available in copies
2 for sale to the general public in the United States on a digital
3 versatile disc. For purposes of this subdivision, possession of
4 nonconforming devices or articles intended for sale constitutes
5 actual economic loss to an owner or lawful producer in the form
6 of displaced legitimate wholesale purchases. The order of
7 restitution shall also include reasonable costs incurred as a result
8 of an investigation of the violation undertaken by the owner, lawful
9 producer, or trade association acting on behalf of the owner or
10 lawful producer. "Aggregate wholesale value" means the average
11 wholesale value of lawfully manufactured and authorized sound
12 or audiovisual recordings. Proof of the specific wholesale value
13 of each nonconforming device or article is not required.

14 (2) As used in this subdivision, "audiovisual work" and
15 "recording" shall have the same meaning as in Section 653w.

16 ~~SEC. 62.~~

17 *SEC. 48.* Section 1202.42 of the Penal Code is amended to
18 read:

19 1202.42. Upon entry of a restitution order under subdivision
20 (c) of Section 13967 of the Government Code, as operative on or
21 before September 28, 1994, paragraph (3) of subdivision (a) of
22 Section 1202.4 of this code, or Section 1203.04 as operative on or
23 before August 2, 1995, the following shall apply:

24 (a) The court shall enter a separate order for income deduction
25 upon determination of the defendant's ability to pay, regardless
26 of the probation status, in accordance with Section 1203.
27 Determination of a defendant's ability to pay may include the
28 defendant's future earning capacity. A defendant shall bear the
29 burden of demonstrating lack of the defendant's ability to pay.
30 Express findings by the court as to the factors bearing on the
31 amount of the fine shall not be required.

32 (b) (1) In any case in which the court enters a separate order
33 for income deduction under this section, the order shall be stayed
34 until the agency in the county responsible for collection of
35 restitution determines that the defendant has failed to meet the
36 defendant's obligation under the restitution order and the defendant
37 has not provided the agency with good cause for the failure in
38 accordance with paragraph (2).

39 (2) If the agency responsible for collection of restitution receives
40 information that the defendant has failed to meet the defendant's

1 obligation under the restitution order, the agency shall request the
2 defendant to provide evidence indicating that timely payments
3 have been made or provide information establishing good cause
4 for the failure. If the defendant fails to either provide the agency
5 with the evidence or fails to establish good cause within five days
6 of the request, the agency shall immediately inform the defendant
7 of that fact, and shall inform the clerk of the court in order that an
8 income deduction order will be served pursuant to subdivision (f)
9 following a 15-day appeal period. The defendant may apply for a
10 hearing to contest the lifting of the stay pursuant to subdivision
11 (f).

12 (c) The income deduction order shall direct a payer to deduct
13 from all income due and payable to the defendant the amount
14 required by the court to meet the defendant's obligation.

15 (d) The income deduction order shall be effective so long as the
16 order for restitution upon which it is based is effective or until
17 further order of the court.

18 (e) When the court orders the income deduction, the court shall
19 furnish to the defendant a statement of the defendant's rights,
20 remedies, and duties in regard to the income deduction order. The
21 statement shall state all of the following:

22 (1) The total amount of income to be deducted for each pay
23 period.

24 (2) That the income deduction order applies to current and
25 subsequent payers and periods of employment.

26 (3) That a copy of the income deduction order will be served
27 on the defendant's payer or payers.

28 (4) That enforcement of the income deduction order may only
29 be contested on the ground of mistake of fact regarding the amount
30 of restitution owed.

31 (5) That the defendant is required to notify the clerk of the court
32 within seven days after changes in the defendant's address, payers,
33 and the addresses of the defendant's payers.

34 (6) That the court order will be stayed in accordance with
35 subdivision (b) and that a hearing is available in accordance with
36 subdivision (f).

37 (f) (1) Upon receiving the notice described in paragraph (2) of
38 subdivision (b), the clerk of the court or officer of the agency
39 responsible for collection of restitution shall serve an income
40 deduction order and the notice to payer on the defendant's payer

1 unless the defendant has applied for a hearing to contest the
2 enforcement of the income deduction order.

3 (2) (A) Service by or upon any person who is a party to a
4 proceeding under this section shall be made in the manner
5 prescribed for service upon parties in a civil action.

6 (B) Service upon the defendant's payer or successor payer under
7 this section shall be made by prepaid certified mail, return receipt
8 requested.

9 (3) The defendant, within 15 days after being informed that the
10 order staying the income deduction order will be lifted, may apply
11 for a hearing to contest the enforcement of the income deduction
12 order on the ground of mistake of fact regarding the amount of
13 restitution owed or on the ground that the defendant has established
14 good cause for the nonpayment. The timely request for a hearing
15 shall stay the service of an income deduction order on all payers
16 of the defendant until a hearing is held and a determination is made
17 as to whether the enforcement of the income deduction order is
18 proper.

19 (4) The notice to any payer required by this subdivision shall
20 contain only information necessary for the payer to comply with
21 the income deduction order. The notice shall do all of the
22 following:

23 (A) Require the payer to deduct from the defendant's income
24 the amount specified in the income deduction order, and to pay
25 that amount to the clerk of the court.

26 (B) Instruct the payer to implement the income deduction order
27 no later than the first payment date that occurs more than 14 days
28 after the date the income deduction order was served on the payer.

29 (C) Instruct the payer to forward, within two days after each
30 payment date, to the clerk of the court the amount deducted from
31 the defendant's income and a statement as to whether the amount
32 totally or partially satisfies the periodic amount specified in the
33 income deduction order.

34 (D) Specify that if a payer fails to deduct the proper amount
35 from the defendant's income, the payer is liable for the amount
36 the payer should have deducted, plus costs, interest, and reasonable
37 attorney's fees.

38 (E) State that the income deduction order and the notice to payer
39 are binding on the payer until further notice by the court or until
40 the payer no longer provides income to the defendant.

1 (F) Instruct the payer that, when the payer no longer provides
2 income to the defendant, the payer shall notify the clerk of the
3 court and shall also provide the defendant's last known address
4 and the name and address of the defendant's new payer, if known,
5 and that, if the payer violates this provision, the payer is subject
6 to a civil penalty not to exceed two hundred fifty dollars (\$250)
7 for the first violation or five hundred dollars (\$500) for any
8 subsequent violation.

9 (G) State that the payer shall not discharge, refuse to employ,
10 or take disciplinary action against the defendant because of an
11 income deduction order and shall state that a violation of this
12 provision subjects the payer to a civil penalty not to exceed two
13 hundred fifty dollars (\$250) for the first violation or five hundred
14 dollars (\$500) for any subsequent violation.

15 (H) Inform the payer that when the payer receives income
16 deduction orders requiring that the income of two or more
17 defendants be deducted and sent to the same clerk of a court, the
18 payer may combine the amounts that are to be paid to the
19 depository in a single payment as long as the payer identifies that
20 portion of the payment attributable to each defendant.

21 (I) Inform the payer that if the payer receives more than one
22 income deduction order against the same defendant, the payer shall
23 contact the court for further instructions.

24 (5) The clerk of the court shall enforce income deduction orders
25 against the defendant's successor payer who is located in this state
26 in the same manner prescribed in this subdivision for the
27 enforcement of an income deduction order against a payer.

28 (6) A person may not discharge, refuse to employ, or take
29 disciplinary action against an employee because of the enforcement
30 of an income deduction order. An employer who violates this
31 provision is subject to a civil penalty not to exceed two hundred
32 fifty dollars (\$250) for the first violation or five hundred dollars
33 (\$500) for any subsequent violation.

34 (7) When a payer no longer provides income to a defendant,
35 the payer shall notify the clerk of the court and shall provide the
36 defendant's last known address and the name and address of the
37 defendant's new payer, if known. A payer who violates this
38 provision is subject to a civil penalty not to exceed two hundred
39 fifty dollars (\$250) for the first violation or five hundred dollars
40 (\$500) for a subsequent violation.

(g) If the defendant has failed to meet the defendant's obligation under the restitution order and the defendant has not provided good cause for the failure in accordance with the process set forth in paragraph (2) of subdivision (b), the court may, upon the request of the prosecuting attorney, order that the prosecuting attorney be given authority to use lien procedures applicable to the defendant, including, but not limited to, a writ of attachment of property. This authority is in addition to any authority granted to the prosecuting attorney in subdivision (h).

(1) If the court authorizes a lien or other similar encumbrance on real property pursuant to this subdivision, the court shall, within 15 days, furnish to the defendant a statement of the defendant's rights, remedies, and duties in regard to the order. The statement shall state all of the following:

(A) That the lien is enforceable and collectible by execution issued by order of the court, except that a lien shall not be enforced by writ of execution on a defendant's principal place of residence.

(B) A legal description of the property to be encumbered.

(C) The total amount of restitution still owed by the defendant.

(D) That enforcement of the lien order may only be contested on the ground of mistake of fact regarding the amount of restitution owed or on the ground of mistake of fact regarding the defendant's ownership interest of the property to be encumbered.

(E) That a hearing is available in accordance with paragraph (2).

(F) That, upon paying the restitution order in full, the defendant may petition the court for a full release of any related encumbrance in accordance with paragraph (3).

(2) The defendant, within 15 days after being informed that a lien or other similar encumbrance on real property has been ordered, may apply for a hearing to contest the enforcement order on the ground of mistake of fact regarding the amount of restitution owed, on the ground of mistake of fact regarding the defendant's ownership interest of the property to be encumbered, or on the ground that the defendant has established good cause for the nonpayment. The timely request for a hearing shall stay any execution on the lien until a hearing is held and a determination is made as to whether the enforcement order is proper.

(3) Upon payment of the restitution order in full, the defendant may petition the court to issue an order directing the clerk of the

1 court to execute a full reconveyance of title, a certificate of
2 discharge, or a full release of any lien against real property created
3 to secure performance of the restitution order.

4 (4) Neither a prosecutorial agency nor a prosecuting attorney
5 shall be liable for an injury caused by an act or omission in
6 exercising the authority granted by this subdivision.

7 (h) If there is no agency in the county responsible for the
8 collection of restitution, the county probation office or the
9 prosecuting attorney may carry out the functions and duties of
10 such an agency as specified in subdivisions (b) and (f).

11 (i) A prosecuting attorney shall not make any collection against,
12 or take any percentage of, the defendant's income or assets to
13 reimburse the prosecuting attorney for administrative costs in
14 carrying out any action authorized by this section.

15 (j) As used in this section, "good cause" for failure to meet an
16 obligation or "good cause" for nonpayment means, but shall not
17 be limited to, any of the following:

18 (1) That there has been a substantial change in the defendant's
19 economic circumstances, such as involuntary unemployment,
20 involuntary cost-of-living increases, or costs incurred as the result
21 of medical circumstances or a natural disaster.

22 (2) That the defendant reasonably believes there has been an
23 administrative error with regard to the defendant's obligation for
24 payment.

25 (3) Any other similar and justifiable reasons.

26 ~~SEC. 63.~~

27 *SEC. 49.* Section 1203 of the Penal Code is amended to read:

28 1203. (a) As used in this code, "probation" means the
29 suspension of the imposition or execution of a sentence and the
30 order of conditional and revocable release in the community under
31 the supervision of a probation officer. As used in this code,
32 "conditional sentence" means the suspension of the imposition or
33 execution of a sentence and the order of revocable release in the
34 community subject to conditions established by the court without
35 the supervision of a probation officer. It is the intent of the
36 Legislature that both conditional sentence and probation are
37 authorized whenever probation is authorized in any code as a
38 sentencing option for infractions or misdemeanors.

39 (b) (1) Except as provided in subdivision (j), if a person is
40 convicted of a felony and is eligible for probation, before judgment

1 is pronounced, the court shall immediately refer the matter to a
2 probation officer to investigate and report to the court, at a specified
3 time, upon the circumstances surrounding the crime and the prior
4 history and record of the person, which may be considered either
5 in aggravation or mitigation of the punishment.

6 (2) (A) The probation officer shall immediately investigate and
7 make a written report to the court of the officer's findings and
8 recommendations, including the officer's recommendations as to
9 the granting or denying of probation and the conditions of
10 probation, if granted.

11 (B) Pursuant to Section 828 of the Welfare and Institutions
12 Code, the probation officer shall include in the officer's report any
13 information gathered by a law enforcement agency relating to the
14 taking of the defendant into custody as a minor, which shall be
15 considered for purposes of determining whether adjudications of
16 commissions of crimes as a juvenile warrant a finding that there
17 are circumstances in aggravation pursuant to Section 1170 or to
18 deny probation.

19 (C) If the person was convicted of an offense that requires the
20 person to register as a sex offender pursuant to Sections 290 to
21 290.023, inclusive, or if the probation report recommends that
22 registration be ordered at sentencing pursuant to Section 290.006,
23 the probation officer's report shall include the results of the
24 State-Authorized Risk Assessment Tool for Sex Offenders
25 (SARATSO) administered pursuant to Sections 290.04 to 290.06,
26 inclusive, if applicable.

27 (D) The probation officer may also include in the report the
28 officer's recommendation of both of the following:

29 (i) The amount the defendant should be required to pay as a
30 restitution fine pursuant to subdivision (b) of Section 1202.4.

31 (ii) Whether the court shall require, as a condition of probation,
32 restitution to the victim or to the Restitution Fund and the amount
33 thereof.

34 (E) The report shall be made available to the court and the
35 prosecuting and defense attorneys at least five days, or upon request
36 of the defendant or prosecuting attorney nine days, prior to the
37 time fixed by the court for the hearing and determination of the
38 report, and shall be filed with the clerk of the court as a record in
39 the case at the time of the hearing. The time within which the report
40 shall be made available and filed may be waived by written

1 stipulation of the prosecuting and defense attorneys that is filed
2 with the court or an oral stipulation in open court that is made and
3 entered upon the minutes of the court.

4 (3) At a time fixed by the court, the court shall hear and
5 determine the application, if one has been made, or, in any case,
6 the suitability of probation in the particular case. At the hearing,
7 the court shall consider any report of the probation officer,
8 including the results of the SARATSO, if applicable, and shall
9 make a statement that it has considered the report, which shall be
10 filed with the clerk of the court as a record in the case. If the court
11 determines that there are circumstances in mitigation of the
12 punishment prescribed by law or that the ends of justice would be
13 served by granting probation to the person, it may place the person
14 on probation. If probation is denied, the clerk of the court shall
15 immediately send a copy of the report to the Department of
16 Corrections and Rehabilitation at the prison or other institution to
17 which the person is delivered.

18 (4) The preparation of the report or the consideration of the
19 report by the court may be waived only by a written stipulation of
20 the prosecuting and defense attorneys that is filed with the court
21 or an oral stipulation in open court that is made and entered upon
22 the minutes of the court, except that a waiver shall not be allowed
23 unless the court consents thereto. However, if the defendant is
24 ultimately sentenced and committed to the state prison, a probation
25 report shall be completed pursuant to Section 1203c.

26 (c) If a defendant is not represented by an attorney, the court
27 shall order the probation officer who makes the probation report
28 to discuss its contents with the defendant.

29 (d) If a person is convicted of a misdemeanor, the court may
30 either refer the matter to the probation officer for an investigation
31 and a report or summarily pronounce a conditional sentence. If
32 the person was convicted of an offense that requires the person to
33 register as a sex offender pursuant to Sections 290 to 290.023,
34 inclusive, or if the probation officer recommends that the court,
35 at sentencing, order the offender to register as a sex offender
36 pursuant to Section 290.006, the court shall refer the matter to the
37 probation officer for the purpose of obtaining a report on the results
38 of the State-Authorized Risk Assessment Tool for Sex Offenders
39 administered pursuant to Sections 290.04 to 290.06, inclusive, if
40 applicable, which the court shall consider. If the case is not referred

1 to the probation officer, in sentencing the person, the court may
2 consider any information concerning the person that could have
3 been included in a probation report. The court shall inform the
4 person of the information to be considered and permit the person
5 to answer or controvert the information. For this purpose, upon
6 the request of the person, the court shall grant a continuance before
7 the judgment is pronounced.

8 (e) Except in unusual cases where the interests of justice would
9 best be served if the person is granted probation, probation shall
10 not be granted to any of the following persons:

11 (1) Unless the person had a lawful right to carry a deadly
12 weapon, other than a firearm, at the time of the perpetration of the
13 crime or arrest, any person who has been convicted of arson,
14 robbery, carjacking, burglary, burglary with explosives, rape with
15 force or violence, torture, aggravated mayhem, murder, attempt
16 to commit murder, trainwrecking, kidnapping, escape from the
17 state prison, or a conspiracy to commit one or more of those crimes
18 and who was armed with the weapon at either of those times.

19 (2) Any person who used, or attempted to use, a deadly weapon
20 upon a human being in connection with the perpetration of the
21 crime of which the person has been convicted.

22 (3) Any person who willfully inflicted great bodily injury or
23 torture in the perpetration of the crime of which the person has
24 been convicted.

25 (4) Any person who has been previously convicted twice in this
26 state of a felony or in any other place of a public offense which,
27 if committed in this state, would have been punishable as a felony.

28 (5) Unless the person has never been previously convicted once
29 in this state of a felony or in any other place of a public offense
30 which, if committed in this state, would have been punishable as
31 a felony, any person who has been convicted of burglary with
32 explosives, rape with force or violence, torture, aggravated
33 mayhem, murder, attempt to commit murder, trainwrecking,
34 extortion, kidnapping, escape from the state prison, a violation of
35 Section 286, 287, 288, or 288.5, or of former Section 288a, or a
36 conspiracy to commit one or more of those crimes.

37 (6) Any person who has been previously convicted once in this
38 state of a felony or in any other place of a public offense which,
39 if committed in this state, would have been punishable as a felony,
40 if the person committed any of the following acts:

1 (A) Unless the person had a lawful right to carry a deadly
2 weapon at the time of the perpetration of the previous crime or
3 arrest for the previous crime, the person was armed with a weapon
4 at either of those times.

5 (B) The person used, or attempted to use, a deadly weapon upon
6 a human being in connection with the perpetration of the previous
7 crime.

8 (C) The person willfully inflicted great bodily injury or torture
9 in the perpetration of the previous crime.

10 (7) Any public official or peace officer of this state or any city,
11 county, or other political subdivision who, in the discharge of the
12 duties of their public office or employment, accepted or gave or
13 offered to accept or give any bribe, embezzled public money, or
14 was guilty of extortion.

15 (8) Any person who knowingly furnishes or gives away
16 phencyclidine.

17 (9) Any person who intentionally inflicted great bodily injury
18 in the commission of arson under subdivision (a) of Section 451
19 or who intentionally set fire to, burned, or caused the burning of,
20 an inhabited structure or inhabited property in violation of
21 subdivision (b) of Section 451.

22 (10) Any person who, in the commission of a felony, inflicts
23 great bodily injury or causes the death of a human being by the
24 discharge of a firearm from or at an occupied motor vehicle
25 proceeding on a public street or highway.

26 (11) Any person who possesses a short-barreled rifle or a
27 short-barreled shotgun under Section 33215, a machinegun under
28 Section 32625, or a silencer under Section 33410.

29 (12) Any person who is convicted of violating Section 8101 of
30 the Welfare and Institutions Code.

31 (13) Any person who is described in subdivision (b) or (c) of
32 Section 27590.

33 (f) When probation is granted in a case which comes within
34 subdivision (e), the court shall specify on the record and shall enter
35 on the minutes the circumstances indicating that the interests of
36 justice would best be served by that disposition.

37 (g) If a person is not eligible for probation, the judge shall refer
38 the matter to the probation officer for an investigation of the facts
39 relevant to determination of the amount of a restitution fine
40 pursuant to subdivision (b) of Section 1202.4 in all cases where

1 the determination is applicable. The judge, in the judge's discretion,
2 may direct the probation officer to investigate all facts relevant to
3 the sentencing of the person. Upon that referral, the probation
4 officer shall immediately investigate the circumstances surrounding
5 the crime and the prior record and history of the person and make
6 a written report to the court of the officer's findings. The findings
7 shall include a recommendation of the amount of the restitution
8 fine as provided in subdivision (b) of Section 1202.4.

9 (h) If a defendant is convicted of a felony and a probation report
10 is prepared pursuant to subdivision (b) or (g), the probation officer
11 may obtain and include in the report a statement of the comments
12 of the victim concerning the offense. The court may direct the
13 probation officer not to obtain a statement if the victim has in fact
14 testified at any of the court proceedings concerning the offense.

15 (i) A probationer shall not be released to enter another state
16 unless the probationer's case has been referred to the Administrator
17 of the Interstate Probation and Parole Compacts, pursuant to the
18 Uniform Act for Out-of-State Probationer or Parolee Supervision
19 (Article 3 (commencing with Section 11175) of Chapter 2 of Title
20 1 of Part 4).

21 (j) In any court where a county financial evaluation officer is
22 available, in addition to referring the matter to the probation officer,
23 the court may order the defendant to appear before the county
24 financial evaluation officer for a financial evaluation of the
25 defendant's ability to pay restitution, in which case the county
26 financial evaluation officer shall report the county financial
27 evaluation officer's findings regarding restitution to the probation
28 officer on the question of the defendant's ability to pay restitution.

29 Any order made pursuant to this subdivision may be enforced
30 as a violation of the terms and conditions of probation upon willful
31 failure to pay and at the discretion of the court, may be enforced
32 in the same manner as a judgment in a civil action, if any balance
33 remains unpaid at the end of the defendant's probationary period.

34 (k) Probation shall not be granted to, nor shall the execution of,
35 or imposition of sentence be suspended for, any person who is
36 convicted of a violent felony, as defined in subdivision (c) of
37 Section 667.5, or a serious felony, as defined in subdivision (c) of
38 Section 1192.7, and who was on probation for a felony offense at
39 the time of the commission of the new felony offense.

1 (l) For any person granted probation prior to January 1, 2021,
2 at the time the court imposes probation, the court may take a waiver
3 from the defendant permitting flash incarceration by the probation
4 officer, pursuant to Section 1203.35.

5 ~~SEC. 64.~~

6 SEC. 50. Section 1203.016 of the Penal Code is amended to
7 read:

8 1203.016. (a) Notwithstanding any other law, the board of
9 supervisors of any county may authorize the correctional
10 administrator, as defined in subdivision (g), to offer a program
11 under which inmates committed to a county jail or other county
12 correctional facility or granted probation, or inmates participating
13 in a work furlough program, may voluntarily participate or
14 involuntarily be placed in a home detention program during their
15 sentence in lieu of confinement in a county jail or other county
16 correctional facility or program under the auspices of the probation
17 officer.

18 (b) The board of supervisors, in consultation with the
19 correctional administrator, may prescribe reasonable rules and
20 regulations under which a home detention program may operate.
21 As a condition of participation in the home detention program, the
22 inmate shall give consent in writing to participate in the home
23 detention program and shall in writing agree to comply or, for
24 involuntary participation, the inmate shall be informed in writing
25 that the inmate shall comply, with the rules and regulations of the
26 program, including, but not limited to, the following rules:

27 (1) The participant shall remain within the interior premises of
28 the participant's residence during the hours designated by the
29 correctional administrator.

30 (2) The participant shall admit any person or agent designated
31 by the correctional administrator into the participant's residence
32 at any time for purposes of verifying the participant's compliance
33 with the conditions of the detention.

34 (3) The participant shall agree to the use of electronic
35 monitoring, which may include Global Positioning System devices
36 or other supervising devices for the purpose of helping to verify
37 compliance with the rules and regulations of the home detention
38 program. The devices shall not be used to eavesdrop or record any
39 conversation, except a conversation between the participant and

1 the person supervising the participant which is to be used solely
2 for the purposes of voice identification.

3 (4) The participant shall agree that the correctional administrator
4 in charge of the county correctional facility from which the
5 participant was released may, without further order of the court,
6 immediately retake the person into custody to serve the balance
7 of the person's sentence if the electronic monitoring or supervising
8 devices are unable for any reason to properly perform their function
9 at the designated place of home detention, if the person fails to
10 remain within the place of home detention as stipulated in the
11 agreement, or if the person for any other reason no longer meets
12 the established criteria under this section. A copy of the agreement
13 shall be delivered to the participant and a copy retained by the
14 correctional administrator.

15 (c) If the peace officer supervising a participant has reasonable
16 cause to believe that the participant is not complying with the rules
17 or conditions of the program, or that the electronic monitoring
18 devices are unable to function properly in the designated place of
19 confinement, the peace officer may, under general or specific
20 authorization of the correctional administrator, and without a
21 warrant of arrest, retake the person into custody to complete the
22 remainder of the original sentence.

23 (d) Nothing in this section shall be construed to require the
24 correctional administrator to allow a person to participate in this
25 program if it appears from the record that the person has not
26 satisfactorily complied with reasonable rules and regulations while
27 in custody. A person shall be eligible for participation in a home
28 detention program only if the correctional administrator concludes
29 that the person meets the criteria for release established under this
30 section and that the person's participation is consistent with any
31 reasonable rules and regulations prescribed by the board of
32 supervisors or the administrative policy of the correctional
33 administrator.

34 (1) The rules and regulations and administrative policy of the
35 program shall be written and reviewed on an annual basis by the
36 county board of supervisors and the correctional administrator.
37 The rules and regulations shall be given to or made available to
38 any participant upon request.

39 (2) The correctional administrator, or the administrator's
40 designee, shall have the sole discretionary authority to permit

1 program participation as an alternative to physical custody. All
2 persons referred or recommended by the court to participate in the
3 home detention program pursuant to subdivision (e) who are denied
4 participation or all persons removed from program participation
5 shall be notified in writing of the specific reasons for the denial
6 or removal. The notice of denial or removal shall include the
7 participant's appeal rights, as established by program administrative
8 policy.

9 (e) The court may recommend or refer a person to the
10 correctional administrator for consideration for placement in the
11 home detention program. The recommendation or referral of the
12 court shall be given great weight in the determination of acceptance
13 or denial. At the time of sentencing or at any time that the court
14 deems it necessary, the court may restrict or deny the defendant's
15 participation in a home detention program.

16 (f) The correctional administrator may permit home detention
17 program participants to seek and retain employment in the
18 community, attend psychological counseling sessions or
19 educational or vocational training classes, or seek medical and
20 dental assistance. Willful failure of the program participant to
21 return to the place of home detention not later than the expiration
22 of any period of time during which the participant is authorized
23 to be away from the place of home detention pursuant to this
24 section and unauthorized departures from the place of home
25 detention are punishable as provided in Section 4532.

26 (g) As used in this section, "correctional administrator" means
27 the sheriff, probation officer, or director of the county department
28 of corrections.

29 (h) Notwithstanding any other law, the police department of a
30 city where an office is located to which persons on an electronic
31 monitoring program report may request the county correctional
32 administrator to provide information concerning those persons.
33 This information shall be limited to the name, address, date of
34 birth, offense committed by the home detainee, and if available,
35 at the discretion of the supervising agency and solely for
36 investigatory purposes, current and historical GPS coordinates of
37 the home detainee. A law enforcement department that does not
38 have the primary responsibility to supervise participants in the
39 electronic monitoring program that receives information pursuant
40 to this subdivision shall not use the information to conduct

1 enforcement actions based on administrative violations of the home
2 detention program. A law enforcement department that has
3 knowledge that the subject in a criminal investigation is a
4 participant in an electronic monitoring program shall make
5 reasonable efforts to notify the supervising agency prior to serving
6 a warrant or taking any law enforcement action against a participant
7 in an electronic monitoring program.

8 (i) It is the intent of the Legislature that home detention
9 programs established under this section maintain the highest public
10 confidence, credibility, and public safety. In the furtherance of
11 these standards, the following shall apply:

12 (1) The correctional administrator, with the approval of the
13 board of supervisors, may administer a home detention program
14 pursuant to written contracts with appropriate public or private
15 agencies or entities to provide specified program services. No
16 public or private agency or entity may operate a home detention
17 program in any county without a written contract with that county's
18 correctional administrator. However, this does not apply to the use
19 of electronic monitoring by the Department of Corrections and
20 Rehabilitation. No public or private agency or entity entering into
21 a contract may itself employ any person who is in the home
22 detention program.

23 (2) Program acceptance shall not circumvent the normal booking
24 process for sentenced offenders. All home detention program
25 participants shall be supervised.

26 (3) (A) All privately operated home detention programs shall
27 be under the jurisdiction of, and subject to the terms and conditions
28 of the contract entered into with, the correctional administrator.

29 (B) Each contract shall include, but not be limited to, all of the
30 following:

31 (i) A provision whereby the private agency or entity agrees to
32 operate in compliance with any available standards promulgated
33 by state correctional agencies and bodies, including the Corrections
34 Standards Authority, and all statutory provisions and mandates,
35 state and county, as appropriate and applicable to the operation of
36 home detention programs and the supervision of sentenced
37 offenders in a home detention program.

38 (ii) A provision that clearly defines areas of respective
39 responsibility and liability of the county and the private agency or
40 entity.

(iii) A provision that requires the private agency or entity to demonstrate evidence of financial responsibility, submitted and approved by the board of supervisors, in amounts and under conditions sufficient to fully indemnify the county for reasonably foreseeable public liability, including legal defense costs, that may arise from, or be proximately caused by, acts or omissions of the contractor. The contract shall provide for annual review by the correctional administrator to ensure compliance with requirements set by the board of supervisors and for adjustment of the financial responsibility requirements if warranted by caseload changes or other factors.

(iv) A provision that requires the private agency or entity to provide evidence of financial responsibility, such as certificates of insurance or copies of insurance policies, prior to commencing any operations pursuant to the contract or at any time requested by the board of supervisors or correctional administrator.

(v) A provision that permits the correctional administrator to immediately terminate the contract with a private agency or entity at any time that the contractor fails to demonstrate evidence of financial responsibility.

(C) All privately operated home detention programs shall comply with all appropriate, applicable ordinances and regulations specified in subdivision (a) of Section 1208.

(D) The board of supervisors, the correctional administrator, and the designee of the correctional administrator shall comply with Section 1090 of the Government Code in the consideration, making, and execution of contracts pursuant to this section.

(E) The failure of the private agency or entity to comply with statutory provisions and requirements or with the standards established by the contract and with the correctional administrator may be sufficient cause to terminate the contract.

(F) Upon the discovery that a private agency or entity with whom there is a contract is not in compliance pursuant to this paragraph, the correctional administrator shall give 60 days' notice to the director of the private agency or entity that the contract may be canceled if the specified deficiencies are not corrected.

(G) Shorter notice may be given or the contract may be canceled without notice whenever a serious threat to public safety is present because the private agency or entity has failed to comply with this section.

1 (j) For purposes of this section, “evidence of financial
2 responsibility” may include, but is not limited to, certified copies
3 of any of the following:

- 4 (1) A current liability insurance policy.
- 5 (2) A current errors and omissions insurance policy.
- 6 (3) A surety bond.

7 ~~SEC. 65.~~

8 *SEC. 51.* Section 1203.018 of the Penal Code is amended to
9 read:

10 1203.018. (a) Notwithstanding any other law, this section shall
11 only apply to inmates being held in lieu of bail and on no other
12 basis.

13 (b) Notwithstanding any other law, the board of supervisors of
14 any county may authorize the correctional administrator, as defined
15 in paragraph (1) of subdivision (j), to offer a program under which
16 inmates being held in lieu of bail in a county jail or other county
17 correctional facility may participate in an electronic monitoring
18 program if the conditions specified in subdivision (c) are met.

19 (c) (1) In order to qualify for participation in an electronic
20 monitoring program pursuant to this section, the inmate shall be
21 an inmate with no holds or outstanding warrants to whom one of
22 the following circumstances applies:

23 (A) The inmate has been held in custody for at least 30 calendar
24 days from the date of arraignment pending disposition of only
25 misdemeanor charges.

26 (B) The inmate has been held in custody pending disposition
27 of charges for at least 60 calendar days from the date of
28 arraignment.

29 (C) The inmate is appropriate for the program based on a
30 determination by the correctional administrator that the inmate’s
31 participation would be consistent with the public safety interests
32 of the community.

33 (2) All participants shall be subject to discretionary review for
34 eligibility and compliance by the correctional administrator
35 consistent with this section.

36 (d) The board of supervisors, after consulting with the sheriff
37 and district attorney, may prescribe reasonable rules and regulations
38 under which an electronic monitoring program pursuant to this
39 section may operate. As a condition of participation in the
40 electronic monitoring program, the participant shall give consent

1 in writing to participate and shall agree in writing to comply with
2 the rules and regulations of the program, including, but not limited
3 to, all of the following:

4 (1) The participant shall remain within the interior premises of
5 the participant's residence during the hours designated by the
6 correctional administrator.

7 (2) The participant shall admit any person or agent designated
8 by the correctional administrator into the participant's residence
9 at any time for purposes of verifying the participant's compliance
10 with the conditions of the detention.

11 (3) The electronic monitoring may include global positioning
12 system devices or other supervising devices for the purpose of
13 helping to verify the participant's compliance with the rules and
14 regulations of the electronic monitoring program. The electronic
15 devices shall not be used to eavesdrop or record any conversation,
16 except a conversation between the participant and the person
17 supervising the participant to be used solely for the purposes of
18 voice identification.

19 (4) The correctional administrator in charge of the county
20 correctional facility from which the participant was released may,
21 without further order of the court, immediately retake the person
22 into custody if the electronic monitoring or supervising devices
23 are unable for any reason to properly perform their function at the
24 designated place of home detention, if the person fails to remain
25 within the place of home detention as stipulated in the agreement,
26 or if the person for any other reason no longer meets the established
27 criteria under this section.

28 (5) A copy of the signed consent to participate and a copy of
29 the agreement to comply with the rules and regulations shall be
30 provided to the participant and a copy shall be retained by the
31 correctional administrator.

32 (e) The rules and regulations and administrative policy of the
33 program shall be reviewed on an annual basis by the county board
34 of supervisors and the correctional administrator. The rules and
35 regulations shall be given to every participant.

36 (f) Whenever the peace officer supervising a participant has
37 reasonable cause to believe that the participant is not complying
38 with the rules or conditions of the program, or that the electronic
39 monitoring devices are unable to function properly in the
40 designated place of confinement, the peace officer may, under

1 general or specific authorization of the correctional administrator,
2 and without a warrant of arrest, retake the person into custody.

3 (g) (1) Nothing in this section shall be construed to require the
4 correctional administrator to allow a person to participate in this
5 program if it appears from the record that the person has not
6 satisfactorily complied with reasonable rules and regulations while
7 in custody. A person shall be eligible for participation in an
8 electronic monitoring program only if the correctional administrator
9 concludes that the person meets the criteria for release established
10 under this section and that the person's participation is consistent
11 with any reasonable rules and regulations prescribed by the board
12 of supervisors or the administrative policy of the correctional
13 administrator.

14 (2) The correctional administrator, or the administrator's
15 designee, shall have discretionary authority consistent with this
16 section to permit program participation as an alternative to physical
17 custody. All persons approved by the correctional administrator
18 to participate in the electronic monitoring program pursuant to
19 subdivision (c) who are denied participation and all persons
20 removed from program participation shall be notified in writing
21 of the specific reasons for the denial or removal. The notice of
22 denial or removal shall include the participant's appeal rights, as
23 established by program administrative policy.

24 (h) The correctional administrator may permit electronic
25 monitoring program participants to seek and retain employment
26 in the community, attend psychological counseling sessions or
27 educational or vocational training classes, or seek medical and
28 dental assistance.

29 (i) Willful failure of the program participant to return to the
30 place of home detention prior to the expiration of any period of
31 time during which the participant is authorized to be away from
32 the place of home detention pursuant to this section and
33 unauthorized departures from the place of home detention is
34 punishable pursuant to Section 4532.

35 (j) For purposes of this section, the following terms have the
36 following meanings:

37 (1) "Correctional administrator" means the sheriff, probation
38 officer, or director of the county department of corrections.

1 (2) “Electronic monitoring program” includes, but is not limited
2 to, home detention programs, work furlough programs, and work
3 release programs.

4 (k) Notwithstanding any other law, upon request of a local law
5 enforcement agency with jurisdiction over the location where a
6 participant in an electronic monitoring program is placed, the
7 correctional administrator shall provide the following information
8 regarding participants in the electronic monitoring program:

9 (1) The participant’s name, address, and date of birth.

10 (2) The offense or offenses alleged to have been committed by
11 the participant.

12 (3) The period of time the participant will be placed on home
13 detention.

14 (4) Whether the participant successfully completed the
15 prescribed period of home detention or was returned to a county
16 correctional facility, and if the person was returned to a county
17 correctional facility, the reason for the return.

18 (5) The gender and ethnicity of the participant.

19 (l) Notwithstanding any other law, upon request of a local law
20 enforcement agency with jurisdiction over the location where a
21 participant in an electronic monitoring program is placed, the
22 correctional administrator may, in the administrator’s discretion
23 and solely for investigatory purposes, provide current and historical
24 GPS coordinates, if available.

25 (m) A law enforcement agency that does not have the primary
26 responsibility to supervise participants in the electronic monitoring
27 program that receives information pursuant to subdivision (k) shall
28 not use the information to conduct enforcement actions based on
29 administrative violations of the home detention program. An
30 agency that has knowledge that the subject in a criminal
31 investigation is a participant in an electronic monitoring program
32 shall make reasonable efforts to notify the supervising agency prior
33 to serving a warrant or taking any law enforcement action against
34 a participant in an electronic monitoring program.

35 (n) It is the intent of the Legislature that electronic monitoring
36 programs established under this section maintain the highest public
37 confidence, credibility, and public safety. In the furtherance of
38 these standards, the following shall apply:

39 (1) The correctional administrator, with the approval of the
40 board of supervisors, may administer an electronic monitoring

1 program as provided in this section pursuant to written contracts
2 with appropriate public or private agencies or entities to provide
3 specified program services. A public or private agency or entity
4 shall not operate a home detention program pursuant to this section
5 in any county without a written contract with that county's
6 correctional administrator. A public or private agency or entity
7 entering into a contract pursuant to this subdivision shall not itself
8 employ any person who is in the electronic monitoring program.

9 (2) Program participants shall undergo the normal booking
10 process for arrestees entering the jail. All electronic monitoring
11 program participants shall be supervised.

12 (3) (A) All privately operated electronic monitoring programs
13 shall be under the jurisdiction of, and subject to the terms and
14 conditions of the contract entered into with, the correctional
15 administrator.

16 (B) Each contract specified in subparagraph (A) shall include,
17 but not be limited to, all of the following:

18 (i) A provision whereby the private agency or entity agrees to
19 operate in compliance with any available standards and all state
20 and county laws applicable to the operation of electronic
21 monitoring programs and the supervision of offenders in an
22 electronic monitoring program.

23 (ii) A provision that clearly defines areas of respective
24 responsibility and liability of the county and the private agency or
25 entity.

26 (iii) A provision that requires the private agency or entity to
27 demonstrate evidence of financial responsibility, submitted to and
28 approved by the board of supervisors, in amounts and under
29 conditions sufficient to fully indemnify the county for reasonably
30 foreseeable public liability, including legal defense costs that may
31 arise from, or be proximately caused by, acts or omissions of the
32 contractor.

33 (iv) A provision that requires the private agency or entity to
34 provide evidence of financial responsibility, such as certificates
35 of insurance or copies of insurance policies, prior to commencing
36 any operations pursuant to the contract or at any time requested
37 by the board of supervisors or correctional administrator.

38 (v) A provision that requires an annual review by the
39 correctional administrator to ensure compliance with requirements
40 set by the board of supervisors and for adjustment of the financial

1 responsibility requirements if warranted by caseload changes or
2 other factors.

3 (vi) A provision that permits the correctional administrator to
4 immediately terminate the contract with a private agency or entity
5 at any time that the contractor fails to demonstrate evidence of
6 financial responsibility.

7 (C) All privately operated electronic monitoring programs shall
8 comply with all applicable ordinances and regulations specified
9 in subdivision (a) of Section 1208.

10 (D) The board of supervisors, the correctional administrator,
11 and the designee of the correctional administrator shall comply
12 with Section 1090 of the Government Code in the consideration,
13 making, and execution of contracts pursuant to this section.

14 (E) The failure of the private agency or entity to comply with
15 state or county laws or with the standards established by the
16 contract with the correctional administrator shall constitute cause
17 to terminate the contract.

18 (F) Upon the discovery that a private agency or entity with
19 which there is a contract is not in compliance with this paragraph,
20 the correctional administrator shall give 60 days' notice to the
21 director of the private agency or entity that the contract may be
22 canceled if the specified deficiencies are not corrected.

23 (G) Shorter notice may be given or the contract may be canceled
24 without notice whenever a serious threat to public safety is present
25 because the private agency or entity has failed to comply with this
26 section.

27 (H) For purposes of this section, "evidence of financial
28 responsibility" may include, but is not limited to, certified copies
29 of any of the following:

30 (i) A current liability insurance policy.

31 (ii) A current errors and omissions insurance policy.

32 (iii) A surety bond.

33 ~~SEC. 66. Section 1203.066 of the Penal Code is amended to~~
34 ~~read:~~

35 ~~1203.066. (a) Notwithstanding Section 1203 or any other law,~~
36 ~~probation shall not be granted to, nor shall the execution or~~
37 ~~imposition of sentence be suspended for, nor shall a finding~~
38 ~~bringing the defendant within the provisions of this section be~~
39 ~~stricken pursuant to Section 1385 for, any of the following persons:~~

1 ~~(1) A person who is convicted of violating Section 288 or 288.5~~
2 ~~when the act is committed by the use of force, violence, duress,~~
3 ~~menace, or fear of immediate and unlawful bodily injury on the~~
4 ~~victim or another person.~~

5 ~~(2) A person who caused bodily injury on the child victim in~~
6 ~~committing a violation of Section 288 or 288.5.~~

7 ~~(3) A person who is convicted of a violation of Section 288 or~~
8 ~~288.5 and who was a stranger to the child victim or befriended the~~
9 ~~child victim for the purpose of committing an act in violation of~~
10 ~~Section 288 or 288.5, unless the defendant honestly and reasonably~~
11 ~~believed the victim was 14 years of age or older.~~

12 ~~(4) A person who used a weapon during the commission of a~~
13 ~~violation of Section 288 or 288.5.~~

14 ~~(5) A person who is convicted of committing a violation of~~
15 ~~Section 288 or 288.5 and who has been previously convicted of a~~
16 ~~violation of Section 261, 262, 264.1, 266, 266c, 267, 285, 286,~~
17 ~~287, 288, 288.5, or 289, or former Section 288a, or of assaulting~~
18 ~~another person with intent to commit a crime specified in this~~
19 ~~paragraph in violation of Section 220, or who has been previously~~
20 ~~convicted in another state of an offense which, if committed or~~
21 ~~attempted in this state, would constitute an offense enumerated in~~
22 ~~this paragraph.~~

23 ~~(6) A person who violated Section 288 or 288.5 while~~
24 ~~kidnapping the child victim in violation of Section 207, 209, or~~
25 ~~209.5.~~

26 ~~(7) A person who is convicted of committing a violation of~~
27 ~~Section 288 or 288.5 against more than one victim.~~

28 ~~(8) A person who, in violating Section 288 or 288.5, has~~
29 ~~substantial sexual conduct with a victim who is under 14 years of~~
30 ~~age.~~

31 ~~(9) A person who, in violating Section 288 or 288.5, used~~
32 ~~obscene matter, as defined in Section 311, or matter, as defined in~~
33 ~~Section 311, depicting sexual conduct, as defined in Section 311.3.~~

34 ~~(b) “Substantial sexual conduct” means penetration of the vagina~~
35 ~~or rectum of either the victim or the offender by the penis of the~~
36 ~~other or by any foreign object, oral copulation, or masturbation of~~
37 ~~either the victim or the offender.~~

38 ~~(c) (1) Except for a violation of subdivision (b) of Section 288,~~
39 ~~this section shall only apply if the existence of any fact required~~
40 ~~in subdivision (a) is alleged in the accusatory pleading and is either~~

1 admitted by the defendant in open court, or found to be true by the
2 trier of fact.

3 ~~(2) For the existence of any fact under paragraph (7) of~~
4 ~~subdivision (a), the allegation must be made pursuant to this~~
5 ~~section.~~

6 ~~(d) (1) If a person is convicted of a violation of Section 288 or~~
7 ~~288.5, and the factors listed in subdivision (a) are not pled or~~
8 ~~proven, probation may be granted only if the following terms and~~
9 ~~conditions are met:~~

10 ~~(A) If the defendant is a member of the victim's household, the~~
11 ~~court finds that probation is in the best interest of the child victim.~~

12 ~~(B) The court finds that rehabilitation of the defendant is feasible~~
13 ~~and that the defendant is amenable to undergoing treatment, and~~
14 ~~the defendant is placed in a recognized treatment program designed~~
15 ~~to deal with child molestation immediately after the grant of~~
16 ~~probation or the suspension of execution or imposition of sentence.~~

17 ~~(C) If the defendant is a member of the victim's household,~~
18 ~~probation shall not be granted unless the defendant is removed~~
19 ~~from the household of the victim until the court determines that~~
20 ~~the best interests of the victim would be served by the defendant's~~
21 ~~return. While removed from the household, the court shall prohibit~~
22 ~~contact by the defendant with the victim, with the exception that~~
23 ~~the court may permit supervised contact, upon the request of the~~
24 ~~director of the court-ordered supervised treatment program, and~~
25 ~~with the agreement of the victim and the victim's parent or legal~~
26 ~~guardian, other than the defendant.~~

27 ~~(D) If the defendant is not a member of the victim's household,~~
28 ~~the court shall prohibit the defendant from being placed or residing~~
29 ~~within one-half mile of the child victim's residence for the duration~~
30 ~~of the probation term unless the court, on the record, states its~~
31 ~~reasons for finding that this residency restriction would not serve~~
32 ~~the best interests of the victim.~~

33 ~~(E) The court finds that there is no threat of physical harm to~~
34 ~~the victim if probation is granted.~~

35 ~~(2) The court shall state its reasons on the record for whatever~~
36 ~~sentence it imposes on the defendant.~~

37 ~~(3) The court shall order the psychiatrist or psychologist who~~
38 ~~is appointed pursuant to Section 288.1 to include a consideration~~
39 ~~of the factors specified in subparagraphs (A), (B), and (C) of~~
40 ~~paragraph (1) in making their report to the court.~~

1 ~~(4) The court shall order the defendant to comply with all~~
2 ~~probation requirements, including the requirements to attend~~
3 ~~counseling and keep all program appointments.~~

4 ~~(5) No victim shall be compelled to participate in a program or~~
5 ~~counseling, and no program may condition a defendant's~~
6 ~~enrollment on participation by the victim.~~

7 ~~(e) As used in subdivision (d), the following definitions apply:~~

8 ~~(1) "Contact with the victim" includes all physical contact, being~~
9 ~~in the presence of the victim, communicating by any means,~~
10 ~~including by a third party acting on behalf of the defendant, or~~
11 ~~sending any gifts.~~

12 ~~(2) "Recognized treatment program" means a program that~~
13 ~~consists of the following components:~~

14 ~~(A) Substantial expertise in the treatment of child sexual abuse.~~

15 ~~(B) A treatment regimen designed to specifically address the~~
16 ~~offense.~~

17 ~~(C) The ability to serve indigent clients.~~

18 ~~(D) Adequate reporting requirements to ensure that all persons~~
19 ~~who, after being ordered to attend and complete a program, may~~
20 ~~be identified for either failure to enroll in, or failure to successfully~~
21 ~~complete, the program, or for the successful completion of the~~
22 ~~program as ordered. The program shall notify the court and the~~
23 ~~probation department, in writing, within the period of time and in~~
24 ~~the manner specified by the court of any person who fails to~~
25 ~~complete the program. Notification shall be given if the program~~
26 ~~determines that the defendant is performing unsatisfactorily or if~~
27 ~~the defendant is not benefiting from the education, treatment, or~~
28 ~~counseling.~~

29 ~~SEC. 67. Section 1203.067 of the Penal Code is amended to~~
30 ~~read:~~

31 ~~1203.067. (a) Notwithstanding any other law, before probation~~
32 ~~may be granted to any person convicted of a felony specified in~~
33 ~~Section 261, 262, 264.1, 286, 287, 288, 288.5, or 289, or former~~
34 ~~Section 288a, who is eligible for probation, the court shall do all~~
35 ~~of the following:~~

36 ~~(1) Order the defendant evaluated pursuant to Section 1203.03,~~
37 ~~or similar evaluation by the county probation department.~~

38 ~~(2) Conduct a hearing at the time of sentencing to determine if~~
39 ~~probation of the defendant would pose a threat to the victim. The~~

1 victim shall be notified of the hearing by the prosecuting attorney
2 and given an opportunity to address the court.

3 ~~(3) Order any psychiatrist or psychologist appointed pursuant~~
4 ~~to Section 288.1 to include a consideration of the threat to the~~
5 ~~victim and the defendant's potential for positive response to~~
6 ~~treatment in making their report to the court. Nothing in this section~~
7 ~~shall be construed to require the court to order an examination of~~
8 ~~the victim.~~

9 ~~(b) On or after July 1, 2012, the terms of probation for persons~~
10 ~~placed on formal probation for an offense that requires registration~~
11 ~~pursuant to Sections 290 to 290.023, inclusive, shall include all of~~
12 ~~the following:~~

13 ~~(1) Persons placed on formal probation prior to July 1, 2012,~~
14 ~~shall participate in an approved sex offender management program,~~
15 ~~following the standards developed pursuant to Section 9003, for~~
16 ~~a period of not less than one year or the remaining term of~~
17 ~~probation if it is less than one year. The length of the period in the~~
18 ~~program is to be determined by the certified sex offender~~
19 ~~management professional in consultation with the probation officer~~
20 ~~and as approved by the court. Participation in this program applies~~
21 ~~to every person described without regard to when the crime or~~
22 ~~crimes were committed.~~

23 ~~(2) Persons placed on formal probation on or after July 1, 2012,~~
24 ~~shall successfully complete a sex offender management program,~~
25 ~~following the standards developed pursuant to Section 9003, as a~~
26 ~~condition of release from probation. The length of the period in~~
27 ~~the program shall be not less than one year, up to the entire period~~
28 ~~of probation, as determined by the certified sex offender~~
29 ~~management professional in consultation with the probation officer~~
30 ~~and as approved by the court. Participation in this program applies~~
31 ~~to each person without regard to when the crime or crimes were~~
32 ~~committed.~~

33 ~~(3) Waiver of any privilege against self-incrimination and~~
34 ~~participation in polygraph examinations, which shall be part of the~~
35 ~~sex offender management program.~~

36 ~~(4) Waiver of any psychotherapist-patient privilege to enable~~
37 ~~communication between the sex offender management professional~~
38 ~~and supervising probation officer, pursuant to Section 290.09.~~

~~SEC. 68.~~

SEC. 52. Section 1203.097 of the Penal Code is amended to read:

1203.097. (a) If a person is granted probation for a crime in which the victim is a person defined in Section 6211 of the Family Code, the terms of probation shall include all of the following:

(1) A minimum period of probation of 36 months, which may include a period of summary probation as appropriate.

(2) A criminal court protective order protecting the victim from further acts of violence, threats, stalking, sexual abuse, and harassment, and, if appropriate, containing residence exclusion or stay-away conditions.

(3) Notice to the victim of the disposition of the case.

(4) Booking the defendant within one week of sentencing if the defendant has not already been booked.

(5) Successful completion of a batterer's program, as defined in subdivision (c), or if none is available, another appropriate counseling program designated by the court, for a period not less than one year with periodic progress reports by the program to the court every three months or less and weekly sessions of a minimum of two hours' class time duration. The defendant shall attend consecutive weekly sessions, unless granted an excused absence for good cause by the program for no more than three individual sessions during the entire program, and shall complete the program within 18 months, unless, after a hearing, the court finds good cause to modify the requirements of consecutive attendance or completion within 18 months.

(6) (A) The court shall order the defendant to comply with all probation requirements, including the requirements to attend counseling and keep all program appointments.

(B) Upon request by the batterer's program, the court shall provide the defendant's arrest report, prior incidents of violence, and treatment history to the program.

(7) The court also shall order the defendant to perform a specified amount of appropriate community service, as designated by the court. The defendant shall present the court with proof of completion of community service and the court shall determine if the community service has been satisfactorily completed. If sufficient staff and resources are available, the community service

1 shall be performed under the jurisdiction of the local agency
2 overseeing a community service program.

3 (8) If the program finds that the defendant is unsuitable, the
4 program shall immediately contact the probation department or
5 the court. The probation department or court shall either recalendar
6 the case for hearing or refer the defendant to an appropriate
7 alternative batterer's program.

8 (9) (A) Upon recommendation of the program, a court shall
9 require a defendant to participate in additional sessions throughout
10 the probationary period, unless it finds that it is not in the interests
11 of justice to do so, states its reasons on the record, and enters them
12 into the minutes. In deciding whether the defendant would benefit
13 from more sessions, the court shall consider whether any of the
14 following conditions exists:

15 (i) The defendant has been violence free for a minimum of six
16 months.

17 (ii) The defendant has cooperated and participated in the
18 batterer's program.

19 (iii) The defendant demonstrates an understanding of and
20 practices positive conflict resolution skills.

21 (iv) The defendant blames, degrades, or has committed acts that
22 dehumanize the victim or puts at risk the victim's safety, including,
23 but not limited to, molesting, stalking, striking, attacking,
24 threatening, sexually assaulting, or battering the victim.

25 (v) The defendant demonstrates an understanding that the use
26 of coercion or violent behavior to maintain dominance is
27 unacceptable in an intimate relationship.

28 (vi) The defendant has made threats to harm anyone in any
29 manner.

30 (vii) The defendant has complied with applicable requirements
31 under paragraph (6) of subdivision (c) or subparagraph (C) to
32 receive alcohol counseling, drug counseling, or both.

33 (viii) The defendant demonstrates acceptance of responsibility
34 for the abusive behavior perpetrated against the victim.

35 (B) The program shall immediately report any violation of the
36 terms of the protective order, including any new acts of violence
37 or failure to comply with the program requirements, to the court,
38 the prosecutor, and, if formal probation has been ordered, to the
39 probation department. The probationer shall file proof of

1 enrollment in a batterer's program with the court within 30 days
2 of conviction.

3 (C) Concurrent with other requirements under this section, in
4 addition to, and not in lieu of, the batterer's program, and unless
5 prohibited by the referring court, the probation department or the
6 court may make provisions for a defendant to use the defendant's
7 resources to enroll in a chemical dependency program or to enter
8 voluntarily a licensed chemical dependency recovery hospital or
9 residential treatment program that has a valid license issued by the
10 state to provide alcohol or drug services to receive program
11 participation credit, as determined by the court. The probation
12 department shall document evidence of this hospital or residential
13 treatment participation in the defendant's program file.

14 (10) (A) The conditions of *probation* may include, in lieu of a
15 fine, ~~the requirement that the defendant reimburse the victim for~~
16 ~~reasonable expenses that the court finds are the direct result of the~~
17 ~~defendant's offense; one or both of the following requirements:~~

18 (i) *That the defendant make payments to a battered women's*
19 *shelter, up to a maximum of five thousand dollars (\$5,000).*

20 (ii) *That the defendant reimburse the victim for reasonable*
21 *expenses that the court finds are the direct result of the defendant's*
22 *offense.*

23 (B) For any order to pay a ~~fine~~ *fine*, *to make payments to a*
24 *battered women's shelter*, or to pay restitution as a condition of
25 probation under this subdivision, the court shall make a
26 determination of the defendant's ability to pay. Determination of
27 a defendant's ability to pay may include the defendant's future
28 earning capacity. A defendant shall bear the burden of
29 demonstrating lack of ability to pay. Express findings by the court
30 as to the factors bearing on the amount of the fine shall not be
31 required. *An order to make payments to a battered women's shelter*
32 *shall not be made if it would impair the ability of the defendant to*
33 *pay direct restitution to the victim or court-ordered child support.*

34 When the injury to a married person is caused, in whole or in part,
35 by the criminal acts of the person's spouse in violation of this
36 section, the community property shall not be used to discharge the
37 liability of the offending spouse for restitution to the injured
38 spouse, as required by Section 1203.04, as operative on or before
39 August 2, 1995, or Section 1202.4, or to a shelter for costs with

1 regard to the injured spouse, until all separate property of the
2 offending spouse is exhausted.

3 (11) If it appears to the prosecuting attorney, the court, or the
4 probation department that the defendant is performing
5 unsatisfactorily in the assigned program, is not benefiting from
6 counseling, or has engaged in criminal conduct, upon request of
7 the probation officer, the prosecuting attorney, or on its own
8 motion, the court, as a priority calendar item, shall hold a hearing
9 to determine whether further sentencing should proceed. The court
10 may consider factors, including, but not limited to, any violence
11 by the defendant against the former or a new victim while on
12 probation and noncompliance with any other specific condition of
13 probation. If the court finds that the defendant is not performing
14 satisfactorily in the assigned program, is not benefiting from the
15 program, has not complied with a condition of probation, or has
16 engaged in criminal conduct, the court shall terminate the
17 defendant's participation in the program and shall proceed with
18 further sentencing.

19 (b) If a person is granted formal probation for a crime in which
20 the victim is a person defined in Section 6211 of the Family Code,
21 in addition to the terms specified in subdivision (a), all of the
22 following shall apply:

23 (1) The probation department shall make an investigation and
24 take into consideration the defendant's age, medical history,
25 employment and service records, educational background,
26 community and family ties, prior incidents of violence, police
27 report, treatment history, if any, demonstrable motivation, and
28 other mitigating factors in determining which batterer's program
29 would be appropriate for the defendant. This information shall be
30 provided to the batterer's program if it is requested. The probation
31 department shall also determine which community programs the
32 defendant would benefit from and which of those programs would
33 accept the defendant. The probation department shall report its
34 findings and recommendations to the court.

35 (2) The court shall advise the defendant that the failure to report
36 to the probation department for the initial investigation, as directed
37 by the court, or the failure to enroll in a specified program, as
38 directed by the court or the probation department, shall result in
39 possible further incarceration. The court, in the interests of justice,
40 may relieve the defendant from the prohibition set forth in this

1 subdivision based upon the defendant's mistake or excusable
2 neglect. Application for this relief shall be filed within 20 court
3 days of the missed deadline. This time limitation may not be
4 extended. A copy of any application for relief shall be served on
5 the office of the prosecuting attorney.

6 (3) After the court orders the defendant to a batterer's program,
7 the probation department shall conduct an initial assessment of
8 the defendant, including, but not limited to, all of the following:

9 (A) Social, economic, and family background.

10 (B) Education.

11 (C) Vocational achievements.

12 (D) Criminal history.

13 (E) Medical history.

14 (F) Substance abuse history.

15 (G) Consultation with the probation officer.

16 (H) Verbal consultation with the victim, only if the victim
17 desires to participate.

18 (I) Assessment of the future probability of the defendant
19 committing murder.

20 (4) The probation department shall attempt to notify the victim
21 regarding the requirements for the defendant's participation in the
22 batterer's program, as well as regarding available victim resources.
23 The victim also shall be informed that attendance in any program
24 does not guarantee that an abuser will not be violent.

25 (c) The court or the probation department shall refer defendants
26 only to batterer's programs that follow standards outlined in
27 paragraph (1), which may include, but are not limited to, lectures,
28 classes, group discussions, and counseling. The probation
29 department shall design and implement an approval and renewal
30 process for batterer's programs and shall solicit input from criminal
31 justice agencies and domestic violence victim advocacy programs.

32 (1) The goal of a batterer's program under this section shall be
33 to stop domestic violence. A batterer's program shall consist of
34 the following components:

35 (A) Strategies to hold the defendant accountable for the violence
36 in a relationship, including, but not limited to, providing the
37 defendant with a written statement that the defendant shall be held
38 accountable for acts or threats of domestic violence.

39 (B) A requirement that the defendant participate in ongoing
40 same-gender group sessions.

1 (C) An initial intake that provides written definitions to the
2 defendant of physical, emotional, sexual, economic, and verbal
3 abuse, and the techniques for stopping these types of abuse.

4 (D) Procedures to inform the victim regarding the requirements
5 for the defendant's participation in the intervention program as
6 well as regarding available victim resources. The victim also shall
7 be informed that attendance in any program does not guarantee
8 that an abuser will not be violent.

9 (E) A requirement that the defendant attend group sessions free
10 of chemical influence.

11 (F) Educational programming that examines, at a minimum,
12 gender roles, socialization, the nature of violence, the dynamics
13 of power and control, and the effects of abuse on children and
14 others.

15 (G) A requirement that excludes any couple counseling or family
16 counseling, or both.

17 (H) Procedures that give the program the right to assess whether
18 or not the defendant would benefit from the program and to refuse
19 to enroll the defendant if it is determined that the defendant would
20 not benefit from the program. If possible, the program shall suggest
21 an appropriate alternative program.

22 (I) Program staff who, to the extent possible, have specific
23 knowledge regarding, but not limited to, spousal abuse, child abuse,
24 sexual abuse, substance abuse, the dynamics of violence and abuse,
25 the law, and procedures of the legal system.

26 (J) Program staff who are encouraged to utilize the expertise,
27 training, and assistance of local domestic violence centers.

28 (K) A requirement that the defendant enter into a written
29 agreement with the program, which shall include an outline of the
30 contents of the program, the attendance requirements, the
31 requirement to attend group sessions free of chemical influence,
32 and a statement that the defendant may be removed from the
33 program if it is determined that the defendant is not benefiting
34 from the program or is disruptive to the program.

35 (L) A requirement that the defendant sign a confidentiality
36 statement prohibiting disclosure of any information obtained
37 through participating in the program or during group sessions
38 regarding other participants in the program.

39 (M) Program content that provides cultural and ethnic
40 sensitivity.

1 (N) A requirement of a written referral from the court or
2 probation department prior to permitting the defendant to enroll
3 in the program. The written referral shall state the number of
4 minimum sessions required by the court.

5 (O) Procedures for submitting to the probation department all
6 of the following uniform written responses:

7 (i) Proof of enrollment for each session.

8 (ii) Periodic progress reports that include attendance, fee
9 payment history, and program compliance.

10 (iii) Final evaluation that includes the program's evaluation of
11 the defendant's progress, using the criteria set forth in subparagraph
12 (A) of paragraph (9) of subdivision (a), and recommendation for
13 either successful or unsuccessful termination or continuation in
14 the program.

15 (2) The court shall refer persons only to batterer's programs
16 that have been approved by the probation department pursuant to
17 paragraph (5). The probation department shall do both of the
18 following:

19 (A) Provide for the issuance of a provisional approval, provided
20 that the applicant is in substantial compliance with applicable laws
21 and regulations and an urgent need for approval exists. A
22 provisional approval shall be considered an authorization to provide
23 services and shall not be considered a vested right.

24 (B) If the probation department determines that a program is
25 not in compliance with standards set by the department, the
26 department shall provide written notice of the noncompliant areas
27 to the program. The program shall submit a written plan of
28 corrections within 14 days from the date of the written notice on
29 noncompliance. A plan of correction shall include, but not be
30 limited to, a description of each corrective action and timeframe
31 for implementation. The department shall review and approve all
32 or any part of the plan of correction and notify the program of
33 approval or disapproval in writing. If the program fails to submit
34 a plan of correction or fails to implement the approved plan of
35 correction, the department shall consider whether to revoke or
36 suspend approval and, upon revoking or suspending approval, shall
37 have the option to cease referrals of defendants under this section.

38 (3) No program, regardless of its source of funding, shall be
39 approved unless it meets all of the following standards:

1 (A) The establishment of guidelines and criteria for education
2 services, including standards of services that may include lectures,
3 classes, and group discussions.

4 (B) Supervision of the defendant for the purpose of evaluating
5 the person's progress in the program.

6 (C) Adequate reporting requirements to ensure that all persons
7 who, after being ordered to attend and complete a program, may
8 be identified for either failure to enroll in, or failure to successfully
9 complete, the program or for the successful completion of the
10 program as ordered. The program shall notify the court and the
11 probation department, in writing, within the period of time and in
12 the manner specified by the court of any person who fails to
13 complete the program. Notification shall be given if the program
14 determines that the defendant is performing unsatisfactorily or if
15 the defendant is not benefiting from the education, treatment, or
16 counseling.

17 (D) No victim shall be compelled to participate in a program
18 or counseling, and no program may condition a defendant's
19 enrollment on participation by the victim.

20 (4) In making referrals of indigent defendants to approved
21 batterer's programs, the probation department shall apportion these
22 referrals evenly among the approved programs.

23 (5) The probation department shall have the sole authority to
24 approve a batterer's program for probation. The program shall be
25 required to obtain only one approval but shall renew that approval
26 annually.

27 (A) The procedure for the approval of a new or existing program
28 shall include all of the following:

29 (i) The completion of a written application containing necessary
30 and pertinent information describing the applicant program.

31 (ii) The demonstration by the program that it possesses adequate
32 administrative and operational capability to operate a batterer's
33 treatment program. The program shall provide documentation to
34 prove that the program has conducted batterer's programs for at
35 least one year prior to application. This requirement may be waived
36 under subparagraph (A) of paragraph (2) if there is no existing
37 batterer's program in the city, county, or city and county.

38 (iii) The onsite review of the program, including monitoring of
39 a session to determine that the program adheres to applicable
40 statutes and regulations.

1 (iv) The payment of the approval fee.

2 (B) The probation department shall fix a fee for approval not
3 to exceed two hundred fifty dollars (\$250) and for approval renewal
4 not to exceed two hundred fifty dollars (\$250) every year in an
5 amount sufficient to cover its costs in administering the approval
6 process under this section. No fee shall be charged for the approval
7 of local governmental entities.

8 (C) The probation department has the sole authority to approve
9 the issuance, denial, suspension, or revocation of approval and to
10 cease new enrollments or referrals to a batterer's program under
11 this section. The probation department shall review information
12 relative to a program's performance or failure to adhere to
13 standards, or both. The probation department may suspend or
14 revoke an approval issued under this subdivision or deny an
15 application to renew an approval or to modify the terms and
16 conditions of approval, based on grounds established by probation,
17 including, but not limited to, either of the following:

18 (i) Violation of this section by any person holding approval or
19 by a program employee in a program under this section.

20 (ii) Misrepresentation of any material fact in obtaining the
21 approval.

22 (6) For defendants who are chronic users or serious abusers of
23 drugs or alcohol, standard components in the program shall include
24 concurrent counseling for substance abuse and violent behavior,
25 and in appropriate cases, detoxification and abstinence from the
26 abused substance.

27 (7) The program shall conduct an exit conference that assesses
28 the defendant's progress during participation in the batterer's
29 program.

30 (d) An act or omission relating to the approval of a batterer's
31 treatment programs under paragraph (5) of subdivision (c) is a
32 discretionary act pursuant to Section 820.2 of the Government
33 Code.

34 ~~SEC. 69.~~

35 *SEC. 53.* Section 1203.1 of the Penal Code is amended to read:

36 1203.1. (a) The court, or judge thereof, in the order granting
37 probation, may suspend the imposing or the execution of the
38 sentence and may direct that the suspension may continue for a
39 period of time not exceeding the maximum possible term of the
40 sentence, except as hereinafter set forth, and upon those terms and

1 conditions as it shall determine. The court, or judge thereof, in the
2 order granting probation and as a condition thereof, may imprison
3 the defendant in a county jail for a period not exceeding the
4 maximum time fixed by law in the case.

5 However, if the maximum possible term of the sentence is five
6 years or less, the period of suspension of imposition or execution
7 of sentence may, in the discretion of the court, continue for not
8 over five years. The following shall apply to this subdivision:

9 (1) The court may fine the defendant in a sum not to exceed the
10 maximum fine provided by law in the case.

11 (2) The court may, in connection with granting probation,
12 impose either imprisonment in a county jail or a fine, both, or
13 neither.

14 (3) The court shall provide for restitution in proper cases. The
15 restitution order shall be fully enforceable as a civil judgment
16 forthwith and in accordance with Section 1202.4 of the Penal Code.

17 (4) The court may require bonds for the faithful observance and
18 performance of any or all of the conditions of probation.

19 (b) The court shall consider whether the defendant as a condition
20 of probation shall make restitution to the victim or the Restitution
21 Fund. Any restitution payment received by a court or probation
22 department in the form of cash or money order shall be forwarded
23 to the victim within 30 days from the date the payment is received
24 by the department. Any restitution payment received by a court or
25 probation department in the form of a check or draft shall be
26 forwarded to the victim within 45 days from the date the payment
27 is received, provided, that payment need not be forwarded to a
28 victim until 180 days from the date the first payment is received,
29 if the restitution payments for that victim received by the court or
30 probation department total less than fifty dollars (\$50). In cases
31 where the court has ordered the defendant to pay restitution to
32 multiple victims and where the administrative cost of disbursing
33 restitution payments to multiple victims involves a significant cost,
34 any restitution payment received by a probation department shall
35 be forwarded to multiple victims when it is cost effective to do so,
36 but in no event shall restitution disbursements be delayed beyond
37 180 days from the date the payment is received by the probation
38 department.

39 (c) In counties or cities and counties where road camps, farms,
40 or other public work is available the court may place the

1 probationer in the road camp, farm, or other public work instead
2 of in jail. In this case, Section 25359 of the Government Code shall
3 apply to probation and the court shall have the same power to
4 require adult probationers to work, as prisoners confined in the
5 county jail are required to work, at public work. Each county board
6 of supervisors may fix the scale of compensation of the adult
7 probationers in that county.

8 (d) In all cases of probation, the court may require as a condition
9 of probation that the probationer go to work and earn money for
10 the support of the probationer's dependents or to pay any fine
11 imposed or reparation condition, to keep an account of the
12 probationer's earnings, to report them to the probation officer and
13 apply those earnings as directed by the court.

14 (e) The court shall also consider whether the defendant as a
15 condition of probation shall make restitution to a public agency
16 for the costs of an emergency response pursuant to Article 8
17 (commencing with Section 53150) of Chapter 1 of Part 1 of
18 Division 2 of the Government Code.

19 (f) In all felony cases in which, as a condition of probation, a
20 judge of the superior court sitting by authority of law elsewhere
21 than at the county seat requires a convicted person to serve their
22 sentence at intermittent periods the sentence may be served on the
23 order of the judge at the city jail nearest to the place at which the
24 court is sitting, and the cost of the convicted person's maintenance
25 shall be a county charge.

26 (g) (1) The court and prosecuting attorney shall consider
27 whether any defendant who has been convicted of a nonviolent or
28 nonserious offense and ordered to participate in community service
29 as a condition of probation shall be required to engage in the
30 removal of graffiti in the performance of the community service.
31 For the purpose of this subdivision, a nonserious offense shall not
32 include the following:

33 (A) Offenses in violation of the Dangerous Weapons Control
34 Law, as defined in Section 23500.

35 (B) Offenses involving the use of a dangerous or deadly weapon,
36 including all violations of Section 417.

37 (C) Offenses involving the use or attempted use of violence
38 against the person of another or involving injury to a victim.

39 (D) Offenses involving annoying or molesting children.

(2) Notwithstanding subparagraph (A) of paragraph (1), any person who violates Chapter 1 (commencing with Section 29610) of Division 9 of Title 4 of Part 6 shall be ordered to perform not less than 100 hours and not more than 500 hours of community service as a condition of probation.

(3) The court and the prosecuting attorney need not consider a defendant pursuant to paragraph (1) if the following circumstances exist:

(A) The defendant was convicted of any offense set forth in subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7.

(B) The judge believes that the public safety may be endangered if the person is ordered to do community service or the judge believes that the facts or circumstances or facts and circumstances call for imposition of a more substantial penalty.

(h) The probation officer or the officer's designated representative shall consider whether any defendant who has been convicted of a nonviolent and nonserious offense and ordered to participate in community service as a condition of probation shall be required to engage in the performance of house repairs or yard services for senior citizens and the performance of repairs to senior centers through contact with local senior service organizations in the performance of the community service.

(i) (1) Upon conviction of any offense involving child abuse or neglect, the court may require, in addition to any or all of the terms of imprisonment, fine, and other reasonable conditions specified in this section, that the defendant participate in counseling or education programs, or both, including, but not limited to, parent education or parenting programs operated by community colleges, school districts, other public agencies, or private agencies.

(2) Upon conviction of any sex offense subjecting the defendant to the registration requirements of Section 290, the court may order as a condition of probation, at the request of the victim or in the court's discretion, that the defendant stay away from the victim and the victim's residence or place of employment, and that the defendant have no contact with the victim in person, by telephone or electronic means, or by mail.

(j) The court may impose and require any or all of the terms of imprisonment, fine, and conditions specified in this section, and other reasonable conditions, as it may determine are fitting and

proper to the end that justice may be done, that amends may be made to society for the breach of the law, for any injury done to any person resulting from that breach, and generally and specifically for the reformation and rehabilitation of the probationer, and that should the probationer violate any of the terms or conditions imposed by the court in the matter, it shall have authority to modify and change any and all the terms and conditions and to reimprison the probationer in the county jail within the limitations of the penalty of the public offense involved. Upon the defendant being released from the county jail under the terms of probation as originally granted or any modification subsequently made, and in all cases where confinement in a county jail has not been a condition of the grant of probation, the court shall place the defendant or probationer in and under the charge of the probation officer of the court, for the period or term fixed for probation. However, upon the payment of any fine imposed and the fulfillment of all conditions of probation, probation shall cease at the end of the term of probation, or sooner, in the event of modification. In counties and cities and counties in which there are facilities for taking fingerprints, those of each probationer shall be taken and a record of them kept and preserved.

(k) Notwithstanding any other provisions of law to the contrary, except as provided in Section 13967, as operative on or before September 28, 1994, of the Government Code and Section 13967.5 of the Government Code and Sections 1202.4, 1463.16, paragraph (1) of subdivision (a) of Section 1463.18, and Section 1464, and Section 1203.04, as operative on or before August 2, 1995, all fines collected by a county probation officer in any of the courts of this state, as a condition of the granting of probation or as a part of the terms of probation, shall be paid into the county treasury and placed in the general fund for the use and benefit of the county.

~~SEC. 70. Section 1203.1a of the Penal Code is amended to read:~~

~~1203.1a. The probation officer of the county may authorize the temporary removal under custody or temporary release without custody of any inmate of the county jail, honor farm, or other detention facility, who is confined or committed as a condition of probation, after suspension of imposition of sentence or suspension of execution of sentence, for purposes preparatory to the inmate's return to the community, within 30 days prior to the inmate's~~

1 ~~release date, if the probation officer concludes that the inmate is~~
2 ~~a fit subject therefor.~~

3 ~~SEC. 71.~~

4 *SEC. 54.* Section 1203.1ab of the Penal Code is amended to
5 read:

6 1203.1ab. Upon conviction of any offense involving the
7 unlawful possession, use, sale, or other furnishing of any controlled
8 substance, as defined in Chapter 2 (commencing with Section
9 11053) of Division 10 of the Health and Safety Code, in addition
10 to any or all of the terms of imprisonment, fine, and other
11 reasonable conditions specified in or permitted by Section 1203.1,
12 unless it makes a finding that this condition would not serve the
13 interests of justice, the court, when recommended by the probation
14 officer, shall require as a condition of probation that the defendant
15 shall not use or be under the influence of any controlled substance
16 and shall submit to drug and substance abuse testing as directed
17 by the probation officer.

18 ~~SEC. 72.~~

19 *SEC. 55.* Section 1203.1b of the Penal Code is repealed.

20 ~~SEC. 73.~~

21 *SEC. 56.* Section 1203.1bb of the Penal Code is repealed.

22 ~~SEC. 74.~~

23 *SEC. 57.* Section 1203.1c of the Penal Code is repealed.

24 ~~SEC. 75.~~

25 *SEC. 58.* Section 1203.1d of the Penal Code is amended to
26 read:

27 1203.1d. (a) In determining the amount and manner of
28 disbursement under an order made pursuant to this code requiring
29 a defendant to make reparation or restitution to a victim of a crime
30 or to pay any other reimbursable costs, the court, after determining
31 the amount of any fine and penalty assessments, and a county
32 financial evaluation officer when making a financial evaluation,
33 shall first determine the amount of restitution to be ordered paid
34 to any victim, and shall determine the amount of the other
35 reimbursable costs.

36 If payment is made in full, the payment shall be apportioned and
37 disbursed in the amounts ordered by the court.

38 If reasonable and compatible with the defendant's financial
39 ability, the court may order payments to be made in installments.

(b) With respect to installment payments and amounts collected by the Franchise Tax Board pursuant to Section 19280 of the Revenue and Taxation Code and subsequently transferred by the Controller pursuant to Section 19282 of the Revenue and Taxation Code, the board of supervisors shall provide that disbursements be made in the following order of priority:

(1) Restitution ordered to, or on behalf of, the victim pursuant to subdivision (f) of Section 1202.4.

(2) The state surcharge ordered pursuant to Section 1465.7.

(3) Any fines, penalty assessments, and restitution fines ordered pursuant to subdivision (b) of Section 1202.4. Payment of each of these items shall be made on a proportional basis to the total amount levied for all of these items.

(4) Any other reimbursable costs.

(c) The board of supervisors shall apply these priorities of disbursement to orders or parts of orders in cases where defendants have been ordered to pay more than one court order.

(d) Documentary evidence, such as bills, receipts, repair estimates, insurance payment statements, payroll stubs, business records, and similar documents relevant to the value of the stolen or damaged property, medical expenses, and wages and profits lost shall not be excluded as hearsay evidence.

~~SEC. 76.~~

~~SEC. 59.~~ Section 1203.1e of the Penal Code is repealed.

~~SEC. 77.~~ ~~Section 1203.1h of the Penal Code is repealed.~~

~~SEC. 78.~~ ~~Section 1203.1i of the Penal Code is amended to read:~~

~~1203.1i. (a) In any case in which a defendant is convicted of a violation of any building standards adopted by a local entity by ordinance or resolution, including, but not limited to, local health, fire, building, or safety ordinances or resolutions, or any other ordinance or resolution relating to the health and safety of occupants of buildings, by maintaining a substandard building, as specified in Section 17920.3 of the Health and Safety Code, the court, or judge thereof, in making an order granting probation, in addition to any other orders, may order the defendant placed under house confinement, or may order the defendant to serve both a term of imprisonment in the county jail and to be placed under house confinement.~~

1 This section only applies to violations involving a dwelling unit
2 occupied by persons specified in subdivision (a) of Section 1940
3 of the Civil Code who are not excluded by subdivision (b) of that
4 section.

5 (b) As used in this section, “house confinement” means
6 confinement to a residence or location designated by the court and
7 specified in the probation order.

8 ~~SEC. 79.~~

9 ~~SEC. 60.~~ Section 1203.1m of the Penal Code is repealed.

10 ~~SEC. 80.~~ Section 1203.4 of the Penal Code is amended to read:

11 1203.4. (a) (1) If a defendant has fulfilled the conditions of
12 probation for the entire period of probation, or has been discharged
13 prior to the termination of the period of probation, or in any other
14 case in which a court, in its discretion and the interests of justice,
15 determines that a defendant should be granted the relief available
16 under this section, the defendant shall, at any time after the
17 termination of the period of probation, if the defendant is not then
18 serving a sentence for any offense, on probation for any offense,
19 or charged with the commission of any offense, be permitted by
20 the court to withdraw the plea of guilty or plea of nolo contendere
21 and enter a plea of not guilty, or if the defendant has been convicted
22 after a plea of not guilty, the court shall set aside the verdict of
23 guilty and dismiss the accusations or information against the
24 defendant and except as noted below, the defendant shall thereafter
25 be released from all penalties and disabilities resulting from the
26 offense of which the defendant has been convicted, except as
27 provided in Section 13555 of the Vehicle Code. The probationer
28 shall be informed, in the probation papers, of this right and
29 privilege and the right, if any, to petition for a certificate of
30 rehabilitation and pardon. The probationer may make the
31 application and change of plea in person or by attorney, or by the
32 probation officer authorized in writing. However, in any subsequent
33 prosecution of the defendant for any other offense, the prior
34 conviction may be pleaded and proved and shall have the same
35 effect as if probation had not been granted or the accusation or
36 information dismissed. The order shall state, and the probationer
37 shall be informed, that the order does not relieve the probationer
38 of the obligation to disclose the conviction in response to any direct
39 question contained in any questionnaire or application for public

1 office, for licensure by any state or local agency, or for contracting
2 with the California State Lottery Commission.

3 ~~(2) Dismissal of an accusation or information pursuant to this~~
4 ~~section does not permit a person to own, possess, or have in the~~
5 ~~person's custody or control any firearm or prevent the person's~~
6 ~~conviction under Chapter 2 (commencing with Section 29800) of~~
7 ~~Division 9 of Title 4 of Part 6.~~

8 ~~(3) Dismissal of an accusation or information underlying a~~
9 ~~conviction pursuant to this section does not permit a person~~
10 ~~prohibited from holding public office as a result of that conviction~~
11 ~~to hold public office.~~

12 ~~(4) This subdivision shall apply to all applications for relief~~
13 ~~under this section which are filed on or after November 23, 1970.~~

14 ~~(b) Subdivision (a) of this section does not apply to any~~
15 ~~misdemeanor that is within the provisions of Section 42002.1 of~~
16 ~~the Vehicle Code, to any violation of subdivision (c) of Section~~
17 ~~286, Section 288, subdivision (c) of Section 287 or of former~~
18 ~~Section 288a, Section 288.5, subdivision (j) of Section 289, Section~~
19 ~~311.1, 311.2, 311.3, or 311.11, or any felony conviction pursuant~~
20 ~~to subdivision (d) of Section 261.5, or to any infraction.~~

21 ~~(c) (1) Except as provided in paragraph (2), subdivision (a)~~
22 ~~does not apply to a person who receives a notice to appear or is~~
23 ~~otherwise charged with a violation of an offense described in~~
24 ~~subdivisions (a) to (e), inclusive, of Section 12810 of the Vehicle~~
25 ~~Code.~~

26 ~~(2) If a defendant who was convicted of a violation listed in~~
27 ~~paragraph (1) petitions the court, the court in its discretion and in~~
28 ~~the interests of justice, may order the relief provided pursuant to~~
29 ~~subdivision (a) to that defendant.~~

30 ~~(d) (1) Relief shall not be granted under this section unless the~~
31 ~~prosecuting attorney has been given 15 days' notice of the petition~~
32 ~~for relief. The probation officer shall notify the prosecuting attorney~~
33 ~~when a petition is filed, pursuant to this section.~~

34 ~~(2) It shall be presumed that the prosecuting attorney has~~
35 ~~received notice if proof of service is filed with the court.~~

36 ~~(e) If, after receiving notice pursuant to subdivision (d), the~~
37 ~~prosecuting attorney fails to appear and object to a petition for~~
38 ~~dismissal, the prosecuting attorney may not move to set aside or~~
39 ~~otherwise appeal the grant of that petition.~~

1 (f) Notwithstanding the above provisions or any other provision
2 of law, the Governor shall have the right to pardon a person
3 convicted of a violation of subdivision (c) of Section 286, Section
4 288, subdivision (c) of Section 287 or of former Section 288a,
5 Section 288.5, or subdivision (j) of Section 289, if there are
6 extraordinary circumstances.

7 SEC. 81. ~~Section 1203.4a of the Penal Code is amended to~~
8 ~~read:~~

9 1203.4a. (a) Every defendant convicted of a misdemeanor and
10 not granted probation, and every defendant convicted of an
11 infraction shall, at any time after the lapse of one year from the
12 date of pronouncement of judgment, if the defendant has fully
13 complied with and performed the sentence of the court, is not then
14 serving a sentence for any offense and is not under charge of
15 commission of any crime, and has, since the pronouncement of
16 judgment, lived an honest and upright life and has conformed to
17 and obeyed the laws of the land, be permitted by the court to
18 withdraw the plea of guilty or nolo contendere and enter a plea of
19 not guilty; or if the defendant has been convicted after a plea of
20 not guilty, the court shall set aside the verdict of guilty; and in
21 either case the court shall thereupon dismiss the accusatory
22 pleading against the defendant, who shall thereafter be released
23 from all penalties and disabilities resulting from the offense of
24 which the defendant has been convicted, except as provided in
25 Chapter 3 (commencing with Section 29900) of Division 9 of Title
26 4 of Part 6 of this code or Section 13555 of the Vehicle Code.

27 (b) If a defendant does not satisfy all the requirements of
28 subdivision (a), after a lapse of one year from the date of
29 pronouncement of judgment, a court, in its discretion and in the
30 interests of justice, may grant the relief available pursuant to
31 subdivision (a) to a defendant convicted of an infraction, or of a
32 misdemeanor and not granted probation, or both, if the defendant
33 has fully complied with and performed the sentence of the court,
34 is not then serving a sentence for any offense, and is not under
35 charge of commission of any crime.

36 (c) (1) The defendant shall be informed of the provisions of
37 this section, either orally or in writing, at the time the defendant
38 is sentenced. The defendant may make an application and change
39 of plea in person or by attorney, or by the probation officer
40 authorized in writing, provided that, in any subsequent prosecution

1 of the defendant for any other offense, the prior conviction may
2 be pleaded and proved and shall have the same effect as if relief
3 had not been granted pursuant to this section.

4 (2) Dismissal of an accusatory pleading pursuant to this section
5 does not permit a person to own, possess, or have in the person's
6 custody or control any firearm or prevent the person's conviction
7 under Chapter 2 (commencing with Section 29800) of Division 9
8 of Title 4 of Part 6.

9 (3) Dismissal of an accusatory pleading underlying a conviction
10 pursuant to this section does not permit a person prohibited from
11 holding public office as a result of that conviction to hold public
12 office.

13 (d) This section applies to any conviction specified in
14 subdivision (a) or (b) that occurred before, as well as those
15 occurring after, the effective date of this section, except that this
16 section does not apply to the following:

17 (1) A misdemeanor violation of subdivision (c) of Section 288.

18 (2) Any misdemeanor falling within the provisions of Section
19 42002.1 of the Vehicle Code.

20 (3) Any infraction falling within the provisions of Section 42001
21 of the Vehicle Code.

22 (e) A petition for dismissal of an infraction pursuant to this
23 section shall be by written declaration, except upon a showing of
24 compelling need. Dismissal of an infraction shall not be granted
25 under this section unless the prosecuting attorney has been given
26 at least 15 days' notice of the petition for dismissal. It shall be
27 presumed that the prosecuting attorney has received notice if proof
28 of service is filed with the court.

29 (f) Any determination of amount made by a court under this
30 section shall be valid only if either (1) made under procedures
31 adopted by the Judicial Council or (2) approved by the Judicial
32 Council.

33 SEC. 82. Section 1203.41 of the Penal Code is amended to
34 read:

35 1203.41. (a) If a defendant is sentenced pursuant to paragraph
36 (5) of subdivision (h) of Section 1170, the court, in its discretion
37 and in the interests of justice, may order the following relief,
38 subject to the conditions of subdivision (b):

39 (1) The court may permit the defendant to withdraw the plea of
40 guilty or plea of nolo contendere and enter a plea of not guilty, or,

1 if the defendant has been convicted after a plea of not guilty, the
2 court shall set aside the verdict of guilty, and, in either case, the
3 court shall thereupon dismiss the accusations or information against
4 the defendant and the defendant shall thereafter be released from
5 all penalties and disabilities resulting from the offense of which
6 the defendant has been convicted, except as provided in Section
7 13555 of the Vehicle Code.

8 (2) The relief available under this section may be granted only
9 after the lapse of one year following the defendant's completion
10 of the sentence, if the sentence was imposed pursuant to
11 subparagraph (B) of paragraph (5) of subdivision (h) of Section
12 1170, or after the lapse of two years following the defendant's
13 completion of the sentence, if the sentence was imposed pursuant
14 to subparagraph (A) of paragraph (5) of subdivision (h) of Section
15 1170.

16 (3) The relief available under this section may be granted only
17 if the defendant is not under supervision pursuant to subparagraph
18 (B) of paragraph (5) of subdivision (h) of Section 1170, and is not
19 serving a sentence for, on probation for, or charged with the
20 commission of any offense.

21 (4) The defendant shall be informed, either orally or in writing,
22 of the provisions of this section and of the right, if any, to petition
23 for a certificate of rehabilitation and pardon at the time the
24 defendant is sentenced.

25 (5) The defendant may make the application and change of plea
26 in person or by attorney, or by a probation officer authorized in
27 writing.

28 (b) Relief granted pursuant to subdivision (a) is subject to the
29 following conditions:

30 (1) In any subsequent prosecution of the defendant for any other
31 offense, the prior conviction may be pleaded and proved and shall
32 have the same effect as if the accusation or information had not
33 been dismissed.

34 (2) The order shall state, and the defendant shall be informed,
35 that the order does not relieve the defendant of the obligation to
36 disclose the conviction in response to any direct question contained
37 in any questionnaire or application for public office, for licensure
38 by any state or local agency, or for contracting with the California
39 State Lottery Commission.

1 ~~(3) Dismissal of an accusation or information pursuant to this~~
2 ~~section does not permit a person to own, possess, or have in the~~
3 ~~person's custody or control any firearm or prevent the person's~~
4 ~~conviction under Chapter 2 (commencing with Section 29800) of~~
5 ~~Division 9 of Title 4 of Part 6.~~

6 ~~(4) Dismissal of an accusation or information underlying a~~
7 ~~conviction pursuant to this section does not permit a person~~
8 ~~prohibited from holding public office as a result of that conviction~~
9 ~~to hold public office.~~

10 ~~(e) This section applies to any conviction specified in~~
11 ~~subdivision (a) that occurred before, on, or after January 1, 2014.~~

12 ~~(d) (1) Relief shall not be granted under this section unless the~~
13 ~~prosecuting attorney has been given 15 days' notice of the petition~~
14 ~~for relief. The probation officer shall notify the prosecuting attorney~~
15 ~~when a petition is filed, pursuant to this section.~~

16 ~~(2) It shall be presumed that the prosecuting attorney has~~
17 ~~received notice if proof of service is filed with the court.~~

18 ~~(e) If, after receiving notice pursuant to subdivision (d), the~~
19 ~~prosecuting attorney fails to appear and object to a petition for~~
20 ~~dismissal, the prosecuting attorney may not move to set aside or~~
21 ~~otherwise appeal the grant of that petition.~~

22 ~~SEC. 83. Section 1203.42 of the Penal Code is amended to~~
23 ~~read:~~

24 ~~1203.42. (a) If a defendant was sentenced prior to the~~
25 ~~implementation of the 2011 Realignment Legislation for a crime~~
26 ~~for which the defendant would otherwise have been eligible for~~
27 ~~sentencing pursuant to subdivision (h) of Section 1170, the court,~~
28 ~~in its discretion and in the interests of justice, may order the~~
29 ~~following relief, subject to the conditions of subdivision (b):~~

30 ~~(1) The court may permit the defendant to withdraw the plea of~~
31 ~~guilty or plea of nolo contendere and enter a plea of not guilty, or,~~
32 ~~if the defendant has been convicted after a plea of not guilty, the~~
33 ~~court shall set aside the verdict of guilty, and, in either case, the~~
34 ~~court shall thereupon dismiss the accusations or information against~~
35 ~~the defendant and the defendant shall thereafter be released from~~
36 ~~all penalties and disabilities resulting from the offense of which~~
37 ~~the defendant has been convicted, except as provided in Section~~
38 ~~13555 of the Vehicle Code.~~

~~(2) The relief available under this section may be granted only after the lapse of two years following the defendant's completion of the sentence.~~

~~(3) The relief available under this section may be granted only if the defendant is not under supervised release, and is not serving a sentence for, on probation for, or charged with the commission of any offense.~~

~~(4) The defendant may make the application and change of plea in person or by attorney, or by a probation officer authorized in writing.~~

~~(b) Relief granted pursuant to subdivision (a) is subject to the following conditions:~~

~~(1) In any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if the accusation or information had not been dismissed.~~

~~(2) The order shall state, and the defendant shall be informed, that the order does not relieve the defendant of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery Commission.~~

~~(3) Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in the person's custody or control any firearm or prevent the person's conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.~~

~~(4) Dismissal of an accusation or information underlying a conviction pursuant to this section does not permit a person prohibited from holding public office as a result of that conviction to hold public office.~~

~~(c) (1) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.~~

~~(2) It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.~~

~~(d) If, after receiving notice pursuant to subdivision (c), the prosecuting attorney fails to appear and object to a petition for~~

1 dismissal, the prosecuting attorney may not move to set aside or
2 otherwise appeal the grant of that petition.

3 SEC. 84. ~~Section 1203.45 of the Penal Code is amended to~~
4 ~~read:~~

5 1203.45. (a) In a case in which a person was under 18 years
6 of age at the time of commission of a misdemeanor and is eligible
7 for, or has previously received, the relief provided by Section
8 1203.4 or 1203.4a, that person, in a proceeding under Section
9 1203.4 or 1203.4a, or a separate proceeding, may petition the court
10 for an order sealing the record of conviction and other official
11 records in the case, including records of arrests resulting in the
12 criminal proceeding and records relating to other offenses charged
13 in the accusatory pleading, whether the defendant was acquitted
14 or charges were dismissed. If the court finds that the person was
15 under 18 years of age at the time of the commission of the
16 misdemeanor, and is eligible for relief under Section 1203.4 or
17 1203.4a or has previously received that relief, it may issue its order
18 granting the relief prayed for. Thereafter the conviction, arrest, or
19 other proceeding shall be deemed not to have occurred, and the
20 petitioner may answer accordingly any question relating to their
21 occurrence.

22 (b) ~~This section applies to convictions that occurred before, as~~
23 ~~well as those that occur after, the effective date of this section.~~

24 (c) ~~This section shall not apply to offenses for which registration~~
25 ~~is required under Section 290, to violations of Division 10~~
26 ~~(commencing with Section 11000) of the Health and Safety Code,~~
27 ~~or to misdemeanor violations of the Vehicle Code relating to~~
28 ~~operation of a vehicle or of a local ordinance relating to operation,~~
29 ~~standing, stopping, or parking of a motor vehicle.~~

30 (d) ~~This section does not apply to a person convicted of more~~
31 ~~than one offense, whether the second or additional convictions~~
32 ~~occurred in the same action in which the conviction as to which~~
33 ~~relief is sought occurred or in another action, except in the~~
34 ~~following cases:~~

35 (1) ~~One of the offenses includes the other or others.~~

36 (2) ~~The other conviction or convictions were for the following:~~

37 (A) ~~Misdemeanor violations of Chapters 1 (commencing with~~
38 ~~Section 21000) to 9 (commencing with Section 22500), inclusive,~~
39 ~~Chapter 12 (commencing with Section 23100), or Chapter 13~~
40 ~~(commencing with Section 23250) of Division 11 of the Vehicle~~

1 Code, other than Section 23103, 23104, 23105, 23152, 23153, or
2 23220.

3 ~~(B) Violation of a local ordinance relating to the operation,
4 stopping, standing, or parking of a motor vehicle.~~

5 ~~(3) The other conviction or convictions consisted of any
6 combination of paragraphs (1) and (2).~~

7 ~~(e) This section shall apply in a case in which a person was
8 under 21 years of age at the time of the commission of an offense
9 as to which this section is made applicable if that offense was
10 committed prior to March 7, 1973.~~

11 ~~(f) In an action or proceeding based upon defamation, a court,
12 upon a showing of good cause, may order the records sealed under
13 this section to be opened and admitted into evidence. The records
14 shall be confidential and shall be available for inspection only by
15 the court, jury, parties, counsel for the parties, and any other person
16 who is authorized by the court to inspect them. Upon the judgment
17 in the action or proceeding becoming final, the court shall order
18 the records sealed.~~

19 ~~SEC. 85.~~

20 *SEC. 61.* Section 1203.9 of the Penal Code is amended to read:

21 1203.9. (a) (1) Except as provided in paragraph (3), whenever
22 a person is released on probation or mandatory supervision, the
23 court, upon noticed motion, shall transfer the case to the superior
24 court in any other county in which the person resides permanently
25 with the stated intention to remain for the duration of probation or
26 mandatory supervision, unless the transferring court determines
27 that the transfer would be inappropriate and states its reasons on
28 the record.

29 (2) Upon notice of the motion for transfer, the court of the
30 proposed receiving county may provide comments for the record
31 regarding the proposed transfer, following procedures set forth in
32 rules of court developed by the Judicial Council for this purpose,
33 pursuant to subdivision (f). The court and the probation department
34 shall give the matter of investigating those transfers precedence
35 over all actions or proceedings therein, except actions or
36 proceedings to which special precedence is given by law, to the
37 end that all those transfers shall be completed expeditiously.

38 (3) If victim restitution was ordered as a condition of probation
39 or mandatory supervision, the transferring court shall determine
40 the amount of restitution before the transfer unless the court finds

1 that the determination cannot be made within a reasonable time
2 from when the motion for transfer is made. If a case is transferred
3 without a determination of the amount of restitution, the
4 transferring court shall complete the determination as soon as
5 practicable. In all other aspects, except as provided in subdivisions
6 (d) and (e), the court of the receiving county shall have full
7 jurisdiction over the matter upon transfer as provided in subdivision
8 (b).

9 (b) The court of the receiving county shall accept the entire
10 jurisdiction over the case effective the date that the transferring
11 court orders the transfer.

12 (c) The order of transfer shall contain an order committing the
13 probationer or supervised person to the care and custody of the
14 probation officer of the receiving county. A copy of the orders and
15 any probation reports shall be transmitted to the court and probation
16 officer of the receiving county within two weeks of the finding
17 that the person does permanently reside in or has permanently
18 moved to that county, and the receiving court shall have entire
19 jurisdiction over the case, except as provided in subdivisions (d)
20 and (e), with the like power to again request transfer of the case
21 whenever it seems proper.

22 (d) (1) Notwithstanding subdivision (b) and except as provided
23 in subdivision (e), if the transferring court has ordered the
24 defendant to pay fines, *fees*, forfeitures, penalties, assessments, or
25 restitution, the transfer order shall require that those and any other
26 amounts ordered by the transferring court that are still unpaid at
27 the time of transfer be paid by the defendant to the collection
28 program for the transferring court for proper distribution and
29 accounting once collected.

30 (2) The receiving court and receiving county probation
31 department ~~shall not~~ *may* impose additional local fees and ~~costs~~.
32 *costs as authorized, and shall notify the responsible collection*
33 *program for the transferring court of those changes.*

34 (3) *Any local fees imposed pursuant to paragraph (2) shall be*
35 *paid by the defendant to the collection program for the transferring*
36 *court which shall remit the additional fees and costs to the*
37 *receiving court for proper accounting and distribution.*

38 (e) (1) Upon approval of a transferring court, a receiving court
39 may elect to collect all of the court-ordered payments from a
40 defendant attributable to the case under which the defendant is

1 being supervised, provided, however, that the collection program
2 for the receiving court transmits the revenue collected to the
3 collection program for the transferring court for deposit,
4 accounting, and distribution. A collection program for the receiving
5 court shall not charge administrative fees for collections performed
6 for the collection program for the transferring court ~~without~~ *court without*
7 *a written agreement with the other program.*

8 (2) A collection program for a receiving court collecting funds
9 for a collection program for a transferring court pursuant to
10 paragraph (1) shall not report revenue owed or collected on behalf
11 of the collection program for the transferring court as part of those
12 collections required to be reported annually by the court to the
13 Judicial Council.

14 (f) The Judicial Council shall promulgate rules of court for
15 procedures by which the proposed receiving county shall receive
16 notice of the motion for transfer and by which responsive
17 comments may be transmitted to the court of the transferring
18 county. The Judicial Council shall adopt rules providing factors
19 for the court's consideration when determining the appropriateness
20 of a transfer, including, but not limited to, the following:

21 (1) Permanency of residence of the offender.

22 (2) Local programs available for the offender.

23 (3) Restitution orders and victim issues.

24 (g) The Judicial Council shall consider adoption of rules of court
25 as it deems appropriate to implement the collection, accounting,
26 and disbursement requirements of subdivisions (d) and (e).

27 ~~SEC. 86.~~

28 *SEC. 62.* Section 1205 of the Penal Code is amended to read:

29 1205. (a) A judgment that the defendant pay a fine, with or
30 without other punishment, may also direct that the defendant be
31 imprisoned until the fine is satisfied and may further direct that
32 the imprisonment begin at and continue after the expiration of any
33 imprisonment imposed as a part of the punishment or of any other
34 imprisonment to which the defendant may have been sentenced.
35 The judgment shall specify the term of imprisonment for
36 nonpayment of the fine, which shall not be more than one day for
37 each one hundred twenty-five dollars (\$125) of the base fine, nor
38 exceed the term for which the defendant may be sentenced to
39 imprisonment for the offense of which the defendant has been
40 convicted. A defendant held in custody for nonpayment of a fine

1 shall be entitled to credit on the fine for each day the defendant is
2 held in custody, at the rate specified in the judgment. When the
3 defendant has been convicted of a misdemeanor, a judgment that
4 the defendant pay a fine may also direct that the defendant pay the
5 fine within a limited time or in installments on specified dates, and
6 that in default of payment as stipulated be imprisoned in the
7 discretion of the court either until the defaulted installment is
8 satisfied or until the fine is satisfied in full; but unless the direction
9 is given in the judgment, the fine shall be payable. If an amount
10 of the base fine is not satisfied by jail credits, or by community
11 service, the penalties and assessments imposed on the base fine
12 shall be reduced by the percentage of the base fine that was
13 satisfied.

14 (b) Except as otherwise provided in case of fines imposed, as
15 a condition of probation, the defendant shall pay the fine to the
16 clerk of the court, or to the judge if there is no clerk, unless the
17 defendant is taken into custody for nonpayment of the fine, in
18 which event payments made while the defendant is in custody shall
19 be made to the officer who holds the defendant in custody, and all
20 amounts paid shall be paid over by the officer to the court that
21 rendered the judgment. The clerk shall report to the court every
22 default in payment of a fine or any part of that fine, or if there is
23 no clerk, the court shall take notice of the default. If time has been
24 given for payment of a fine or it has been made payable in
25 installments, the court shall, upon any default in payment,
26 immediately order the arrest of the defendant and order the
27 defendant to show cause why they should not be imprisoned until
28 the fine or installment is satisfied in full. If the fine or installment
29 is payable forthwith and it is not paid, the court shall, without
30 further proceedings, immediately commit the defendant to the
31 custody of the proper officer to be held in custody until the fine
32 or installment is satisfied in full.

33 (c) This section applies to any violation of any of the codes or
34 statutes of this state punishable by a fine or by a fine and
35 imprisonment.

36 (d) Nothing in this section shall be construed to prohibit the
37 clerk of the court, or the judge if there is no clerk, from turning
38 these accounts over to another county department or a collecting
39 agency for processing and collection.

(e) This section shall not apply to restitution fines and restitution orders.

~~SEC. 87.~~

SEC. 63. Section 1208 of the Penal Code is amended to read:

1208. (a) (1) The provisions of this section, insofar as they relate to employment, shall be operative in any county in which the board of supervisors by ordinance finds, on the basis of employment conditions, the state of the county jail facilities, and other pertinent circumstances, that the operation of this section, insofar as it relates to employment, in that county is feasible. The provisions of this section, insofar as they relate to job training, shall be operative in any county in which the board of supervisors by ordinance finds, on the basis of job training conditions, the state of the county jail facilities, and other pertinent circumstances, that the operation of this section, insofar as it relates to job training, in that county is feasible. The provisions of this section, insofar as they relate to education, shall be operative in any county in which the board of supervisors by ordinance finds, on the basis of education conditions, the state of the county jail facilities, and other pertinent circumstances, that the operation of this section, insofar as it relates to education, in that county is feasible. In any ordinance the board shall prescribe whether the sheriff, the probation officer, the director of the county department of corrections, or the superintendent of a county industrial farm or industrial road camp in the county shall perform the functions of the work furlough administrator. The board may, in that ordinance, provide for the performance of any or all functions of the work furlough administrator by any one or more of those persons, acting separately or jointly as to any of the functions; and may, by a subsequent ordinance, revise the provisions within the authorization of this section. The board of supervisors may also terminate the operation of this section, either with respect to employment, job training, or education in the county, if the board finds by ordinance that because of changed circumstances, the operation of this section, either with respect to employment, job training, or education in that county, is no longer feasible.

(2) Notwithstanding any other law, the board of supervisors may by ordinance designate a facility for confinement of prisoners classified for the work furlough program and designate the work furlough administrator as the custodian of the facility. The work

1 furlough administrator may operate the work furlough facility or,
2 with the approval of the board of supervisors, administer the work
3 furlough facility pursuant to written contracts with appropriate
4 public or private agencies or private entities. No agency or private
5 entity may operate a work furlough program or facility without a
6 written contract with the work furlough administrator, and no
7 agency or private entity entering into a written contract may itself
8 employ any person who is in the work furlough program. The
9 sheriff or director of the county department of corrections, as the
10 case may be, is authorized to transfer custody of prisoners to the
11 work furlough administrator to be confined in a facility for the
12 period during which they are in the work furlough program.

13 (3) All privately operated local work furlough facilities and
14 programs shall be under the jurisdiction of, and subject to the terms
15 of a written contract entered into with, the work furlough
16 administrator. Each contract shall include, but not be limited to, a
17 provision whereby the private agency or entity agrees to operate
18 in compliance with all appropriate state and local building, zoning,
19 health, safety, and fire statutes, ordinances, and regulations and
20 the minimum jail standards for Type IV facilities as established
21 by regulations adopted by the Board of State and Community
22 Corrections. The private agency or entity shall select and train its
23 personnel in accordance with selection and training requirements
24 adopted by the Board of State and Community Corrections as set
25 forth in Subchapter 1 (commencing with Section 100) of Chapter
26 1 of Division 1 of Title 15 of the California Code of Regulations.
27 Failure to comply with the appropriate health, safety, and fire laws
28 or minimum jail standards adopted by the board may be cause for
29 termination of the contract. Upon discovery of a failure to comply
30 with these requirements, the work furlough administrator shall
31 notify the privately operated program director that the contract
32 may be canceled if the specified deficiencies are not corrected
33 within 60 days.

34 (4) All private work furlough facilities and programs shall be
35 inspected biennially by the Board of State and Community
36 Corrections unless the work furlough administrator requests an
37 earlier inspection pursuant to Section 6031.1. Each private agency
38 or entity shall pay a fee to the Board of State and Community
39 Corrections commensurate with the cost of those inspections and

1 a fee commensurate with the cost of the initial review of the
2 facility.

3 (b) When a person is convicted and sentenced to the county jail,
4 or is imprisoned in the county jail for nonpayment of a fine, for
5 contempt, or as a condition of probation for any criminal offense,
6 the work furlough administrator may, if the administrator concludes
7 that the person is a fit subject to continue in the person's regular
8 employment, direct that the person be permitted to continue in that
9 employment, if that is compatible with the requirements of
10 subdivision (c), or may authorize the person to secure employment
11 for themselves, unless the court at the time of sentencing or
12 committing has ordered that the person not be granted work
13 furloughs. The work furlough administrator may, if the
14 administrator concludes that the person is a fit subject to continue
15 in the person's job training program, direct that the person be
16 permitted to continue in that job training program, if that is
17 compatible with the requirements of subdivision (c), or may
18 authorize the person to secure local job training for themselves,
19 unless the court at the time of sentencing has ordered that person
20 not be granted work furloughs. The work furlough administrator
21 may, if the administrator concludes that the person is a fit subject
22 to continue in the person's regular educational program, direct that
23 the person be permitted to continue in that educational program,
24 if that is compatible with the requirements of subdivision (c), or
25 may authorize the person to secure education for themselves, unless
26 the court at the time of sentencing has ordered that person not be
27 granted work furloughs.

28 (c) If the work furlough administrator so directs that the prisoner
29 be permitted to continue in the prisoner's regular employment, job
30 training, or educational program, the administrator shall arrange
31 for a continuation of that employment or for that job training or
32 education, so far as possible without interruption. If the prisoner
33 does not have regular employment or a regular job training or
34 educational program, and the administrator has authorized the
35 prisoner to secure employment, job training, or education for
36 themselves, the prisoner may do so, and the administrator may
37 assist the prisoner in doing so. Any employment, job training, or
38 education so secured shall be suitable for the prisoner. The
39 employment, and the job training or educational program if it
40 includes earnings by the prisoner, shall be at a wage at least as

1 high as the prevailing wage for similar work in the area where the
2 work is performed and in accordance with the prevailing working
3 conditions in that area. In no event may any employment, job
4 training, or educational program involving earnings by the prisoner
5 be permitted where there is a labor dispute in the establishment in
6 which the prisoner is, or is to be, employed, trained, or educated.

7 (d) (1) Whenever the prisoner is not employed or being trained
8 or educated and between the hours or periods of employment,
9 training, or education, the prisoner shall be confined in the facility
10 designated by the board of supervisors for work furlough
11 confinement unless the work furlough administrator directs
12 otherwise. If the prisoner is injured during a period of employment,
13 job training, or education, the work furlough administrator shall
14 have the authority to release the prisoner from the facility for
15 continued medical treatment by private physicians or at medical
16 facilities at the expense of the employer, workers' compensation
17 insurer, or the prisoner. The release shall not be construed as
18 assumption of liability by the county or work furlough
19 administrator for medical treatment obtained.

20 (2) The work furlough administrator may release any prisoner
21 classified for the work furlough program for a period not to exceed
22 72 hours for medical, dental, or psychiatric care, or for family
23 emergencies or pressing business which would result in severe
24 hardship if the release were not granted, or to attend those activities
25 as the administrator deems may effectively promote the prisoner's
26 successful return to the community, including, but not limited to,
27 an attempt to secure housing, employment, entry into educational
28 programs, or participation in community programs.

29 (e) The earnings of the prisoner may be collected by the work
30 furlough administrator, and it shall be the duty of the prisoner's
31 employer to transmit the wages to the administrator at the latter's
32 request. Earnings levied upon pursuant to writ of execution or in
33 other lawful manner shall not be transmitted to the administrator.
34 If the administrator has requested transmittal of earnings prior to
35 levy, that request shall have priority. In a case in which the
36 functions of the administrator are performed by a sheriff, and the
37 sheriff receives a writ of execution for the earnings of a prisoner
38 subject to this section but has not yet requested transmittal of the
39 prisoner's earnings pursuant to this section, the sheriff shall first
40 levy on the earnings pursuant to the writ. When an employer or

educator transmits earnings to the administrator pursuant to this subdivision, the sheriff shall have no liability to the prisoner for those earnings. From the earnings the administrator shall pay the prisoner's board and personal expenses, both inside and outside the jail, and shall deduct so much of the costs of administration of this section as is allocable to the prisoner or if the prisoner is unable to pay that sum, a lesser sum as is reasonable, and, in an amount determined by the administrator, shall pay the support of the prisoner's dependents, if any. If sufficient funds are available after making the foregoing payments, the administrator may, with the consent of the prisoner, pay, in whole or in part, the preexisting debts of the prisoner. Any balance shall be retained until the prisoner's discharge. Upon discharge the balance shall be paid to the prisoner.

(f) The prisoner shall be eligible for time credits pursuant to Sections 4018 and 4019.

(g) If the prisoner violates the conditions laid down for the prisoner's conduct, custody, job training, education, or employment, the work furlough administrator may order the balance of the prisoner's sentence to be spent in actual confinement.

(h) Willful failure of the prisoner to return to the place of confinement not later than the expiration of any period during which the prisoner is authorized to be away from the place of confinement pursuant to this section is punishable as provided in Section 4532.

(i) The court may recommend or refer a person to the work furlough administrator for consideration for placement in the work furlough program or a particular work furlough facility. The recommendation or referral of the court shall be given great weight in the determination of acceptance or denial for placement in the work furlough program or a particular work furlough facility.

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

(1) "Education" includes vocational and educational training and counseling, and psychological, drug abuse, alcoholic, and other rehabilitative counseling.

(2) "Educator" includes a person or institution providing that training or counseling.

(3) "Employment" includes care of children, including the daytime care of children of the prisoner.

1 (4) “Job training” may include, but shall not be limited to, job
2 training assistance.

3 (k) This section shall be known and may be cited as the “Cobey
4 Work Furlough Law.”

5 ~~SEC. 88.~~

6 *SEC. 64.* Section 1208.2 of the Penal Code is amended to read:

7 1208.2. (a) (1) This section shall apply to individuals
8 authorized to participate in a work furlough program pursuant to
9 Section 1208, or to individuals authorized to participate in an
10 electronic home detention program pursuant to Section 1203.016
11 or 1203.018, or to individuals authorized to participate in a county
12 parole program pursuant to Article 3.5 (commencing with Section
13 3074) of Chapter 8 of Title 1 of Part 3.

14 (2) As used in this section, as appropriate, “administrator” means
15 the sheriff, probation officer, director of the county department of
16 corrections, or county parole administrator.

17 (b) (1) A board of supervisors that implements programs
18 identified in paragraph (1) of subdivision (a) shall not impose a
19 program administrative fee.

20 (2) With regard to a privately operated electronic home detention
21 program pursuant to Section 1203.016 or 1203.018, the limitation,
22 described in paragraph (1), in prescribing a program administrative
23 fee and application fee shall not apply.

24 (c) In all circumstances where a county board of supervisors
25 has approved a program administrator, as described in Section
26 1203.016, 1203.018, or 1208, to enter into a contract with a private
27 agency or entity to provide specified program services, the program
28 administrator shall ensure that the provisions of this section are
29 contained within any contractual agreement for this purpose. All
30 privately operated home detention programs shall comply with all
31 appropriate, applicable ordinances and regulations specified in
32 subdivision (a) of Section 1208.

33 ~~SEC. 89.~~

34 *SEC. 65.* Section 1208.3 of the Penal Code is amended to read:

35 1208.3. The administrator is not prohibited from verifying any
36 of the following:

37 (a) That the prisoner is receiving wages at a rate of pay not less
38 than the prevailing minimum wage requirement as provided for
39 in subdivision (c) of Section 1208.

1 (b) That the prisoner is working a specified minimum number
2 of required hours.

3 (c) That the prisoner is covered under an appropriate or suitable
4 workers' compensation insurance plan as may otherwise be
5 required by law.

6 The purpose of the verification shall be solely to ~~insure~~ *ensure*
7 that the prisoner's employment rights are being protected, that the
8 prisoner is not being taken advantage of, that the job is suitable
9 for the prisoner, and that the prisoner is making every reasonable
10 effort to make a productive contribution to the community.

11 SEC. 90. Section 1209 of the Penal Code is repealed.

12 SEC. 91. Section 1210.1 of the Penal Code is amended to read:

13 1210.1. (a) Notwithstanding any other provision of law, and
14 except as provided in subdivision (b), any person convicted of a
15 nonviolent drug possession offense shall receive probation. As a
16 condition of probation the court shall require participation in and
17 completion of an appropriate drug treatment program. The court
18 shall impose appropriate drug testing as a condition of probation.
19 The court may also impose, as a condition of probation,
20 participation in vocational training, family counseling, literacy
21 training, and community service. A court may not impose
22 incarceration as an additional condition of probation. Aside from
23 the limitations imposed in this subdivision, the trial court is not
24 otherwise limited in the type of probation conditions it may impose.
25 Probation shall be imposed by suspending the imposition of
26 sentence. No person shall be denied the opportunity to benefit from
27 the provisions of the Substance Abuse and Crime Prevention Act
28 of 2000 based solely upon evidence of a co-occurring psychiatric
29 or developmental disorder. To the greatest extent possible, any
30 person who is convicted of, and placed on probation pursuant to
31 this section for a nonviolent drug possession offense shall be
32 monitored by the court through the use of a dedicated court
33 calendar and the incorporation of a collaborative court model of
34 oversight that includes close collaboration with treatment providers
35 and probation, drug testing commensurate with treatment needs,
36 and supervision of progress through review hearings.

37 (b) Subdivision (a) shall not apply to any of the following:

38 (1) Any defendant who previously has been convicted of one
39 or more violent or serious felonies as defined in subdivision (c) of
40 Section 667.5 or subdivision (c) of Section 1192.7, respectively,

1 ~~unless the nonviolent drug possession offense occurred after a~~
2 ~~period of five years in which the defendant remained free of both~~
3 ~~prison custody and the commission of an offense that results in a~~
4 ~~felony conviction other than a nonviolent drug possession offense,~~
5 ~~or a misdemeanor conviction involving physical injury or the threat~~
6 ~~of physical injury to another person.~~

7 ~~(2) Any defendant who, in addition to one or more nonviolent~~
8 ~~drug possession offenses, has been convicted in the same~~
9 ~~proceeding of a misdemeanor not related to the use of drugs or~~
10 ~~any felony.~~

11 ~~(3) Any defendant who, while armed with a deadly weapon,~~
12 ~~with the intent to use the same as a deadly weapon, unlawfully~~
13 ~~possesses or is under the influence of any controlled substance~~
14 ~~identified in Section 11054, 11055, 11056, 11057, or 11058 of the~~
15 ~~Health and Safety Code.~~

16 ~~(4) Any defendant who refuses drug treatment as a condition~~
17 ~~of probation.~~

18 ~~(5) Any defendant who has two separate convictions for~~
19 ~~nonviolent drug possession offenses, has participated in two~~
20 ~~separate courses of drug treatment pursuant to subdivision (a), and~~
21 ~~is found by the court, by clear and convincing evidence, to be~~
22 ~~unamenable to any and all forms of available drug treatment, as~~
23 ~~defined in subdivision (b) of Section 1210. Notwithstanding any~~
24 ~~other provision of law, the trial court shall sentence that defendant~~
25 ~~to 30 days in jail.~~

26 ~~(c) (1) Any defendant who has previously been convicted of~~
27 ~~at least three non-drug-related felonies for which the defendant~~
28 ~~has served three separate prison terms within the meaning of~~
29 ~~subdivision (b) of Section 667.5 shall be presumed eligible for~~
30 ~~treatment under subdivision (a). The court may exclude the~~
31 ~~defendant from treatment under subdivision (a) where the court,~~
32 ~~pursuant to the motion of the prosecutor or its own motion, finds~~
33 ~~that the defendant poses a present danger to the safety of others~~
34 ~~and would not benefit from a drug treatment program. The court~~
35 ~~shall, on the record, state its findings, the reasons for those findings.~~

36 ~~(2) Any defendant who has previously been convicted of a~~
37 ~~misdemeanor or felony at least five times within the prior 30~~
38 ~~months shall be presumed to be eligible for treatment under~~
39 ~~subdivision (a). The court may exclude the defendant from~~
40 ~~treatment under subdivision (a) if the court, pursuant to the motion~~

1 of the prosecutor, or on its own motion, finds that the defendant
2 poses a present danger to the safety of others or would not benefit
3 from a drug treatment program. The court shall, on the record,
4 state its findings and the reasons for those findings.

5 (d) ~~Within seven days of an order imposing probation under~~
6 ~~subdivision (a), the probation department shall notify the drug~~
7 ~~treatment provider designated to provide drug treatment under~~
8 ~~subdivision (a). Within 30 days of receiving that notice, the~~
9 ~~treatment provider shall prepare a treatment plan and forward it~~
10 ~~to the probation department for distribution to the court and~~
11 ~~counsel. The treatment provider shall provide to the probation~~
12 ~~department standardized treatment progress reports, with minimum~~
13 ~~data elements as determined by the department, including all drug~~
14 ~~testing results. At a minimum, the reports shall be provided to the~~
15 ~~court every 90 days, or more frequently, as the court directs.~~

16 (1) ~~If at any point during the course of drug treatment the~~
17 ~~treatment provider notifies the probation department and the court~~
18 ~~that the defendant is unamenable to the drug treatment being~~
19 ~~provided, but may be amenable to other drug treatments or related~~
20 ~~programs, the probation department may move the court to modify~~
21 ~~the terms of probation, or on its own motion, the court may modify~~
22 ~~the terms of probation after a hearing to ensure that the defendant~~
23 ~~receives the alternative drug treatment or program.~~

24 (2) ~~If at any point during the course of drug treatment the~~
25 ~~treatment provider notifies the probation department and the court~~
26 ~~that the defendant is unamenable to the drug treatment provided~~
27 ~~and all other forms of drug treatment programs pursuant to~~
28 ~~subdivision (b) of Section 1210, the probation department may~~
29 ~~move to revoke probation. At the revocation hearing, if it is proved~~
30 ~~that the defendant is unamenable to all drug treatment programs~~
31 ~~pursuant to subdivision (b) of Section 1210, the court may revoke~~
32 ~~probation.~~

33 (3) ~~Drug treatment services provided by subdivision (a) as a~~
34 ~~required condition of probation may not exceed 12 months, unless~~
35 ~~the court makes a finding supported by the record, that the~~
36 ~~continuation of treatment services beyond 12 months is necessary~~
37 ~~for drug treatment to be successful. If that finding is made, the~~
38 ~~court may order up to two six-month extensions of treatment~~
39 ~~services. The provision of treatment services under the Substance~~

~~Abuse and Crime Prevention Act of 2000 shall not exceed 24 months.~~

~~(e) (1) At any time after completion of drug treatment and the terms of probation, the court shall conduct a hearing, and if the court finds that the defendant successfully completed drug treatment, and substantially complied with the conditions of probation, including refraining from the use of drugs after the completion of treatment, the conviction on which the probation was based shall be set aside and the court shall dismiss the indictment, complaint, or information against the defendant. In addition, except as provided in paragraphs (2) and (3), both the arrest and the conviction shall be deemed never to have occurred. The defendant may additionally petition the court for a dismissal of charges at any time after completion of the prescribed course of drug treatment. Except as provided in paragraph (2) or (3), the defendant shall thereafter be released from all penalties and disabilities resulting from the offense of which the defendant has been convicted.~~

~~(2) Dismissal of an indictment, complaint, or information pursuant to paragraph (1) does not permit a person to own, possess, or have in the person's custody or control any firearm capable of being concealed upon the person or prevent the person's conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.~~

~~(3) Except as provided below, after an indictment, complaint, or information is dismissed pursuant to paragraph (1), the defendant may indicate in response to any question concerning the defendant's prior criminal record that they were not arrested or convicted for the offense. Except as provided below, a record pertaining to an arrest or conviction resulting in successful completion of a drug treatment program under this section may not, without the defendant's consent, be used in any way that could result in the denial of any employment, benefit, license, or certificate.~~

~~Regardless of the defendant's successful completion of drug treatment, the arrest and conviction on which the probation was based may be recorded by the Department of Justice and disclosed in response to any peace officer application request or any law enforcement inquiry. Dismissal of an information, complaint, or indictment under this section does not relieve a defendant of the~~

1 obligation to disclose the arrest and conviction in response to any
2 direct question contained in any questionnaire or application for
3 public office, for a position as a peace officer as defined in Section
4 830, for licensure by any state or local agency, for contracting with
5 the California State Lottery, or for purposes of serving on a jury.

6 (f) (1) If probation is revoked pursuant to the provisions of this
7 subdivision, the defendant may be incarcerated pursuant to
8 otherwise applicable law without regard to the provisions of this
9 section. The court may modify or revoke probation if the alleged
10 violation is proved.

11 (2) If a defendant receives probation under subdivision (a), and
12 violates that probation either by committing an offense that is not
13 a nonviolent drug possession offense, or by violating a
14 non-drug-related condition of probation, and the state moves to
15 revoke probation, the court may remand the defendant for a period
16 not exceeding 30 days during which time the court may receive
17 input from treatment, probation, the state, and the defendant, and
18 the court may conduct further hearings as it deems appropriate to
19 determine whether or not probation should be reinstated under this
20 section. If the court reinstates the defendant on probation, the court
21 may modify the treatment plan and any other terms of probation,
22 and continue the defendant in a treatment program under the
23 Substance Abuse and Crime Prevention Act of 2000. If the court
24 reinstates the defendant on probation, the court may, after receiving
25 input from the treatment provider and probation, if available,
26 intensify or alter the treatment plan under subdivision (a), and
27 impose sanctions, including jail sanctions not exceeding 30 days,
28 a tool to enhance treatment compliance.

29 (3) (A) If a defendant receives probation under subdivision (a),
30 and violates that probation either by committing a nonviolent drug
31 possession offense, or a misdemeanor for simple possession or use
32 of drugs or drug paraphernalia, being present where drugs are used,
33 or failure to register as a drug offender, or any activity similar to
34 those listed in subdivision (d) of Section 1210, or by violating a
35 drug-related condition of probation, and the state moves to revoke
36 probation, the court shall conduct a hearing to determine whether
37 probation shall be revoked. The trial court shall revoke probation
38 if the alleged probation violation is proved and the state proves by
39 a preponderance of the evidence that the defendant poses a danger
40 to the safety of others. If the court does not revoke probation, it

1 may intensify or alter the drug treatment plan and in addition, if
2 the violation does not involve the recent use of drugs as a
3 circumstance of the violation, including, but not limited to,
4 violations relating to failure to appear at treatment or court,
5 noncompliance with treatment, and failure to report for drug
6 testing, the court may impose sanctions including jail sanctions
7 that may not exceed 48 hours of continuous custody as a tool to
8 enhance treatment compliance and impose other changes in the
9 terms and conditions of probation. The court shall consider, among
10 other factors, the seriousness of the violation, previous treatment
11 compliance, employment, education, vocational training, medical
12 conditions, medical treatment, including narcotic replacement
13 treatment, and including the opinion of the defendant's licensed
14 and treating physician if immediately available and presented at
15 the hearing, child support obligations, and family responsibilities.
16 The court shall consider additional conditions of probation, which
17 may include, but are not limited to, community service and
18 supervised work programs. If one of the circumstances of the
19 violation involves recent drug use, as well as other circumstances
20 of violation, and the circumstance of recent drug use is
21 demonstrated to the court by satisfactory evidence and a finding
22 made on the record, the court may, after receiving input from
23 treatment and probation, if available, direct the defendant to enter
24 a licensed detoxification or residential treatment facility, and if
25 there is no bed immediately available in that type of facility, the
26 court may order that the defendant be confined in a county jail for
27 detoxification purposes only, if the jail offers detoxification
28 services, for a period not to exceed 10 days. The detoxification
29 services must provide narcotic replacement therapy for those
30 defendants presently actually receiving narcotic replacement
31 therapy.

32 (B) If a defendant receives probation under subdivision (a), and
33 for the second time violates that probation either by committing a
34 nonviolent drug possession offense, or a misdemeanor for simple
35 possession or use of drugs or drug paraphernalia, being present
36 where drugs are used, or failure to register as a drug offender, or
37 any activity similar to those listed in subdivision (d) of Section
38 1210, or by violating a drug-related condition of probation, and
39 the state moves to revoke probation, the court shall conduct a
40 hearing to determine whether probation shall be revoked. The trial

1 court shall revoke probation if the alleged probation violation is
2 proved and the state proves by a preponderance of the evidence
3 either that the defendant poses a danger to the safety of others or
4 is unamenable to drug treatment. In determining whether a
5 defendant is unamenable to drug treatment, the court may consider,
6 to the extent relevant, whether the defendant (i) has committed a
7 serious violation of rules at the drug treatment program, (ii) has
8 repeatedly committed violations of program rules that inhibit the
9 defendant's ability to function in the program, or (iii) has
10 continually refused to participate in the program or asked to be
11 removed from the program. If the court does not revoke probation,
12 it may intensify or alter the drug treatment plan, and may, in
13 addition, if the violation does not involve the recent use of drugs
14 as a circumstance of the violation, including, but not limited to,
15 violations relating to failure to appear at treatment or court,
16 noncompliance with treatment, and failure to report for drug
17 testing, impose sanctions including jail sanctions that may not
18 exceed 120 hours of continuous custody as a tool to enhance
19 treatment compliance and impose other changes in the terms and
20 conditions of probation. The court shall consider, among other
21 factors, the seriousness of the violation, previous treatment
22 compliance, employment, education, vocational training, medical
23 conditions, medical treatment, including narcotics replacement
24 treatment, and including the opinion of the defendant's licensed
25 and treating physician if immediately available and presented at
26 the hearing, child support obligations, and family responsibilities.
27 The court shall consider additional conditions of probation, which
28 may include, but are not limited to, community service and
29 supervised work programs. If one of the circumstances of the
30 violation involves recent drug use, as well as other circumstances
31 of violation, and the circumstance of recent drug use is
32 demonstrated to the court by satisfactory evidence and a finding
33 made on the record, the court may, after receiving input from
34 treatment and probation, if available, direct the defendant to enter
35 a licensed detoxification or residential treatment facility, and if
36 there is no bed immediately available in the facility, the court may
37 order that the defendant be confined in a county jail for
38 detoxification purposes only, if the jail offers detoxification
39 services, for a period not to exceed 10 days. Detoxification services

1 must provide narcotic replacement therapy for those defendants
2 presently actually receiving narcotic replacement therapy.

3 (C) If a defendant receives probation under subdivision (a), and
4 for the third or subsequent time violates that probation either by
5 committing a nonviolent drug possession offense, or by violating
6 a drug-related condition of probation, and the state moves for a
7 third or subsequent time to revoke probation, the court shall
8 conduct a hearing to determine whether probation shall be revoked.
9 If the alleged probation violation is proved, the defendant is not
10 eligible for continued probation under subdivision (a) unless the
11 court determines that the defendant is not a danger to the
12 community and would benefit from further treatment under
13 subdivision (a). The court may then either intensify or alter the
14 treatment plan under subdivision (a) or transfer the defendant to
15 a highly structured drug court. If the court continues the defendant
16 in treatment under subdivision (a), or drug court, the court may
17 impose appropriate sanctions including jail sanctions as the court
18 deems appropriate.

19 (D) If a defendant on probation at the effective date of this act
20 for a nonviolent drug possession offense violates that probation
21 either by committing a nonviolent drug possession offense, or a
22 misdemeanor for simple possession or use of drugs or drug
23 paraphernalia, being present where drugs are used, or failure to
24 register as a drug offender, or any activity similar to those listed
25 in subdivision (d) of Section 1210, or by violating a drug-related
26 condition of probation, and the state moves to revoke probation,
27 the court shall conduct a hearing to determine whether probation
28 shall be revoked. The trial court shall revoke probation if the
29 alleged probation violation is proved and the state proves by a
30 preponderance of the evidence that the defendant poses a danger
31 to the safety of others. If the court does not revoke probation, it
32 may modify or alter the treatment plan, and in addition, if the
33 violation does not involve the recent use of drugs as a circumstance
34 of the violation, including, but not limited to, violations relating
35 to failure to appear at treatment or court, noncompliance with
36 treatment, and failure to report for drug testing, the court may
37 impose sanctions including jail sanctions that may not exceed 48
38 hours of continuous custody as a tool to enhance treatment
39 compliance and impose other changes in the terms and conditions
40 of probation. The court shall consider, among other factors, the

1 ~~seriousness of the violation, previous treatment compliance,~~
2 ~~employment, education, vocational training, medical conditions,~~
3 ~~medical treatment, including narcotics replacement treatment, and~~
4 ~~including the opinion of the defendant's licensed and treating~~
5 ~~physician if immediately available and presented at the hearing,~~
6 ~~child support obligations, and family responsibilities. The court~~
7 ~~shall consider additional conditions of probation, which may~~
8 ~~include, but are not limited to, community service and supervised~~
9 ~~work programs. If one of the circumstances of the violation~~
10 ~~involves recent drug use, as well as other circumstances of~~
11 ~~violation, and the circumstance of recent drug use is demonstrated~~
12 ~~to the court by satisfactory evidence and a finding made on the~~
13 ~~record, the court may, after receiving input from treatment and~~
14 ~~probation, if available, direct the defendant to enter a licensed~~
15 ~~detoxification or residential treatment facility, and if there is no~~
16 ~~bed immediately available in that type of facility, the court may~~
17 ~~order that the defendant be confined in a county jail for~~
18 ~~detoxification purposes only, if the jail offers detoxification~~
19 ~~services, for a period not to exceed 10 days. The detoxification~~
20 ~~services must provide narcotic replacement therapy for those~~
21 ~~defendants presently actually receiving narcotic replacement~~
22 ~~therapy.~~

23 ~~(E) If a defendant on probation at the effective date of this act~~
24 ~~for a nonviolent drug possession offense violates that probation a~~
25 ~~second time either by committing a nonviolent drug possession~~
26 ~~offense, or a misdemeanor for simple possession or use of drugs~~
27 ~~or drug paraphernalia, being present where drugs are used, or~~
28 ~~failure to register as a drug offender, or any activity similar to~~
29 ~~those listed in subdivision (d) of Section 1210, or by violating a~~
30 ~~drug-related condition of probation, and the state moves for a~~
31 ~~second time to revoke probation, the court shall conduct a hearing~~
32 ~~to determine whether probation shall be revoked. The trial court~~
33 ~~shall revoke probation if the alleged probation violation is proved~~
34 ~~and the state proves by a preponderance of the evidence either that~~
35 ~~the defendant poses a danger to the safety of others or that the~~
36 ~~defendant is unamenable to drug treatment. If the court does not~~
37 ~~revoke probation, it may modify or alter the treatment plan, and~~
38 ~~in addition, if the violation does not involve the recent use of drugs~~
39 ~~as a circumstance of the violation, including, but not limited to,~~
40 ~~violations relating to failure to appear at treatment or court,~~

1 ~~noncompliance with treatment, and failure to report for drug~~
2 ~~testing, the court may impose sanctions including jail sanctions~~
3 ~~that may not exceed 120 hours of continuous custody as a tool to~~
4 ~~enhance treatment compliance and impose other changes in the~~
5 ~~terms and conditions of probation. The court shall consider, among~~
6 ~~other factors, the seriousness of the violation, previous treatment~~
7 ~~compliance, employment, education, vocational training, medical~~
8 ~~conditions, medical treatment including narcotics replacement~~
9 ~~treatment, and including the opinion of the defendant's licensed~~
10 ~~and treating physician if immediately available and presented at~~
11 ~~the hearing, child support obligations, and family responsibilities.~~
12 ~~The court shall consider additional conditions of probation, which~~
13 ~~may include, but are not limited to, community service and~~
14 ~~supervised work programs. If one of the circumstances of the~~
15 ~~violation involves recent drug use, as well as other circumstances~~
16 ~~of violation, and the circumstance of recent drug use is~~
17 ~~demonstrated to the court by satisfactory evidence and a finding~~
18 ~~made on the record, the court may, after receiving input from~~
19 ~~treatment and probation, if available, direct the defendant to enter~~
20 ~~a licensed detoxification or residential treatment facility, and if~~
21 ~~there is no bed immediately available in that type of facility, the~~
22 ~~court may order that the defendant be confined in a county jail for~~
23 ~~detoxification purposes only, if the jail offers detoxification~~
24 ~~services, for a period not to exceed 10 days. The detoxification~~
25 ~~services must provide narcotic replacement therapy for those~~
26 ~~defendants presently actually receiving narcotic replacement~~
27 ~~therapy.~~

28 (F) ~~If a defendant on probation at the effective date of this act~~
29 ~~for a nonviolent drug offense violates that probation a third or~~
30 ~~subsequent time either by committing a nonviolent drug possession~~
31 ~~offense, or by violating a drug-related condition of probation, and~~
32 ~~the state moves for a third or subsequent time to revoke probation,~~
33 ~~the court shall conduct a hearing to determine whether probation~~
34 ~~shall be revoked. If the alleged probation violation is proved, the~~
35 ~~defendant is not eligible for continued probation under subdivision~~
36 ~~(a), unless the court determines that the defendant is not a danger~~
37 ~~to the community and would benefit from further treatment under~~
38 ~~subdivision (a). The court may then either intensify or alter the~~
39 ~~treatment plan under subdivision (a) or transfer the defendant to~~
40 ~~a highly structured drug court. If the court continues the defendant~~

1 in treatment under subdivision (a), or drug court, the court may
2 impose appropriate sanctions including jail sanctions.

3 ~~(g) The term “drug-related condition of probation” shall include~~
4 ~~a probationer’s specific drug treatment regimen, employment,~~
5 ~~vocational training, educational programs, psychological~~
6 ~~counseling, and family counseling.~~

7 ~~SEC. 92.~~

8 *SEC. 66.* Section 1210.15 of the Penal Code is repealed.

9 ~~SEC. 93.~~

10 *SEC. 67.* Section 1211 of the Penal Code is amended to read:

11 1211. (a) In order to ensure the quality of drug diversion
12 programs provided pursuant to this chapter and Chapter 2.5
13 (commencing with Section 1000) of Title 6, and to expand the
14 availability of these programs, the county drug program
15 administrator in each county, in consultation with representatives
16 of the court and the county probation department, shall establish
17 minimum requirements and criteria for the successful completion
18 of drug diversion programs, which shall be approved by the county
19 board of supervisors. These minimum requirements shall include,
20 but not be limited to, all of the following:

21 (1) An initial assessment of each divertee, which may include
22 all of the following:

23 (A) Social, economic, and family background.

24 (B) Education.

25 (C) Vocational achievements.

26 (D) Criminal history.

27 (E) Medical history.

28 (F) Drug history and previous treatment.

29 (2) A minimum of 20 hours of either effective education or
30 counseling or any combination of both for each divertee.

31 (3) An exit conference which shall reflect the divertee’s progress
32 during the divertee’s participation in the program.

33 (b) The county drug program administrator shall implement a
34 certification procedure for drug diversion programs.

35 (c) The county drug program administrator shall recommend
36 for approval by the county board of supervisors programs pursuant
37 to this chapter. No program, regardless of how it is funded, may
38 be approved unless it meets the standards established by the
39 administrator, which shall include, but not be limited to, both of
40 the following:

1 (1) Guidelines and criteria for education and treatment services,
2 including standards of services which may include lectures, classes,
3 group discussions, and individual counseling. However, any class
4 or group discussion other than lectures shall not exceed 15 persons
5 at any one meeting.

6 (2) Established and approved supervision, either on a regular
7 or irregular basis, of the person for the purpose of evaluating the
8 person's progress.

9 ~~SEC. 94.~~

10 ~~SEC. 68.~~ Section 1214.1 of the Penal Code is repealed.

11 ~~SEC. 95.~~

12 ~~SEC. 69.~~ Section 1214.5 of the Penal Code is repealed.

13 ~~SEC. 96.~~ Section 1462.5 of the Penal Code is amended to read:

14 ~~1462.5. Each installment or partial payment of a fine, penalty,~~
15 ~~or forfeiture shall be prorated among the state and local shares~~
16 ~~according to the trial court revenue distribution guidelines~~
17 ~~established by the Controller pursuant to Section 71380 of the~~
18 ~~Government Code. In cases subject to Section 1463.18 of the Penal~~
19 ~~Code, proration shall not occur until the minimum amounts have~~
20 ~~been transferred to the Restitution Fund as provided in that section.~~

21 ~~SEC. 97.~~

22 ~~SEC. 70.~~ Section 1463 of the Penal Code is amended to read:

23 1463. All fines and forfeitures imposed and collected for crimes
24 shall be distributed in accordance with Section 1463.001.

25 The following definitions shall apply to terms used in this
26 chapter:

27 (a) "Arrest" means any law enforcement action, including
28 issuance of a notice to appear or notice of violation, which results
29 in a criminal charge.

30 (b) "City" includes any city, city and county, district, including
31 any enterprise special district, community service district, or
32 community service area engaged in police protection activities as
33 reported to the Controller for inclusion in the 1989–90 edition of
34 the Financial Transactions Report Concerning Special Districts
35 under the heading of Police Protection and Public Safety, authority,
36 or other local agency (other than a county) which employs persons
37 authorized to make arrests or to issue notices to appear or notices
38 of violation which may be filed in court.

39 (c) "City arrest" means an arrest by an employee of a city, or
40 by a California Highway Patrol officer within the limits of a city.

1 (d) “County” means the county in which the arrest took place.

2 (e) “County arrest” means an arrest by a California Highway
3 Patrol officer outside the limits of a city, or any arrest by a county
4 officer or by any other state officer.

5 (f) “Court” means the superior court or a juvenile forum
6 established under Section 257 of the Welfare and Institutions Code,
7 in which the case arising from the arrest is filed.

8 (g) “Division of moneys” means an allocation of base fine
9 proceeds between agencies as required by statute, including, but
10 not limited to, Sections 1463.003, 1463.9, 1463.23, and 1463.26
11 of this code, Sections 13001, 13002, and 13003 of the Fish and
12 Game Code, and Section 11502 of the Health and Safety Code.

13 (h) “Offense” means any infraction, misdemeanor, or felony,
14 and any act by a juvenile leading to an order to pay a financial
15 sanction by reason of the act being defined as an infraction,
16 misdemeanor, or felony, whether defined in this or any other code,
17 except any parking offense as defined in subdivision (i).

18 (i) “Parking offense” means any offense charged pursuant to
19 Article 3 (commencing with Section 40200) of Chapter 1 of
20 Division 17 of the Vehicle Code, including registration and
21 equipment offenses included on a notice of parking violation.

22 (j) “Penalty allocation” means the deposit of a specified part of
23 moneys to offset designated processing costs, as provided by
24 Section 1463.16 of this code and by Section 68090.8 of the
25 Government Code.

26 (k) “Total parking penalty” means the total sum to be collected
27 for a parking offense, whether as fine, forfeiture of bail, or payment
28 of penalty to the Department of Motor Vehicles (DMV). It may
29 include the following components:

30 (1) The base parking penalty as established pursuant to Section
31 40203.5 of the Vehicle Code.

32 (2) The DMV fees added upon the placement of a hold pursuant
33 to Section 40220 of the Vehicle Code.

34 (3) The surcharges required by Section 76000 of the Government
35 Code.

36 (4) The notice penalty added to the base parking penalty when
37 a notice of delinquent parking violations is given.

38 (l) “Total fine or forfeiture” means the total sum to be collected
39 upon a conviction, or the total amount of bail forfeited or deposited

1 as cash bail subject to forfeiture. It may include, but is not limited
2 to, the following components as specified for the particular offense:

3 (1) The “base fine” upon which the state penalty and additional
4 county penalty is calculated.

5 (2) The “county penalty” required by Section 76000 of the
6 Government Code.

7 (3) The “DNA penalty” required by Sections 76104.6 and
8 76104.7 of the Government Code.

9 (4) The “emergency medical services penalty” authorized by
10 Section 76000.5 of the Government Code.

11 (5) The “service charge” permitted by Section 853.7 of the Penal
12 Code.

13 (6) The “special penalty” dedicated for blood alcohol analysis,
14 alcohol program services, traumatic brain injury research, and
15 similar purposes.

16 (7) The “state penalty” required by Section 1464.

17 ~~SEC. 98. Section 1463.007 of the Penal Code is amended to~~
18 ~~read:~~

19 ~~1463.007. (a) Notwithstanding any other law, a county or court~~
20 ~~that operates a comprehensive collection program may deduct the~~
21 ~~costs of operating that program, excluding capital expenditures,~~
22 ~~from any revenues collected under that program. The costs shall~~
23 ~~be deducted before any distribution of revenues to other~~
24 ~~governmental entities required by any other law. A county or court~~
25 ~~operating a comprehensive collection program may establish a~~
26 ~~minimum base fine, forfeiture, penalty, or assessment amount for~~
27 ~~inclusion in the program.~~

28 ~~(b) Once debt becomes delinquent, it continues to be delinquent~~
29 ~~and may be subject to collection by a comprehensive collection~~
30 ~~program. Debt is delinquent and subject to collection by a~~
31 ~~comprehensive collection program if any of the following~~
32 ~~conditions is met:~~

33 ~~(1) A defendant does not post bail or appear on or before the~~
34 ~~date on which they promised to appear, or any lawful continuance~~
35 ~~of that date, if that defendant was eligible to post and forfeit bail.~~

36 ~~(2) A defendant does not pay the amount imposed by the court~~
37 ~~on or before the date ordered by the court, or any lawful~~
38 ~~continuance of that date.~~

39 ~~(3) A defendant has failed to make an installment payment on~~
40 ~~the date specified by the court.~~

1 ~~(e) For the purposes of this section, a “comprehensive collection~~
2 ~~program” is a separate and distinct revenue collection activity that~~
3 ~~meets each of the following criteria:~~

4 ~~(1) The program identifies and collects amounts arising from~~
5 ~~delinquent court-ordered debt, whether or not a warrant has been~~
6 ~~issued against the alleged violator.~~

7 ~~(2) The program complies with the requirements of subdivision~~
8 ~~(b) of Section 1463.010.~~

9 ~~(3) The program engages in each of the following activities:~~

10 ~~(A) Attempts telephone contact with delinquent debtors for~~
11 ~~whom the program has a telephone number to inform them of their~~
12 ~~delinquent status and payment options.~~

13 ~~(B) Notifies delinquent debtors for whom the program has an~~
14 ~~address in writing of their outstanding obligation within 95 days~~
15 ~~of delinquency.~~

16 ~~(C) Generates internal monthly reports to track collections data,~~
17 ~~such as age of debt and delinquent amounts outstanding.~~

18 ~~(D) Uses Department of Motor Vehicles information to locate~~
19 ~~delinquent debtors.~~

20 ~~(E) Accepts payment of delinquent debt by credit card.~~

21 ~~(4) The program engages in at least five of the following~~
22 ~~activities:~~

23 ~~(A) Sends delinquent debt to the Franchise Tax Board’s~~
24 ~~Court-Ordered Debt Collections Program.~~

25 ~~(B) Sends delinquent debt to the Franchise Tax Board’s~~
26 ~~Interagency Intercept Collections Program.~~

27 ~~(C) Initiates driver’s license suspension or hold actions when~~
28 ~~appropriate for a failure to appear in court.~~

29 ~~(D) Contracts with one or more private debt collectors to collect~~
30 ~~delinquent debt.~~

31 ~~(E) Sends monthly bills or account statements to all delinquent~~
32 ~~debtors.~~

33 ~~(F) Contracts with local, regional, state, or national skip tracing~~
34 ~~or locator resources or services to locate delinquent debtors.~~

35 ~~(G) Coordinates with the probation department to locate debtors~~
36 ~~who may be on formal or informal probation.~~

37 ~~(H) Uses Employment Development Department employment~~
38 ~~and wage information to collect delinquent debt.~~

39 ~~(I) Establishes wage and bank account garnishments where~~
40 ~~appropriate.~~

1 ~~(J) Places liens on real property owned by delinquent debtors~~
2 ~~when appropriate.~~

3 ~~(K) Uses an automated dialer or automatic call distribution~~
4 ~~system to manage telephone calls.~~

5 ~~SEC. 99.~~

6 *SEC. 71.* Section 1463.010 of the Penal Code is amended to
7 read:

8 1463.010. The uniform imposition and enforcement of
9 court-ordered debts are recognized as an important element of
10 California's judicial system. Prompt, efficient, and effective
11 imposition and collection of court-ordered *fees*, fines, forfeitures,
12 penalties, restitution, and assessments ensure the appropriate
13 respect for court orders. The California State Association of
14 Counties and the Administrative Office of the Courts are jointly
15 committed to identifying, improving, and seeking to expand access
16 to mechanisms and tools that will enhance efforts to collect
17 court-ordered debt. To provide for this prompt, efficient, and
18 effective collection:

19 (a) The Judicial Council shall adopt guidelines for a
20 comprehensive program concerning the collection of moneys owed
21 for *fees*, fines, forfeitures, penalties, and assessments imposed by
22 court order. As part of its guidelines, the Judicial Council may
23 establish standard agreements for entities to provide collection
24 services. As part of its guidelines, the Judicial Council shall include
25 provisions that promote competition by and between entities in
26 providing collection services to courts and counties. The Judicial
27 Council may delegate to the Administrative Director of the Courts
28 the implementation of the aspects of this program to be carried out
29 at the state level.

30 (b) The courts and counties shall maintain the collection program
31 that was in place on January 1, 1996, unless otherwise agreed to
32 in writing by the court and county. The program may wholly or
33 partially be staffed and operated within the court itself, may be
34 wholly or partially staffed and operated by the county, or may be
35 wholly or partially contracted with a third party. In carrying out
36 this collection program, each superior court and county shall
37 develop a cooperative plan to implement the Judicial Council
38 guidelines. In the event that a court and a county are unwilling or
39 unable to enter into a cooperative plan pursuant to this section, the
40 court or the county may request the continuation of negotiations

1 with mediation assistance as mutually agreed upon and provided
2 by the Administrative Director of the Courts and the California
3 State Association of Counties.

4 (c) The Judicial Council shall develop performance measures
5 and benchmarks to review the effectiveness of the cooperative
6 superior court and county collection programs operating pursuant
7 to this section. Each superior court and county shall jointly report
8 to the Judicial Council, as provided by the Judicial Council,
9 information requested in a reporting template on or before
10 September 1, 2009, and annually thereafter. The Judicial Council
11 shall report to the Legislature on December 31, 2009, and annually
12 thereafter, on all of the following:

13 (1) The extent to which each court or county is following best
14 practices for its collection program.

15 (2) The performance of each collection program.

16 (3) Any changes necessary to improve performance of collection
17 programs statewide.

18 (d) The Judicial Council may, when the efficiency and
19 effectiveness of the collection process may be improved, facilitate
20 a joint collection program between superior courts, between
21 counties, or between superior courts and counties.

22 (e) The Judicial Council may establish, by court rule, a program
23 providing for the suspension and nonrenewal of a business and
24 professional license if the holder of the license has unpaid *fees*,
25 fines, forfeitures, penalties, and assessments imposed upon them
26 under a court order. The Judicial Council may provide that some
27 or all of the superior courts or counties participate in the program.
28 Any program established by the Judicial Council shall ensure that
29 the licensee receives adequate and appropriate notice of the
30 proposed suspension or nonrenewal of the licensee's license and
31 has an opportunity to contest the suspension or nonrenewal. The
32 opportunity to contest may not require a court hearing.

33 (f) Notwithstanding any other provision of law, the Judicial
34 Council, after consultation with the Franchise Tax Board with
35 respect to collections under Section 19280 of the Revenue and
36 Taxation Code, may provide for an amnesty program involving
37 the collection of outstanding *fees*, fines, forfeitures, penalties, and
38 assessments, applicable either statewide or within one or more
39 counties. The amnesty program shall provide that some or all of
40 the interest or collections costs imposed on outstanding *fees*, fines,

1 forfeitures, penalties, and assessments may be waived if the
2 remaining amounts due are paid within the amnesty period.

3 ~~SEC. 100. Section 1463.011 of the Penal Code is amended to~~
4 ~~read:~~

5 ~~1463.011. (a) Notwithstanding any other provision of law, if~~
6 ~~a court, during the course of its routine process to collect fines,~~
7 ~~forfeitures, or other penalties imposed by a court due to a citation~~
8 ~~issued for the violation of a state or local law, obtains information~~
9 ~~indicating that a person under 25 years of age, who has been issued~~
10 ~~a citation for truancy, loitering, curfew violations, or illegal lodging~~
11 ~~that is outstanding or unpaid, is homeless or has no permanent~~
12 ~~address, the court shall not garnish the wages or levy against bank~~
13 ~~accounts of that person until that person is 25 years of age or older,~~
14 ~~as that age is recorded by that person's credit report or other~~
15 ~~document already in the possession of, or previously provided to,~~
16 ~~the court.~~

17 ~~(b) For purposes of this section a person is considered to be~~
18 ~~"homeless" or as having "no permanent address" if that person~~
19 ~~does not have a fixed, regular, adequate nighttime residence, or~~
20 ~~has a primary nighttime residence that is one of the following:~~

21 ~~(1) A supervised publicly or privately operated shelter designed~~
22 ~~to provide temporary living accommodations, including, but not~~
23 ~~limited to, welfare hotels, congregate shelters, and transitional~~
24 ~~housing for the mentally ill.~~

25 ~~(2) An institution that provides a temporary residence for~~
26 ~~individuals intended to be institutionalized.~~

27 ~~(3) A public or private place not designed for, or ordinarily used~~
28 ~~as, a regular sleeping accommodation for human beings.~~

29 ~~(c) Nothing in this section shall be construed to prevent a court~~
30 ~~from engaging in any other lawful debt collection activities.~~

31 ~~(d) Nothing in this section shall be construed to require a court~~
32 ~~to perform any further investigation or financial screening into~~
33 ~~any matter beyond the scope of its regular duties.~~

34 ~~(e) Nothing in this section shall be construed to prevent the~~
35 ~~Judicial Council from altering any best practices or~~
36 ~~recommendations for collection programs pursuant to Section~~
37 ~~1463.010.~~

38 ~~(f) Nothing in this section shall be construed to prevent a court~~
39 ~~from garnishing a person's wages or levying against a person's~~
40 ~~bank accounts if the court, subsequent to its initial determination~~

1 ~~that the person was a homeless youth exempt from wage~~
2 ~~garnishment or levy under this section, obtains evidence that the~~
3 ~~individual is no longer homeless.~~

4 SEC. 101. ~~Section 1463.012 of the Penal Code is amended to~~
5 ~~read:~~

6 ~~1463.012. (a) Notwithstanding any other law, if a court, during~~
7 ~~the course of its routine process to collect fines, forfeitures, or~~
8 ~~other penalties imposed by a court due to a citation issued for the~~
9 ~~violation of a state or local law, obtains information indicating that~~
10 ~~a person who has been issued a citation for loitering, curfew~~
11 ~~violations, or illegal lodging that is outstanding or unpaid served~~
12 ~~in the military within the last eight years and is homeless or has~~
13 ~~no permanent address, the court shall not garnish the wages or~~
14 ~~levy against bank accounts of that person for five years from the~~
15 ~~date that the court obtained that information.~~

16 ~~(b) For purposes of this section, a person is considered to be~~
17 ~~“homeless” or as having “no permanent address” if that person~~
18 ~~does not have a fixed, regular, adequate nighttime residence, or~~
19 ~~has a primary nighttime residence that is one of the following:~~

20 ~~(1) A supervised publicly or privately operated shelter designed~~
21 ~~to provide temporary living accommodations, including, but not~~
22 ~~limited to, welfare hotels, congregate shelters, and transitional~~
23 ~~housing for the mentally ill.~~

24 ~~(2) An institution that provides a temporary residence for~~
25 ~~individuals intended to be institutionalized.~~

26 ~~(3) A public or private place not designed for, or ordinarily used~~
27 ~~as, a regular sleeping accommodation for human beings.~~

28 ~~(c) Nothing in this section shall be construed to prevent a court~~
29 ~~from engaging in any other lawful debt collection activities.~~

30 ~~(d) Nothing in this section shall be construed to require a court~~
31 ~~to perform any further investigation or financial screening into~~
32 ~~any matter beyond the scope of its regular duties.~~

33 ~~(e) Nothing in this section shall be construed to prevent the~~
34 ~~Judicial Council from altering any best practices or~~
35 ~~recommendations for collection programs pursuant to Section~~
36 ~~1463.010.~~

37 ~~(f) Nothing in this section shall be construed to prevent a court~~
38 ~~from garnishing a person’s wages or levying against a person’s~~
39 ~~bank accounts if the court, subsequent to its initial determination~~
40 ~~that the person was a homeless veteran exempt from wage~~

1 garnishment or levy under this section, obtains evidence that the
2 individual is no longer homeless, or that the court had, on a
3 previous occasion, suspended garnishment of that person's wages
4 or levying against that person's bank accounts pursuant to
5 subdivision (a):

6 SEC. 102. ~~Section 1463.07 of the Penal Code is repealed.~~

7 SEC. 103. ~~Section 1463.14 of the Penal Code is amended to~~
8 ~~read:~~

9 1463.14. (a) Notwithstanding the provisions of Section 1463,
10 of the moneys deposited with the county treasurer pursuant to
11 Section 1463, fifty dollars (\$50) of each fine collected for each
12 conviction of a violation of Section 23103, 23104, 23105, 23152,
13 or 23153 of the Vehicle Code shall be deposited in a special
14 account that shall be used exclusively to pay for the cost of
15 performing for the county, or a city or special district within the
16 county, analysis of blood, breath or urine for alcohol content or
17 for the presence of drugs, or for services related to that testing.
18 The sum shall not exceed the reasonable cost of providing the
19 services for which the sum is intended.

20 On November 1 of each year, the treasurer of each county shall
21 determine those moneys in the special account that were not
22 expended during the preceding fiscal year, and shall transfer those
23 moneys into the general fund of the county. The board of
24 supervisors may, by resolution, assign the treasurer's duty to
25 determine the amount of money that was not expended to the
26 auditor or another county officer. The county may retain an amount
27 of that money equal to its administrative cost incurred pursuant to
28 this section, and shall distribute the remainder pursuant to Section
29 1463. If the account becomes exhausted, the public entity ordering
30 a test performed pursuant to this subdivision shall bear the costs
31 of the test.

32 (b) ~~The Department of Justice shall promulgate rules and~~
33 ~~regulations to implement the provisions of this section.~~

34 SEC. 104. ~~Section 1464.8 of the Penal Code is amended to~~
35 ~~read:~~

36 1464.8. Notwithstanding any other provision of law, when an
37 allocation and distribution of any fine, forfeiture, penalty, or
38 assessment collected in any criminal case is made, including, but
39 not limited to, moneys collected pursuant to this chapter, Section
40 13003 of the Fish and Game Code, Chapter 12 (commencing with

1 Section 76000) of Title 8 of the Government Code, and Sections
2 11372.5 and 11502 of the Health and Safety Code, the allocation
3 and distribution of any payment may be based upon the law in
4 effect during the accounting period when the payment is made.

5 ~~SEC. 105.~~

6 *SEC. 72.* Section 1465.9 is added to the Penal Code, to read:

7 1465.9. On and after January 1, 2020, the balance of any
8 court-imposed costs pursuant to subdivision (e) of Section 273.1,
9 ~~subdivision (h) of Section 273.6, paragraph (2) of subdivision (b)~~
10 ~~of Section 290.06, subdivision (e) of Section 597.3, Section 987.4,~~
11 ~~subdivision (a) of Section 987.5, Sections 987.8, 1001.15, 1001.16,~~
12 ~~and 1001.90, subdivision (l) of Section 1202.4, subparagraph (E)~~
13 ~~of paragraph (4) of subdivision (f) of Section 1202.42, Sections~~
14 ~~1203, 1203.016, 1203.018, and 1203.067, paragraphs (5) and (11)~~
15 ~~and 1203.018, paragraph (5) of subdivision (a) of, and paragraphs~~
16 ~~(1) and (5) of subdivision (c) of, Section 1203.097, subdivision (l)~~
17 ~~of Section 1203.1, Sections 1203.1a, 1203.1ab, 1203.1b, 1203.1bb,~~
18 ~~1203.1c, 1203.1e, 1203.1h, 1203.1i, 1203.1m, 1203.4, 1203.4a,~~
19 ~~1203.41, 1203.42, 1203.45, 1203.9, 1205, 1208.2, 1209, 1210.1,~~
20 ~~1208.2, 1210.15, 1211, 1214.1, 1214.5, 1463.07, and 1463.14, and~~
21 ~~1214.5, subdivision (d) of Section 2085.6, subdivision (d) of~~
22 ~~Section 2085.7, subdivision (b) of Section 3000.07, Section 3010.8,~~
23 ~~subdivision (b) of Section 4011.1, and Sections 4011.2, Sections~~
24 ~~3010.8, 4024.2, 5007.5, and 6266, as those sections read on~~
25 ~~December 31, 2019, shall be unenforceable and uncollectible and~~
26 ~~any portion of a judgment imposing those costs shall be vacated.~~

27 ~~SEC. 106.~~

28 *SEC. 73.* Section 2085.5 of the Penal Code is amended to read:

29 2085.5. (a) If a prisoner owes a restitution fine imposed
30 pursuant to subdivision (a) of Section 13967 of the Government
31 Code, as operative prior to September 29, 1994, subdivision (b)
32 of Section 730.6 of the Welfare and Institutions Code, or
33 subdivision (b) of Section 1202.4 of this code, the secretary shall
34 deduct a minimum of 20 percent or the balance owing on the fine
35 amount, whichever is less, up to a maximum of 50 percent from
36 the wages and trust account deposits of a prisoner, unless prohibited
37 by federal law, and shall transfer that amount to the California
38 Victim Compensation Board for deposit in the Restitution Fund.
39 The amount deducted shall be credited against the amount owing

1 on the fine. The sentencing court shall be provided a record of the
2 payments.

3 (b) (1) If a prisoner is punished by imprisonment in a county
4 jail pursuant to subdivision (h) of Section 1170 and owes a
5 restitution fine imposed pursuant to subdivision (a) of Section
6 13967 of the Government Code, as operative prior to September
7 29, 1994, subdivision (b) of Section 730.6 of the Welfare and
8 Institutions Code, or subdivision (b) of Section 1202.4 of this code,
9 the agency designated by the board of supervisors in a county
10 where the prisoner is incarcerated is authorized to deduct a
11 minimum of 20 percent or the balance owing on the fine amount,
12 whichever is less, up to a maximum of 50 percent from the county
13 jail equivalent of wages and trust account deposits of a prisoner,
14 unless prohibited by federal law, and shall transfer that amount to
15 the California Victim Compensation Board for deposit in the
16 Restitution Fund. The amount deducted shall be credited against
17 the amount owing on the fine. The sentencing court shall be
18 provided a record of the payments.

19 (2) If the board of supervisors designates the county sheriff as
20 the collecting agency, the board of supervisors shall first obtain
21 the concurrence of the county sheriff.

22 (c) If a prisoner owes a restitution order imposed pursuant to
23 subdivision (c) of Section 13967 of the Government Code, as
24 operative prior to September 29, 1994, subdivision (h) of Section
25 730.6 of the Welfare and Institutions Code, or subdivision (f) of
26 Section 1202.4 of this code, the secretary shall deduct a minimum
27 of 20 percent or the balance owing on the order amount, whichever
28 is less, up to a maximum of 50 percent from the wages and trust
29 account deposits of a prisoner, unless prohibited by federal law.
30 The secretary shall transfer that amount to the California Victim
31 Compensation Board for direct payment to the victim, or payment
32 shall be made to the Restitution Fund to the extent that the victim
33 has received assistance pursuant to that program. The sentencing
34 court shall be provided a record of the payments made to victims
35 and of the payments deposited to the Restitution Fund pursuant to
36 this subdivision.

37 (d) If a prisoner is punished by imprisonment in a county jail
38 pursuant to subdivision (h) of Section 1170 and owes a restitution
39 order imposed pursuant to subdivision (c) of Section 13967 of the
40 Government Code, as operative prior to September 29, 1994,

subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4 of this code, the agency designated by the board of supervisors in the county where the prisoner is incarcerated is authorized to deduct a minimum of 20 percent or the balance owing on the order amount, whichever is less, up to a maximum of 50 percent from the county jail equivalent of wages and trust account deposits of a prisoner, unless prohibited by federal law. The agency shall transfer that amount to the California Victim Compensation Board for direct payment to the victim, or payment shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to that program, or may pay the victim directly. The sentencing court shall be provided a record of the payments made to the victims and of the payments deposited to the Restitution Fund pursuant to this subdivision.

(e) In any case in which a parolee owes a restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (b) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4 of this code, either the secretary or, if a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency designated by the board of supervisors in the county where the prisoner is incarcerated may collect from the parolee any moneys owing on the restitution fine amount, unless prohibited by federal law. The secretary or the agency shall transfer that amount to the California Victim Compensation Board for deposit in the Restitution Fund. The amount deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments.

(f) In any case in which a parolee owes a direct order of restitution, imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or paragraph (3) of subdivision (a) of Section 1202.4, either the secretary or, if a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency designated by the board of supervisors in the county where the prisoner is incarcerated or a local collection program may collect from the parolee any moneys owing, unless prohibited by federal

1 law. The secretary or the agency shall transfer that amount to the
2 California Victim Compensation Board for direct payment to the
3 victim, or payment shall be made to the Restitution Fund to the
4 extent that the victim has received assistance pursuant to that
5 program, or the agency may pay the victim directly. The sentencing
6 court shall be provided a record of the payments made by the
7 offender pursuant to this subdivision.

8 (g) If a prisoner has both a restitution fine and a restitution order
9 from the sentencing court, the department shall collect the
10 restitution order first pursuant to subdivision (c).

11 (h) If a prisoner is punished by imprisonment in a county jail
12 pursuant to subdivision (h) of Section 1170 and that prisoner has
13 both a restitution fine and a restitution order from the sentencing
14 court, if the agency designated by the board of supervisors in the
15 county where the prisoner is incarcerated collects the fine and
16 order, the agency shall collect the restitution order first pursuant
17 to subdivision (d).

18 (i) If a parolee has both a restitution fine and a restitution order
19 from the sentencing court, either the department or, if the prisoner
20 is punished by imprisonment in a county jail pursuant to
21 subdivision (h) of Section 1170, the agency designated by the
22 board of supervisors in the county where the prisoner is
23 incarcerated may collect the restitution order first, pursuant to
24 subdivision (f).

25 (j) If an inmate is housed at an institution that requires food to
26 be purchased from the institution canteen for unsupervised
27 overnight visits, and if the money for the purchase of this food is
28 received from funds other than the inmate's wages, that money
29 shall be exempt from restitution deductions. This exemption shall
30 apply to the actual amount spent on food for the visit up to a
31 maximum of fifty dollars (\$50) for visits that include the inmate
32 and one visitor, seventy dollars (\$70) for visits that include the
33 inmate and two or three visitors, and eighty dollars (\$80) for visits
34 that include the inmate and four or more visitors.

35 (k) (1) Amounts transferred to the California Victim
36 Compensation Board for payment of direct orders of restitution
37 shall be paid to the victim within 60 days from the date the
38 restitution revenues are received by the California Victim
39 Compensation Board. If the restitution payment to a victim is less
40 than twenty-five dollars (\$25), then payment need not be forwarded

1 to that victim until the payment reaches twenty-five dollars (\$25)
2 or when the victim requests payment of the lesser amount.

3 (2) If a victim cannot be located, the restitution revenues
4 received by the California Victim Compensation Board on behalf
5 of the victim shall be held in trust in the Restitution Fund until the
6 end of the state fiscal year subsequent to the state fiscal year in
7 which the funds were deposited or until the time that the victim
8 has provided current address information, whichever occurs sooner.
9 Amounts remaining in trust at the end of the specified period of
10 time shall revert to the Restitution Fund.

11 (3) (A) A victim failing to provide a current address within the
12 period of time specified in paragraph (2) may provide
13 documentation to the department, which shall verify that moneys
14 were collected on behalf of the victim. Upon receipt of that verified
15 information from the department, the California Victim
16 Compensation Board shall transmit the restitution revenues to the
17 victim in accordance with the provisions of subdivision (c) or (f).

18 (B) A victim failing to provide a current address within the
19 period of time specified in paragraph (2) may provide
20 documentation to the agency designated by the board of supervisors
21 in the county where the prisoner punished by imprisonment in a
22 county jail pursuant to subdivision (h) of Section 1170 is
23 incarcerated, which may verify that moneys were collected on
24 behalf of the victim. Upon receipt of that verified information from
25 the agency, the California Victim Compensation Board shall
26 transmit the restitution revenues to the victim in accordance with
27 the provisions of subdivision (d) or (f).

28 ~~SEC. 107.~~

29 *SEC. 74.* Section 2085.6 of the Penal Code is amended to read:

30 2085.6. (a) When a prisoner who owes a restitution fine, or
31 any portion thereof, is subsequently released from the custody of
32 the Department of Corrections and Rehabilitation or a county jail
33 facility, and is subject to postrelease community supervision under
34 Section 3451 or mandatory supervision under subdivision (h) of
35 Section 1170, the prisoner shall have a continuing obligation to
36 pay the restitution fine in full. The restitution fine obligation and
37 any portion left unsatisfied upon placement in postrelease
38 community supervision or mandatory supervision is enforceable
39 and may be collected, in a manner to be established by the county
40 board of supervisors, by the department or county agency

1 designated by the board of supervisors in the county where the
2 prisoner is released. If a county elects to collect restitution fines,
3 the department or county agency designated by the county board
4 of supervisors shall transfer the amount collected to the California
5 Victim Compensation Board for deposit in the Restitution Fund
6 in the State Treasury.

7 (b) When a prisoner who owes payment for a restitution order,
8 or any portion thereof, is released from the custody of the
9 Department of Corrections and Rehabilitation or a county jail
10 facility, and is subject to postrelease community supervision under
11 Section 3451 or mandatory supervision under subdivision (h) of
12 Section 1170, the prisoner shall have a continuing obligation to
13 pay the restitution order in full. The restitution order obligation
14 and any portion left unsatisfied upon placement in postrelease
15 community supervision or mandatory supervision is enforceable
16 and may be collected, in a manner to be established by the county
17 board of supervisors, by the agency designated by the county board
18 of supervisors in the county where the prisoner is released. If the
19 county elects to collect the restitution order, the agency designated
20 by the county board of supervisors for collection shall transfer the
21 collected amount to the California Victim Compensation *Board*
22 for deposit in the Restitution Fund in the State Treasury or may
23 pay the victim directly. The sentencing court shall be provided a
24 record of payments made to the victim and of the payments
25 deposited into the Restitution Fund.

26 (c) Any portion of a restitution order or restitution fine that
27 remains unsatisfied after an individual is released from postrelease
28 community supervision or mandatory supervision shall continue
29 to be enforceable by a victim pursuant to Section 1214 until the
30 obligation is satisfied.

31 (d) If a county elects to collect both a restitution fine and a
32 restitution order, the amount owed on the restitution order shall
33 be collected before the restitution fine.

34 (e) If a county elects to collect restitution fines and restitution
35 orders pursuant to this section, the county shall coordinate efforts
36 with the Franchise Tax Board pursuant to Section 19280 of the
37 Revenue and Taxation Code.

38 (f) Pursuant to Section 1214, the county agency selected by a
39 county board of supervisors to collect restitution fines and
40 restitution orders may collect restitution fines and restitution orders

1 after an individual is no longer on postrelease community
2 supervision or mandatory supervision or after a term in custody
3 pursuant to subparagraph (A) of paragraph (5) of subdivision (h)
4 of Section 1170.

5 (g) For purposes of this section, the following definitions shall
6 apply:

7 (1) “Restitution fine” means a fine imposed pursuant to
8 subdivision (a) of Section 13967 of the Government Code, as
9 operative prior to September 29, 1994, subdivision (b) of Section
10 730.6 of the Welfare and Institutions Code, or subdivision (b) of
11 Section 1202.4.

12 (2) “Restitution order” means an order for restitution to the
13 victim of a crime imposed pursuant to subdivision (c) of Section
14 13967 of the Government Code, as operative prior to September
15 29, 1994, subdivision (h) of Section 730.6 of the Welfare and
16 Institutions Code, or subdivision (f) of Section 1202.4.

17 ~~SEC. 108.~~

18 *SEC. 75.* Section 2085.7 of the Penal Code is amended to read:

19 2085.7. (a) When a prisoner who owes a restitution fine, or
20 any portion thereof, is released from the custody of a county jail
21 facility after completion of a term in custody pursuant to
22 subparagraph (A) of paragraph (5) of subdivision (h) of Section
23 1170, the prisoner has a continuing obligation to pay the restitution
24 fine in full. The balance of the restitution fine remaining unpaid
25 after completion of a term in custody pursuant to subparagraph
26 (A) of paragraph (5) of subdivision (h) of Section 1170 is
27 enforceable and may be collected, in a manner to be established
28 by the county board of supervisors, by the department or county
29 agency designated by the board of supervisors in the county in
30 which the prisoner is released. If a county elects to collect
31 restitution fines, the department or county agency designated by
32 the county board of supervisors shall transfer the amount collected
33 to the California Victim Compensation Board for deposit in the
34 Restitution Fund.

35 (b) When a prisoner who owes payment for a restitution order,
36 or any portion thereof, is released from the custody of a county
37 jail facility after completion of a term in custody pursuant to
38 subparagraph (A) of paragraph (5) of subdivision (h) of Section
39 1170, the prisoner has a continuing obligation to pay the restitution
40 order in full. The balance of the restitution order remaining unpaid

1 after completion of a term in custody pursuant to subparagraph
2 (A) of paragraph (5) of subdivision (h) of Section 1170 is
3 enforceable and may be collected, in a manner to be established
4 by the county board of supervisors, by the agency designated by
5 the county board of supervisors in the county in which the prisoner
6 is released. If the county elects to collect the restitution order, the
7 agency designated by the county board of supervisors for collection
8 shall transfer the collected amount to the California Victim
9 Compensation Board for deposit in the Restitution Fund or may
10 pay the victim directly. The sentencing court shall be provided a
11 record of payments made to the victim and of the payments
12 deposited into the Restitution Fund.

13 (c) The amount of a restitution order or restitution fine that
14 remains unsatisfied after completion of a term in custody pursuant
15 to subparagraph (A) of paragraph (5) of subdivision (h) of Section
16 1170 is to be enforceable by a victim pursuant to Section 1214
17 until the obligation is satisfied.

18 (d) If a county elects to collect both a restitution fine and a
19 restitution order, the amount owed on the restitution order shall
20 be collected before the restitution fine.

21 (e) If a county elects to collect restitution fines and restitution
22 orders pursuant to this section, the county shall coordinate efforts
23 with the Franchise Tax Board pursuant to Section 19280 of the
24 Revenue and Taxation Code.

25 (f) Pursuant to Section 1214, the county agency selected by a
26 county board of supervisors to collect restitution fines and
27 restitution orders may collect restitution fines and restitution orders
28 after an individual has completed a term in custody pursuant to
29 subparagraph (A) of paragraph (5) of subdivision (h) of Section
30 1170.

31 (g) For purposes of this section, the following definitions shall
32 apply:

33 (1) "Restitution fine" means a fine imposed pursuant to
34 subdivision (a) of Section 13967 of the Government Code, as
35 operative prior to September 29, 1994, subdivision (b) of Section
36 730.6 of the Welfare and Institutions Code, or subdivision (b) of
37 Section 1202.4.

38 (2) "Restitution order" means an order for restitution to the
39 victim of a crime imposed pursuant to subdivision (c) of Section
40 13967 of the Government Code, as operative prior to September

29, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or subdivision (f) of Section 1202.4.

~~SEC. 109. Section 3000.07 of the Penal Code is amended to read:~~

~~3000.07. Every inmate who has been convicted for any felony violation of a “registerable sex offense” described in subdivision (c) of Section 290 or any attempt to commit any of those offenses and who is committed to prison and released on parole pursuant to Section 3000 or 3000.1 shall be monitored by a global positioning system for the term of the inmate’s parole, or for the duration or any remaining part thereof, whichever period of time is less.~~

~~SEC. 110.~~

~~SEC. 76. Section 3010.8 of the Penal Code is repealed.~~

~~SEC. 111. Section 4011.1 of the Penal Code is amended to read:~~

~~4011.1. (a) Notwithstanding Section 29602 of the Government Code and any other provisions of this chapter, a county, city or the Department of Corrections and Rehabilitation, Division of Juvenile Justice is authorized to make claim for and recovery of the costs of necessary hospital, medical, surgical, dental, or optometric care rendered to any prisoner confined in a county or city jail or any juvenile confined in a detention facility, who would otherwise be entitled to that care under the Medi-Cal Act (Chapter 7 (commencing with Section 14000) Part 3, Division 9, of the Welfare and Institutions Code), and who is eligible for that care on the first day of confinement or detention, to the extent that federal financial participation is available, or under the provisions of any private program or policy for that care, and the county, city or the Division of Juvenile Justice shall be liable only for the costs of that care as cannot be recovered pursuant to this section. No person who is eligible for Medi-Cal shall be eligible for benefits under the provisions of this section, and no county or city or the Division of Juvenile Justice is authorized to make a claim for any recovery of costs for services for that person, unless federal financial participation is available for all or part of the costs of providing services to that person under the Medi-Cal Act.~~

~~(b) Notwithstanding any other law, any county or city making a claim pursuant to this section and under the Medi-Cal Act shall reimburse the Health Care Deposit Fund for the state costs of~~

1 ~~paying those medical claims. Funds allocated to the county from~~
2 ~~the County Health Services Fund pursuant to Part 4.5 (commencing~~
3 ~~with Section 16700) of Division 9 of the Welfare and Institutions~~
4 ~~Code may be utilized by the county or city to make that~~
5 ~~reimbursement.~~

6 ~~SEC. 112. Section 4011.2 of the Penal Code is repealed.~~

7 ~~SEC. 113. Section 4018.6 of the Penal Code is amended to~~
8 ~~read:~~

9 ~~4018.6. The sheriff of the county may authorize the temporary~~
10 ~~removal under custody or temporary release without custody of~~
11 ~~any inmate of the county jail, honor farm, or other detention facility~~
12 ~~for family emergencies or for purposes preparatory to the inmate's~~
13 ~~return to the community, if the sheriff concludes that such inmate~~
14 ~~is a fit subject therefor. Any such temporary removal shall not be~~
15 ~~for a period of more than three days. When an inmate is released~~
16 ~~for purposes preparatory to the inmate's return to the community,~~
17 ~~the sheriff shall not require the inmate to reimburse the county for~~
18 ~~expenses incurred by the county in connection therewith.~~

19 ~~SEC. 114.~~

20 ~~SEC. 77. Section 4024.2 of the Penal Code is amended to read:~~

21 ~~4024.2. (a) Notwithstanding any other law, the board of~~
22 ~~supervisors of any county may authorize the sheriff or other official~~
23 ~~in charge of county correctional facilities to offer a voluntary~~
24 ~~program under which any person committed to the facility may~~
25 ~~participate in a work release program pursuant to criteria described~~
26 ~~in subdivision (b), in which one day of participation will be in lieu~~
27 ~~of one day of confinement.~~

28 ~~(b) The criteria for a work release program are the following:~~

29 ~~(1) The work release program shall consist of any of the~~
30 ~~following:~~

31 ~~(A) Manual labor to improve or maintain levees or public~~
32 ~~facilities, including, but not limited to, streets, parks, and schools.~~

33 ~~(B) Manual labor in support of nonprofit organizations, as~~
34 ~~approved by the sheriff or other official in charge of the~~
35 ~~correctional facilities. As a condition of assigning participants of~~
36 ~~a work release program to perform manual labor in support of~~
37 ~~nonprofit organizations pursuant to this section, the board of~~
38 ~~supervisors shall obtain workers' compensation insurance which~~
39 ~~shall be adequate to cover work-related injuries incurred by those~~
40 ~~participants, in accordance with Section 3363.5 of the Labor Code.~~

1 (C) Performance of graffiti cleanup for local governmental
2 entities, including participation in a graffiti abatement program as
3 defined in subdivision (f) of Section 594, as approved by the sheriff
4 or other official in charge of the correctional facilities.

5 (D) Performance of weed and rubbish abatement on public and
6 private property pursuant to Chapter 13 (commencing with Section
7 39501) of Part 2 of Division 3 of Title 4 of the Government Code,
8 or Part 5 (commencing with Section 14875) or Part 6 (commencing
9 with Section 14930) of Division 12 of the Health and Safety Code,
10 as approved by the sheriff or other official in charge of the
11 correctional facilities.

12 (E) Performance of house repairs or yard services for senior
13 citizens and the performance of repairs to senior centers through
14 contact with local senior service organizations, as approved by the
15 sheriff or other official in charge of the correctional facilities.
16 Where a work release participant has been assigned to this task,
17 the sheriff or other official shall agree upon in advance with the
18 senior service organization about the type of services to be rendered
19 by the participant and the extent of contact permitted between the
20 recipients of these services and the participant.

21 (F) Any person who is not able to perform manual labor as
22 specified in this paragraph because of a medical condition, physical
23 disability, or age, may participate in a work release program
24 involving any other type of public sector work that is designated
25 and approved by the sheriff or other official in charge of county
26 correctional facilities.

27 (2) The sheriff or other official may permit a participant in a
28 work release program to receive work release credit for documented
29 participation in educational programs, vocational programs,
30 substance abuse programs, life skills programs, or parenting
31 programs. Participation in these programs shall be considered in
32 lieu of performing labor in a work release program, with eight
33 work-related hours to equal one day of custody credit.

34 (3) The work release program shall be under the direction of a
35 responsible person appointed by the sheriff or other official in
36 charge.

37 (4) The hours of labor to be performed pursuant to this section
38 shall be uniform for all persons committed to a facility in a county
39 and may be determined by the sheriff or other official in charge
40 of county correctional facilities, and each day shall be a minimum

1 of 8 and a maximum of 10 hours, in accordance with the normal
2 working hours of county employees assigned to supervise the
3 programs. However, reasonable accommodation may be made for
4 participation in a program under paragraph (2).

5 As used in this section, “nonprofit organizations” means
6 organizations established or operated for the benefit of the public
7 or in support of a significant public interest, as set forth in Section
8 501(c)(3) of the Internal Revenue Code. Organizations established
9 or operated for the primary purpose of benefiting their own
10 memberships are excluded.

11 (c) The board of supervisors may prescribe reasonable rules and
12 regulations under which a work release program is operated and
13 may provide that participants wear clothing of a distinctive
14 character while performing the work. As a condition of
15 participating in a work release program, a person shall give their
16 promise to appear for work or assigned activity by signing a notice
17 to appear before the sheriff or at the education, vocational, or
18 substance abuse program at a time and place specified in the notice
19 and shall sign an agreement that the sheriff may immediately retake
20 the person into custody to serve the balance of the person’s
21 sentence if the person fails to appear for the program at the time
22 and place agreed to, does not perform the work or activity assigned,
23 or for any other reason is no longer a fit subject for release under
24 this section. A copy of the notice shall be delivered to the person
25 and a copy shall be retained by the sheriff. Any person who
26 willfully violates their written promise to appear at the time and
27 place specified in the notice is guilty of a misdemeanor.

28 Whenever a peace officer has reasonable cause to believe the
29 person has failed to appear at the time and place specified in the
30 notice or fails to appear or work at the time and place agreed to or
31 has failed to perform the work assigned, the peace officer may,
32 without a warrant, retake the person into custody, or the court may
33 issue an arrest warrant for the retaking of the person into custody,
34 to complete the remainder of the original sentence. A peace officer
35 may not retake a person into custody under this subdivision,
36 without a warrant for arrest, unless the officer has a written order
37 to do so, signed by the sheriff or other person in charge of the
38 program, that describes with particularity the person to be retaken.

39 (d) This section does not require the sheriff or other official in
40 charge to assign a person to a program pursuant to this section if

1 it appears from the record that the person has refused to
2 satisfactorily perform as assigned or has not satisfactorily complied
3 with the reasonable rules and regulations governing the assignment
4 or any other order of the court.

5 A person shall be eligible for work release under this section
6 only if the sheriff or other official in charge concludes that the
7 person is a fit subject therefor.

8 ~~SEC. 115.— Section 5007.5 of the Penal Code is repealed.~~

9 ~~SEC. 116.— Section 5008.2 of the Penal Code is amended to~~
10 ~~read:~~

11 ~~5008.2. (a) During the intake medical examination or intake~~
12 ~~health screening, or while providing general information during~~
13 ~~intake, the department shall provide all inmates with information~~
14 ~~on hepatitis C, including, but not limited to, methods of hepatitis~~
15 ~~C transmission and prevention, and information on opportunities~~
16 ~~for screening and treatment while incarcerated. This subdivision~~
17 ~~shall be implemented only to the extent that brochures, other~~
18 ~~printed information, or other media is provided at no charge to the~~
19 ~~department by public health agencies or any other organization~~
20 ~~promoting hepatitis C education.~~

21 ~~(b) The department shall also provide hepatitis C screening to~~
22 ~~all inmates who request it, and offer it to inmates that have a history~~
23 ~~of intravenous drug use or other risk factors for hepatitis C. This~~
24 ~~testing shall be confidential. A medical copayment shall not be~~
25 ~~charged for hepatitis C testing, treatment, or any followup testing.~~

26 ~~SEC. 117.~~

27 ~~SEC. 78. Section 6266 of the Penal Code is repealed.~~

28 ~~SEC. 118.— Section 11208 of the Vehicle Code is amended to~~
29 ~~read:~~

30 ~~11208. (a) The department shall charge a fee, to be determined~~
31 ~~by the department, for the following traffic violator school program~~
32 ~~activities:~~

33 ~~(1) Original issuance of a traffic violator school owner, operator,~~
34 ~~instructor, and branch or classroom location license.~~

35 ~~(2) Renewal of a traffic violator school owner, operator,~~
36 ~~instructor, and branch or classroom location license.~~

37 ~~(3) Issuance of a duplicate or corrected traffic violator school~~
38 ~~owner, operator, instructor, and branch or classroom location~~
39 ~~license.~~

1 ~~(4) Transfer of an operator or instructor license from one traffic~~
2 ~~violation school to another.~~

3 ~~(5) Approval of curriculum, based on the instructional modality~~
4 ~~of the curriculum.~~

5 ~~(6) Fees for administering the examinations pursuant to Sections~~
6 ~~11206 and 11207.~~

7 ~~(b) The fees authorized under subdivision (a) shall be sufficient~~
8 ~~to defray the reasonable cost to the department to administer the~~
9 ~~traffic violation school program, except for routine monitoring of~~
10 ~~instruction.~~

11 ~~SEC. 119.~~

12 ~~SEC. 79.~~ Section 13386 of the Vehicle Code, as added by
13 Section 22 of Chapter 783 of the Statutes of 2016, is amended to
14 read:

15 13386. (a) (1) The department shall certify or cause to be
16 certified ignition interlock devices required by Article 5
17 (commencing with Section 23575) of Chapter 2 of Division 11.5
18 and publish a list of approved devices.

19 (2) (A) The department shall ensure that ignition interlock
20 devices that have been certified according to the requirements of
21 this section continue to meet certification requirements. The
22 department may periodically require manufacturers to indicate in
23 writing whether the devices continue to meet certification
24 requirements.

25 (B) The department may use denial of certification, suspension
26 or revocation of certification, or decertification of an ignition
27 interlock device in another state as an indication that the
28 certification requirements are not met, if either of the following
29 apply:

30 (i) The denial of certification, suspension or revocation of
31 certification, or decertification in another state constitutes a
32 violation by the manufacturer of Article 2.55 (commencing with
33 Section 125.00) of Chapter 1 of Division 1 of Title 13 of the
34 California Code of Regulations.

35 (ii) The denial of certification for an ignition interlock device
36 in another state was due to a failure of an ignition interlock device
37 to meet the standards adopted by the regulation set forth in clause
38 (i), specifically Sections 1 and 2 of the ~~model specification for~~
39 ~~breath alcohol ignition interlock devices, Model Specification for~~
40 *Breath Alcohol Ignition Interlock Devices*, as published by notice

1 in the Federal Register, Vol. 57, No. 67, Tuesday, April 7, 1992,
2 on pages 11774 to 11787, inclusive, or the Model Specifications
3 for Breath Alcohol Ignition Interlock Devices, as published by
4 notice in the Federal Register, Vol. 78, No. 89, Wednesday, May
5 8, 2013, on pages 25489 to 26867, inclusive.

6 (C) Failure to continue to meet certification requirements shall
7 result in suspension or revocation of certification of ignition
8 interlock devices.

9 (b) (1) A manufacturer shall not furnish an installer, service
10 center, technician, or consumer with technology or information
11 that allows a device to be used in a manner that is contrary to the
12 purpose for which it is certified.

13 (2) Upon a violation of paragraph (1), the department shall
14 suspend or revoke the certification of the ignition interlock device
15 that is the subject of that violation.

16 (c) An installer, service center, or technician shall not tamper
17 with, change, or alter the functionality of the device from its
18 certified criteria.

19 (d) The department shall utilize information from an
20 independent, accredited (ISO/IEC 17025) laboratory to certify
21 ignition interlock devices of the manufacturer or manufacturer's
22 agent, in accordance with the guidelines. The cost of certification
23 shall be borne by the manufacturers of ignition interlock devices.
24 If the certification of a device is suspended or revoked, the
25 manufacturer of the device shall be responsible for, and shall bear
26 the cost of, the removal of the device and the replacement of a
27 certified device of the manufacturer or another manufacturer.

28 (e) A model of ignition interlock device shall not be certified
29 unless it meets the accuracy requirements and specifications
30 provided in the guidelines adopted by the National Highway Traffic
31 Safety Administration.

32 (f) All manufacturers of ignition interlock devices that meet the
33 requirements of subdivision (e) and are certified in a manner
34 approved by the department, who intend to sell the devices in this
35 state, first shall apply to the department on forms provided by that
36 department. The application shall be accompanied by a fee in an
37 amount not to exceed the amount necessary to cover the costs
38 incurred by the department in carrying out this section.

39 (g) The department shall ensure that standard forms and
40 procedures are developed for documenting decisions and

1 compliance and communicating results to relevant agencies. These
2 forms shall include all of the following:

3 (1) An “Option to Install,” to be sent by the department to repeat
4 offenders along with the mandatory order of suspension or
5 revocation. This shall include the alternatives available for early
6 license reinstatement with the installation of an ignition interlock
7 device and shall be accompanied by a toll-free telephone number
8 for each manufacturer of a certified ignition interlock device.
9 Information regarding approved installation locations shall be
10 provided to drivers by manufacturers with ignition interlock devices
11 that have been certified in accordance with this section.

12 (2) A “Verification of Installation” to be returned to the
13 department by the reinstating offender upon application for
14 reinstatement. Copies shall be provided for the manufacturer or
15 the manufacturer’s agent.

16 (3) A “Notice of Noncompliance” and procedures to ensure
17 continued use of the ignition interlock device during the restriction
18 period and to ensure compliance with maintenance requirements.
19 The maintenance period shall be standardized at 60 days to
20 maximize monitoring checks for equipment tampering.

21 (h) A person who manufactures, installs, services, or repairs,
22 or otherwise deals in ignition interlock devices shall not disclose,
23 sell, or transfer to a third party any individually identifiable
24 information pertaining to individuals who are required by law to
25 install an ignition interlock device on a vehicle that the individual
26 owns or operates, except to the extent necessary to confirm or deny
27 that an individual has complied with ignition interlock device
28 installation and maintenance requirements.

29 (i) This section shall become operative January 1, 2026.

30 ~~SEC. 120. Section 21212 of the Vehicle Code is amended to~~
31 ~~read:~~

32 ~~21212. (a) A person under 18 years of age shall not operate a~~
33 ~~bicycle, a nonmotorized scooter, or a skateboard, nor wear in-line~~
34 ~~or roller skates, nor ride upon a bicycle, a nonmotorized scooter,~~
35 ~~or a skateboard as a passenger, upon a street, bikeway, as defined~~
36 ~~in Section 890.4 of the Streets and Highways Code, or any other~~
37 ~~public bicycle path or trail unless that person is wearing a properly~~
38 ~~fitted and fastened bicycle helmet that meets the standards of either~~
39 ~~the American Society for Testing and Materials (ASTM) or the~~
40 ~~United States Consumer Product Safety Commission (CPSC), or~~

standards subsequently established by those entities. This requirement also applies to a person who rides upon a bicycle while in a restraining seat that is attached to the bicycle or in a trailer towed by the bicycle.

(b) A helmet sold or offered for sale for use by operators and passengers of bicycles, nonmotorized scooters, skateboards, or in-line or roller skates shall be conspicuously labeled in accordance with the standard described in subdivision (a), which shall constitute the manufacturer's certification that the helmet conforms to the applicable safety standards.

(c) A person shall not sell, or offer for sale, for use by an operator or passenger of a bicycle, nonmotorized scooter, skateboard, or in-line or roller skates any safety helmet that is not of a type meeting requirements established by this section.

(d) A charge under this section shall be dismissed when the person charged alleges in court, under oath, that the charge against the person is the first charge against that person under this section, unless it is otherwise established in court that the charge is not the first charge against the person.

(e) (1) Except as provided in subdivision (d), a violation of this section is an infraction punishable by a fine of not more than twenty-five dollars (\$25).

(2) The parent or legal guardian having control or custody of an unemancipated minor whose conduct violates this section shall be jointly and severally liable with the minor for the amount of the fine imposed pursuant to this subdivision.

(f) A record of the action shall not be transmitted to the court upon a citation for not wearing a properly fitted and fastened bicycle helmet pursuant to subdivision (a) if the parent or legal guardian of the person described in subdivision (a) delivers proof to the issuing agency within 120 days after the citation was issued that the person has a helmet meeting the requirements specified in subdivision (a) and the person has completed a local bicycle safety course or a related safety course, if one is available, as prescribed by authorities in the local jurisdiction.

(g) Notwithstanding Section 1463 of the Penal Code or any other provision of law, the fines collected for a violation of this section shall be allocated as follows:

(1) Seventy-two and one-half percent of the amount collected shall be deposited in a special account of the county health

1 department, to be used for bicycle, nonmotorized scooter,
2 skateboard, and in-line and roller skate safety education and for
3 assisting low-income families in obtaining approved bicycle
4 helmets for children under the age of 18 years, either on a loan or
5 purchase basis. The county may contract for the implementation
6 of this program, which, to the extent practicable, shall be operated
7 in conjunction with the child passenger restraint program pursuant
8 to Section 27360.

9 (2) Two and one-half percent of the amount collected shall be
10 deposited in the county treasury to be used by the county to
11 administer the program described in paragraph (1).

12 (3) If the violation occurred within a city, 25 percent of the
13 amount collected shall be transferred to, and deposited in, the
14 treasury of that city. If the violation occurred in an unincorporated
15 area, this 25 percent shall be deposited and used pursuant to
16 paragraph (1).

17 SEC. 121.

18 SEC. 80. Section 23573 of the Vehicle Code, as amended by
19 Section 23 of Chapter 485 of the Statutes of 2017, is amended to
20 read:

21 23573. (a) The Department of Motor Vehicles, upon receipt
22 of the court's abstract of conviction for a violation listed in
23 subdivision (j), shall inform the convicted person of the
24 requirements of this section and the term for which the person is
25 required to have a functioning, certified ignition interlock device
26 installed. The records of the department shall reflect the mandatory
27 use of the device for the term required and the time when the device
28 is required to be installed pursuant to this code.

29 (b) The department shall advise the person that installation of
30 a functioning, certified ignition interlock device on a vehicle does
31 not allow the person to drive without a valid driver's license.

32 (c) (1) A person who is notified by the department pursuant to
33 subdivision (a) shall, within 30 days of notification, complete both
34 all of the following:

35 (A) Arrange for each vehicle operated by the person to be fitted
36 with a functioning, certified ignition interlock device by a certified
37 ignition interlock device provider under Section 13386.

38 (B) Notify the department and provide to the department proof
39 of installation by submitting the "Verification of Installation" form
40 described in paragraph (2) of subdivision (g) of Section 13386.

1 (C) Pay to the department a fee sufficient to cover the costs of
2 administration of this section, including startup costs, as
3 determined by the department.

4 (2) The person shall not be responsible for the costs of the
5 certified ignition interlock device or for servicing by installers.

6 (d) The department shall place a restriction on the driver's
7 license record of the convicted person that states the driver is
8 restricted to driving only vehicles equipped with a functioning,
9 certified ignition interlock device.

10 (e) (1) A person who is notified by the department pursuant to
11 subdivision (a) shall arrange for each vehicle with an ignition
12 interlock device to be serviced by the installer at least once every
13 60 days in order for the installer to recalibrate and monitor the
14 operation of the device.

15 (2) The installer shall notify the department if the device is
16 removed or indicates that the person has attempted to remove,
17 bypass, or tamper with the device, or if the person fails three or
18 more times to comply with any requirement for the maintenance
19 or calibration of the ignition interlock device.

20 (f) The department shall monitor the installation and
21 maintenance of the functioning, certified ignition interlock device
22 installed pursuant to subdivision (a).

23 (g) (1) A person who is notified by the department, pursuant
24 to subdivision (a), is exempt from the requirements of subdivision
25 (c) if all of the following circumstances occur:

26 (A) Within 30 days of the notification, the person certifies to
27 the department all of the following:

28 (i) The person does not own a vehicle.

29 (ii) The person does not have access to a vehicle at the person's
30 residence.

31 (iii) The person no longer has access to the vehicle being driven
32 by the person when the person was arrested for a violation that
33 subsequently resulted in a conviction for a violation listed in
34 subdivision (j).

35 (iv) The person acknowledges that the person is only allowed
36 to drive a vehicle that is fitted with a functioning, certified ignition
37 interlock device and that the person is required to have a valid
38 driver's license before the person can drive.

39 (v) The person is subject to the requirements of this section
40 when the person purchases or has access to a vehicle.

1 (B) The person's driver's license record has been restricted
2 pursuant to subdivision (d).

3 (C) The person complies with this section immediately upon
4 commencing operation of a vehicle subject to the required
5 installation of a functioning, certified ignition interlock device.

6 (2) A person who has been granted an exemption pursuant to
7 this subdivision and who subsequently drives a vehicle in violation
8 of the exemption is subject to the penalties of subdivision (i) in
9 addition to any other applicable penalties in law.

10 (h) This section does not permit a person to drive without a
11 valid driver's license.

12 (i) A person who is required under subdivision (c) to install a
13 functioning, certified ignition interlock device who willfully fails
14 to install the ignition interlock device within the time period
15 required under subdivision (c) is guilty of a misdemeanor and shall
16 be punished by imprisonment in a county jail for not more than
17 six months or by a fine of not more than five thousand dollars
18 (\$5,000), or by both that fine and imprisonment.

19 (j) In addition to all other requirements of this code, a person
20 convicted of any of the following violations shall be punished as
21 follows:

22 (1) Upon a conviction of a violation of Section 14601.2,
23 14601.4, or 14601.5 subsequent to one prior conviction of a
24 violation of Section 23103.5, 23152, or 23153, within a 10-year
25 period, the person shall immediately install a functioning, certified
26 ignition interlock device, pursuant to this section, in all vehicles
27 operated by that person for a term of one year.

28 (2) Upon a conviction of a violation of Section 14601.2,
29 14601.4, or 14601.5 subsequent to two prior convictions of a
30 violation of Section 23103.5, 23152, or 23153, within a 10-year
31 period, or one prior conviction of Section 14601.2, 14601.4, or
32 14601.5, within a 10-year period, the person shall immediately
33 install a functioning, certified ignition interlock device, pursuant
34 to this section, in all vehicles operated by that person for a term
35 of two years.

36 (3) Upon a conviction of a violation of Section 14601.2,
37 14601.4, or 14601.5 subsequent to three or more prior convictions
38 of a violation of Section 23103.5, 23152, or 23153, within a
39 10-year period, or two or more prior convictions of Section
40 14601.2, 14601.4, or 14601.5, within a 10-year period, the person

1 shall immediately install a functioning, certified ignition interlock
2 device, pursuant to this section, in all vehicles operated by that
3 person for a term of three years.

4 (k) The department shall notify the court if a person subject to
5 this section has failed to show proof of installation within 30 days
6 of the department informing the person they are required to install
7 a functioning, certified ignition interlock device.

8 (l) Subdivisions (g), (h), (j), (k), and (l) of Section 23575 apply
9 to this section.

10 (m) The requirements of this section are in addition to any other
11 requirements of law.

12 (n) This section shall become operative on January 1, 2019.

13 (o) This section shall remain in effect only until January 1, 2026,
14 and as of that date is repealed, unless a later enacted statute, that
15 is enacted before January 1, 2026, deletes or extends that date.

16 ~~SEC. 122.~~

17 *SEC. 81.* Section 23573 of the Vehicle Code, as amended by
18 Section 24 of Chapter 485 of the Statutes of 2017, is amended to
19 read:

20 23573. (a) The Department of Motor Vehicles, upon receipt
21 of the court's abstract of conviction for a violation listed in
22 subdivision (j), shall inform the convicted person of the
23 requirements of this section and the term for which the person is
24 required to have a functioning, certified ignition interlock device
25 installed. The records of the department shall reflect the mandatory
26 use of the device for the term required and the time when the device
27 is required to be installed pursuant to this code.

28 (b) The department shall advise the person that installation of
29 a functioning, certified ignition interlock device on a vehicle does
30 not allow the person to drive without a valid driver's license.

31 (c) (1) A person who is notified by the department pursuant to
32 subdivision (a) shall, within 30 days of notification, complete ~~both~~
33 *all* of the following:

34 (A) Arrange for each vehicle operated by the person to be fitted
35 with a functioning, certified ignition interlock device by a certified
36 ignition interlock device provider under Section 13386.

37 (B) Notify the department and provide to the department proof
38 of installation by submitting the "Verification of Installation" form
39 described in paragraph (2) of subdivision (g) of Section 13386.

1 (C) Pay to the department a fee sufficient to cover the costs of
2 administration of this section, including startup costs, as
3 determined by the department.

4 (2) The person shall not be responsible for the costs of the
5 certified ignition interlock device or for servicing by installers.

6 (d) The department shall place a restriction on the driver's
7 license record of the convicted person that states the driver is
8 restricted to driving only vehicles equipped with a functioning,
9 certified ignition interlock device.

10 (e) (1) A person who is notified by the department pursuant to
11 subdivision (a) shall arrange for each vehicle with an ignition
12 interlock device to be serviced by the installer at least once every
13 60 days in order for the installer to recalibrate and monitor the
14 operation of the device.

15 (2) The installer shall notify the department if the device is
16 removed or indicates that the person has attempted to remove,
17 bypass, or tamper with the device, or if the person fails three or
18 more times to comply with any requirement for the maintenance
19 or calibration of the ignition interlock device.

20 (f) The department shall monitor the installation and
21 maintenance of the ignition interlock device installed pursuant to
22 subdivision (a).

23 (g) (1) A person who is notified by the department, pursuant
24 to subdivision (a), is exempt from the requirements of subdivision
25 (c) if all of the following circumstances occur:

26 (A) Within 30 days of the notification, the person certifies to
27 the department all of the following:

28 (i) The person does not own a vehicle.

29 (ii) The person does not have access to a vehicle at the person's
30 residence.

31 (iii) The person no longer has access to the vehicle being driven
32 by the person when the person was arrested for a violation that
33 subsequently resulted in a conviction for a violation listed in
34 subdivision (j).

35 (iv) The person acknowledges that the person is only allowed
36 to drive a vehicle that is fitted with a functioning, certified ignition
37 interlock device and that the person is required to have a valid
38 driver's license before the person can drive.

39 (v) The person is subject to the requirements of this section
40 when the person purchases or has access to a vehicle.

1 (B) The person's driver's license record has been restricted
2 pursuant to subdivision (d).

3 (C) The person complies with this section immediately upon
4 commencing operation of a vehicle subject to the required
5 installation of a functioning, certified ignition interlock device.

6 (2) A person who has been granted an exemption pursuant to
7 this subdivision and who subsequently drives a vehicle in violation
8 of the exemption is subject to the penalties of subdivision (i) in
9 addition to any other applicable penalties in law.

10 (h) This section does not permit a person to drive without a
11 valid driver's license.

12 (i) A person who is required under subdivision (c) to install a
13 functioning, certified ignition interlock device who willfully fails
14 to install the ignition interlock device within the time period
15 required under subdivision (c) is guilty of a misdemeanor and shall
16 be punished by imprisonment in a county jail for not more than
17 six months or by a fine of not more than five thousand dollars
18 (\$5,000), or by both that fine and imprisonment.

19 (j) In addition to all other requirements of this code, a person
20 convicted of any of the following violations shall be punished as
21 follows:

22 (1) Upon a conviction of a violation of Section 14601.2,
23 14601.4, or 14601.5 subsequent to one prior conviction of a
24 violation of Section 23103.5, 23152, or 23153, within a 10-year
25 period, the person shall immediately install a functioning, certified
26 ignition interlock device, pursuant to this section, in all vehicles
27 operated by that person for a term of one year.

28 (2) Upon a conviction of a violation of Section 14601.2,
29 14601.4, or 14601.5 subsequent to two prior convictions of a
30 violation of Section 23103.5, 23152, or 23153, within a 10-year
31 period, or one prior conviction of Section 14601.2, 14601.4, or
32 14601.5, within a 10-year period, the person shall immediately
33 install a functioning, certified ignition interlock device, pursuant
34 to this section, in all vehicles operated by that person for a term
35 of two years.

36 (3) Upon a conviction of a violation of Section 14601.2,
37 14601.4, or 14601.5 subsequent to three or more prior convictions
38 of a violation of Section 23103.5, 23152, or 23153, within a
39 10-year period, or two or more prior convictions of Section
40 14601.2, 14601.4, or 14601.5, within a 10-year period, the person

1 shall immediately install a functioning, certified ignition interlock
2 device, pursuant to this section, in all vehicles operated by that
3 person for a term of three years.

4 (k) The department shall notify the court if a person subject to
5 this section has failed to show proof of installation within 30 days
6 of the department informing the person they are required to install
7 a functioning, certified ignition interlock device.

8 (l) Subdivisions (j), (k), (m), (n), and (o) of Section 23575 apply
9 to this section.

10 (m) The requirements of this section are in addition to any other
11 requirements of law.

12 (n) This section shall become operative January 1, 2026.

13 ~~SEC. 123.~~

14 *SEC. 82.* Section 23575.3 of the Vehicle Code is amended to
15 read:

16 23575.3. (a) In addition to any other requirement imposed by
17 law, a court shall notify a person convicted of a violation listed in
18 subdivision (h) that the person is required to install a functioning,
19 certified ignition interlock device on any vehicle that the person
20 operates and that the person is prohibited from operating a motor
21 vehicle unless that vehicle is equipped with a functioning, certified
22 ignition interlock device in accordance with this section.

23 (b) The Department of Motor Vehicles, upon receipt of the
24 court's abstract of conviction for a violation listed in subdivision
25 (h), shall inform the convicted person of the requirements of this
26 section, including the term for which the person is required to have
27 a certified ignition interlock device installed. The records of the
28 department shall reflect the mandatory use of the device for the
29 term required and the time when the device is required to be
30 installed by this code.

31 (c) The department shall advise the person that installation of
32 a functioning, certified ignition interlock device on a vehicle does
33 not allow the person to drive without a valid driver's license.

34 (d) (1) A person who is notified by the department pursuant to
35 subdivision (b) shall do ~~both~~ *all* of the following:

36 (A) Arrange for each vehicle operated by the person to be
37 equipped with a functioning, certified ignition interlock device by
38 a certified ignition interlock device provider under Section 13386.

1 (B) Provide to the department proof of installation by submitting
2 the “Verification of Installation” form described in paragraph (2)
3 of subdivision (g) of Section 13386.

4 (C) *Pay a fee, determined by the department, that is sufficient*
5 *to cover the costs of administration of this section.*

6 (2) A person who is notified by the department pursuant to
7 subdivision (b), is exempt from the requirements of this subdivision
8 until the time the person purchases or has access to a vehicle if,
9 within 30 days of the notification, the person certifies to the
10 department all of the following:

11 (A) The person does not own a vehicle.

12 (B) The person does not have access to a vehicle at the person’s
13 residence.

14 (C) The person no longer has access to the vehicle the person
15 was driving at the time the person was arrested for a violation that
16 subsequently resulted in a conviction for a violation listed in
17 subdivision (h).

18 (D) The person acknowledges that the person is only allowed
19 to drive a vehicle that is equipped with a functioning, certified
20 ignition interlock device.

21 (E) The person acknowledges that the person is required to have
22 a valid driver’s license before the person can drive.

23 (F) The person acknowledges that the person is subject to the
24 requirements of this section when the person purchases or has
25 access to a vehicle.

26 (3) The person shall not be responsible for the costs of the
27 certified ignition interlock device or for servicing by installers.

28 (e) In addition to any other restrictions the department places
29 on the driver’s license record of the convicted person when the
30 person is issued a restricted driver’s license pursuant to Section
31 13352 or 13352.4, the department shall place a restriction on the
32 driver’s license record of the person that states the driver is
33 restricted to driving only vehicles equipped with a functioning,
34 certified ignition interlock device for the applicable term.

35 (f) (1) A person who is notified by the department pursuant to
36 subdivision (b) shall arrange for each vehicle with a functioning,
37 certified ignition interlock device to be serviced by the installer at
38 least once every 60 days in order for the installer to recalibrate and
39 monitor the operation of the device.

1 (2) The installer shall notify the department if the device is
2 removed or indicates that the person has attempted to remove,
3 bypass, or tamper with the device, or if the person fails three or
4 more times to comply with any requirement for the maintenance
5 or calibration of the ignition interlock device.

6 (g) The department shall monitor the installation and
7 maintenance of the ignition interlock device installed pursuant to
8 subdivision (d).

9 (h) A person is required to install a functioning, certified ignition
10 interlock device pursuant to this section for the applicable term,
11 as follows:

12 (1) A person convicted of a violation of subdivision (a), (b),
13 (d), (e), or (g) of Section 23152 shall be required to do the
14 following, as applicable:

15 (A) Upon a conviction with no priors, punishable under Section
16 23536, only one of the following may occur:

17 (i) The court may order installation of a functioning, certified
18 ignition interlock device on any vehicle that the person operates
19 and prohibit that person from operating a motor vehicle unless that
20 vehicle is equipped with a functioning, certified ignition interlock
21 device. If the court orders the ignition interlock device restriction,
22 the term shall be determined by the court for a period not to exceed
23 six months from the date of conviction. The court shall notify the
24 department of the conviction as specified in subdivision (a) of
25 Section 1803 or Section 1816, and shall specify the terms of the
26 ignition interlock device restriction in accordance with subdivision
27 (a) of Section 1804. The department shall place the restriction on
28 the driver's license record of the person that states the driver is
29 restricted to driving only vehicles equipped with a functioning,
30 certified ignition interlock device for the applicable term.

31 (ii) The person may apply to the department for a restriction of
32 the driving privilege under Section 13352.4.

33 (iii) The person may apply to the department for a restriction
34 of the driving privilege under paragraph (1) of subdivision (a) of
35 Section 13352 or subdivision (c) of Section 13352.1.

36 (B) Upon a conviction with one prior, punishable under Section
37 23540, the person shall install a functioning, certified ignition
38 interlock device in the vehicle, as ordered by the court, that is
39 operated by that person for a mandatory term of 12 months.

1 (C) Upon a conviction with two priors, punishable under Section
2 23546, the person shall install a functioning, certified ignition
3 interlock device in the vehicle, as ordered by the court, that is
4 operated by that person for a mandatory term of 24 months.

5 (D) Upon a conviction with three or more priors punishable
6 under Section 23550, or a conviction punishable under Section
7 23550.5, the person shall install a functioning, certified ignition
8 interlock device in the vehicle, as ordered by the court, that is
9 operated by that person for a mandatory term of 36 months.

10 (2) A person convicted of a violation of subdivision (a), (b),
11 (d), (e), or (g) of Section 23153 shall install a functioning, certified
12 ignition interlock device, as follows:

13 (A) Upon a conviction with no priors, punishable under Section
14 23554, the person shall install a functioning, certified ignition
15 interlock device in the vehicle, as ordered by the court, that is
16 operated by that person for a mandatory term of 12 months.

17 (B) Upon a conviction with one prior, punishable under Section
18 23560, the person shall install a functioning, certified ignition
19 interlock device in the vehicle, as ordered by the court, that is
20 operated by that person for a mandatory term of 24 months.

21 (C) Upon a conviction with two priors, punishable under Section
22 23550 or 23566, the person shall install a functioning, certified
23 ignition interlock device in the vehicle, as ordered by the court,
24 that is operated by that person for a mandatory term of 36 months.

25 (D) Upon a conviction with one prior punishable under Section
26 23550.5, the person shall install a functioning, certified ignition
27 interlock device in the vehicle, as ordered by the court, that is
28 operated by that person for a mandatory term of 48 months.

29 (3) For the purposes of paragraphs (1) and (2), “prior” means
30 a conviction for a separate violation of Section 23103, as specified
31 in Section 23103.5, or Section 23152 or 23153, subdivision (a) or
32 (b) of Section 191.5 of, or subdivision (a) of Section 192.5 of, the
33 Penal Code, or subdivision (b), (c), (d), (e), or (f) of Section 655
34 of the Harbors and Navigation Code, that occurred within 10 years
35 of the current violation.

36 (4) The terms prescribed in this subdivision shall begin once a
37 person has complied with subparagraph (B) of paragraph (1) of
38 subdivision (d) and either upon the reinstatement of the privilege
39 to drive pursuant to Section 13352 or the issuance of a restricted
40 driver’s license pursuant to Section 13352. A person shall receive

1 credit for any period in which the person had a restricted driver's
2 license issued pursuant to Section 13353.6 or 13353.75.

3 (i) Subdivisions (g), (h), (j), and (k) of Section 23575 apply to
4 this section.

5 (j) If a person fails to comply with any of the requirements
6 regarding ignition interlock devices, the period in which the person
7 was not in compliance shall not be credited towards the mandatory
8 term for which the ignition interlock device is required to be
9 installed.

10 (k) This section does not permit a person to drive without a
11 valid driver's license.

12 (l) The requirements of this section are in addition to any other
13 requirements of law.

14 (m) For the purposes of this section, the following definitions
15 apply:

16 (1) "Bypass" means either of the following:

17 (A) Failure to take any random retest.

18 (B) Failure to pass a random retest with a breath alcohol
19 concentration not exceeding 0.03 percent, by weight of alcohol,
20 in the person's blood.

21 (2) "Operates" includes operating a vehicle that is not owned
22 by the person subject to this section.

23 (3) "Owned" means solely owned or owned in conjunction with
24 another person or legal entity.

25 (4) "Random retest" means a breath test performed by the driver
26 upon a certified ignition interlock device at random intervals after
27 the initial engine startup breath test and while the vehicle's motor
28 is running.

29 (5) "Vehicle" does not include a motorcycle until the state
30 certifies an ignition interlock device that can be installed on a
31 motorcycle. A person subject to an ignition interlock device
32 restriction shall not operate a motorcycle for the duration of the
33 ignition interlock device restriction period.

34 (n) The requirements of this section shall apply only to a person
35 who is convicted for a violation of Section 23152 or 23153 that
36 occurred on or after January 1, 2019.

37 (o) This section shall become operative on January 1, 2019.

38 (p) This section shall remain in effect only until January 1, 2026,
39 and as of that date is repealed, unless a later enacted statute, that
40 is enacted before January 1, 2026, deletes or extends that date.

1 ~~SEC. 124.~~

2 *SEC. 83.* Section 40508.5 of the Vehicle Code is repealed.

3 ~~SEC. 125.~~ Section 40508.6 of the Vehicle Code is repealed.

4 ~~SEC. 126.~~

5 *SEC. 84.* Section 40509 of the Vehicle Code is amended to
6 read:

7 40509. (a) Except as required under subdivision (b) of Section
8 40509.5, if a person has violated a written promise to appear or a
9 lawfully granted continuance of a promise to appear in court or
10 before the person authorized to receive a deposit of bail, or violated
11 an order to appear in court, including, but not limited to, a written
12 notice to appear issued in accordance with Section 40518, the
13 magistrate or clerk of the court may give notice of the failure to
14 appear to the department for any violation of this code, or any
15 violation that can be heard by a juvenile traffic hearing referee
16 pursuant to Section 256 of the Welfare and Institutions Code, or
17 any violation of any other statute relating to the safe operation of
18 a vehicle, except violations not required to be reported pursuant
19 to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section
20 1803. If thereafter the case in which the promise was given is
21 adjudicated or the person who has violated the court order appears
22 in court or otherwise satisfies the order of the court, the magistrate
23 or clerk of the court hearing the case shall sign and file with the
24 department a certificate to that effect.

25 (b) (1) Notwithstanding subdivision (a), the court may notify
26 the department of the total amount of bail, fines, and assessments
27 authorized or required by this code that are unpaid by a person.

28 (2) Once a court has established the amount of bail, fines, and
29 assessments and notified the department, the court shall not further
30 enhance or modify that amount.

31 (3) This subdivision applies only to violations of this code that
32 do not require a mandatory court appearance, are not contested by
33 the defendant, and do not require proof of correction certified by
34 the court.

35 (c) Any violation subject to Section 40001 that is the
36 responsibility of the owner of the vehicle shall not be reported
37 under this section.

38 ~~SEC. 127.~~

39 *SEC. 85.* Section 40510.5 of the Vehicle Code is amended to
40 read:

1 40510.5. (a) The clerk of the court may accept a payment and
2 forfeiture of at least 10 percent of the total bail amount for each
3 infraction violation of this code prior to the date on which the
4 defendant promised to appear, or prior to the expiration of any
5 lawful continuance of that date, or upon receipt of information that
6 an action has been filed and prior to the scheduled court date, if
7 all of the following circumstances exist:

8 (1) The defendant is charged with an infraction violation of this
9 code or an infraction violation of an ordinance adopted pursuant
10 to this code.

11 (2) The defendant submits proof of correction, when proof of
12 correction is mandatory for a correctable offense.

13 (3) The offense does not require an appearance in court.

14 (4) The defendant signs a written agreement to pay and forfeit
15 the remainder of the required bail according to an installment
16 schedule as agreed upon with the court. The Judicial Council shall
17 prescribe the form of the agreement for payment and forfeiture of
18 bail in installments for infraction violations.

19 (b) When a clerk accepts an agreement for payment and
20 forfeiture of bail in installments, the clerk shall continue the
21 appearance date of the defendant to the date to complete payment
22 and forfeiture of bail in the agreement.

23 (c) Except for subdivisions (b) and (c) of Section 1269b and
24 Section 1305.1, the provisions of Chapter 1 (commencing with
25 Section 1268) of Title 10 of Part 2 of the Penal Code do not apply
26 to an agreement to pay and forfeit bail in installments under this
27 section.

28 (d) For the purposes of reporting violations of this code to the
29 department under Section 1803, the date that the defendant signs
30 an agreement to pay and forfeit bail in installments shall be
31 reported as the date of conviction.

32 (e) Payment of a bail amount under this section is forfeited when
33 collected and shall be distributed by the court in the same manner
34 as other fines, penalties, and forfeitures collected for infractions.

35 ~~SEC. 128.~~

36 *SEC. 86.* Section 40512 of the Vehicle Code is amended to
37 read:

38 40512. (a) (1) Except as specified in paragraph (2) and
39 subdivision (b), if at the time the case is called for arraignment
40 before the magistrate the defendant does not appear, either in

1 person or by counsel, the magistrate may declare the bail forfeited
2 and may, in the magistrate's discretion, order that no further
3 proceedings be had in the case, unless the defendant has been
4 charged with a violation of Section 23111 or 23112, or subdivision
5 (a) of Section 23113, and has been previously convicted of the
6 same offense, except if the magistrate finds that undue hardship
7 will be imposed upon the defendant by requiring the defendant to
8 appear, the magistrate may declare the bail forfeited and order that
9 no further proceedings shall be had in the case.

10 (2) If the defendant has posted surety bail and the magistrate
11 has ordered the bail forfeited and that no further proceedings shall
12 be had in the case, the bail retains the right to obtain relief from
13 the forfeiture as provided in Section 1305 of the Penal Code if the
14 amount of the bond, money, or property deposited exceeds seven
15 hundred dollars (\$700).

16 (b) (1) If, at the time the case is called for a compliance
17 appearance before the magistrate, the defendant has entered into
18 a bail installment agreement pursuant to Section 40510.5 but has
19 not made an installment payment as agreed and does not appear,
20 either in person or by counsel, the court may continue the
21 arraignment to a date beyond the last agreed upon installment
22 payment or issue a warrant of arrest.

23 (2) If, at the time the case is called for a compliance appearance
24 before the magistrate, the defendant has paid all required bail funds
25 and the defendant does not appear, either in person or by counsel,
26 the court may order that no further proceedings shall be had in the
27 case, unless the defendant has been charged with a violation of
28 Section 23111 or 23112, or subdivision (a) of Section 23113, and
29 has been previously convicted of the same offense, except that if
30 the magistrate finds that undue hardship will be imposed upon the
31 defendant by requiring the defendant to appear, the magistrate may
32 order that no further proceedings shall be had in the case.

33 (c) Upon the making of the order that no further proceedings
34 shall be had, all sums deposited as bail shall be paid into the city
35 or county treasury, as the case may be.

36 (d) If a guaranteed traffic arrest bail bond certificate has been
37 filed, the clerk of the court shall bill the issuer for the amount of
38 bail fixed by the uniform countywide schedule of bail required
39 under subdivision (c) of Section 1269b of the Penal Code.

1 (e) Upon presentation by a court of the bill for a fine or bail
2 assessed against an individual covered by a guaranteed traffic
3 arrest bail bond certificate, the issuer shall pay to the court the
4 amount of the fine or forfeited bail that is within the maximum
5 amount guaranteed by the terms of the certificate.

6 (f) The court shall return the guaranteed traffic arrest bail bond
7 certificate to the issuer upon receipt of payment in accordance with
8 subdivision (d).

9 ~~SEC. 129. Section 40611 of the Vehicle Code is repealed.~~

10 ~~SEC. 130. Section 42003 of the Vehicle Code is amended to~~
11 ~~read:~~

12 ~~42003. (a) A judgment that a person convicted of an infraction~~
13 ~~be punished by a fine may also provide for the payment to be made~~
14 ~~within a specified time or in specified installments. A judgment~~
15 ~~granting a defendant time to pay the fine shall order that if the~~
16 ~~defendant fails to pay the fine or any installment thereof on the~~
17 ~~date that it is due, the defendant shall appear in court on that date~~
18 ~~for further proceedings. Willful violation of the order is punishable~~
19 ~~as contempt.~~

20 ~~(b) A judgment that a person convicted of any other violation~~
21 ~~of this code be punished by a fine may also order, adjudge, and~~
22 ~~decree that the person be imprisoned until the fine is satisfied. In~~
23 ~~all of these cases, the judgment shall specify the extent of the~~
24 ~~imprisonment which shall not exceed one day for every thirty~~
25 ~~dollars (\$30) of the fine, nor extend in this case beyond the term~~
26 ~~for which the defendant might be sentenced to imprisonment for~~
27 ~~the offense of which the defendant was convicted.~~

28 ~~(c) In any case when a person appears before a traffic referee~~
29 ~~or judge of the superior court for adjudication of a violation of this~~
30 ~~code, the court, upon request of the defendant, shall consider the~~
31 ~~defendant's ability to pay the fine. Consideration of a defendant's~~
32 ~~ability to pay the fine may include the defendant's future earning~~
33 ~~capacity. A defendant shall bear the burden of demonstrating lack~~
34 ~~of the defendant's ability to pay. Express findings by the court as~~
35 ~~to the factors bearing on the amount of the fine shall not be~~
36 ~~required. The court shall order the defendant to appear before a~~
37 ~~county officer designated by the court to make an inquiry into the~~
38 ~~ability of the defendant to pay all or a portion of the fine. At that~~
39 ~~hearing, the defendant shall be entitled to have, but shall not be~~
40 ~~limited to, the opportunity to be heard in person, to present~~

1 witnesses and other documentary evidence, to confront and
2 cross-examine adverse witnesses, to disclosure of the evidence
3 against them, and to a written statement of the findings of the court
4 or the county officer. If the court determines that the defendant
5 has the ability to pay all or part of the costs, the court shall set the
6 amount to be reimbursed and order the defendant to pay that sum
7 to the county in the manner in which the court believes reasonable
8 and compatible with the defendant's financial ability; or, with the
9 consent of a defendant who is placed on probation, the court shall
10 order the probation officer to set the amount of payment, which
11 shall not exceed the maximum amount set by the court, and the
12 manner in which the payment shall be made to the county. In
13 making a determination of whether a defendant has the ability to
14 pay, the court shall take into account any amount the defendant
15 has been ordered to pay in restitution.

16 The court may hold additional hearings during the probationary
17 period. If practicable, the court or the probation officer shall order
18 payments to be made on a monthly basis. Execution may be issued
19 on the order in the same manner as a judgment in a civil action.
20 The order to pay all or part of the costs shall not be enforced by
21 contempt.

22 (d) The term "ability to pay" means the overall capability of the
23 defendant to pay the fine or a portion of the fine and includes, but
24 is not limited to, all of the following regarding the defendant:

25 (1) Present financial position.

26 (2) Reasonably discernible future financial position. In no event
27 shall the court consider a period of more than six months from the
28 date of the hearing for purposes of determining reasonably
29 discernible future financial position.

30 (3) Likelihood that the defendant will be able to obtain
31 employment within the six-month period from the date of the
32 hearing.

33 (4) Any other factors that may bear upon the defendant's
34 financial capability to pay the fine.

35 (e) At any time during the pendency of the judgment rendered
36 according to the terms of this section, a defendant against whom
37 a judgment has been rendered may petition the rendering court to
38 modify or vacate its previous judgment on the grounds of a change
39 of circumstances with regard to the defendant's ability to pay the

1 judgment. The court shall advise the defendant of this right at the
2 time of rendering of the judgment.

3 ~~SEC. 131.~~

4 SEC. 87. Section 42007 of the Vehicle Code is amended to
5 read:

6 42007. (a) (1) The clerk of the court shall collect a fee from
7 every person who is ordered or permitted to attend a traffic violator
8 school pursuant to Section 41501 or 42005 in an amount equal to
9 the total bail set forth for the eligible offense on the uniform
10 countywide bail schedule. As used in this subdivision, “total bail”
11 means the amount established pursuant to Section 1269b of the
12 Penal Code in accordance with the Uniform Bail and Penalty
13 Schedule adopted by the Judicial Council, including all
14 assessments, surcharges, and penalty amounts. Where multiple
15 offenses are charged in a single notice to appear, the “total bail”
16 is the amount applicable for the greater of the qualifying offenses.
17 However, the court may determine a lesser fee under this
18 subdivision upon a showing that the defendant is unable to pay
19 the full amount.

20 The fee shall not include the cost, or any part thereof, of traffic
21 safety instruction offered by a traffic violator school.

22 (2) The clerk may accept from a defendant who is ordered or
23 permitted to attend traffic violator school a payment of at least 10
24 percent of the fee required by paragraph (1) upon filing a written
25 agreement by the defendant to pay the remainder of the fee
26 according to an installment payment schedule of no more than 90
27 days as agreed upon with the court. The Judicial Council shall
28 prescribe the form of the agreement for payment of the fee in
29 installments. When the defendant signs the Judicial Council form
30 for payment of the fee in installments, the court shall continue the
31 case to the date in the agreement to complete payment of the fee
32 and submit the certificate of completion of traffic violator school
33 to the court. *The clerk shall collect a fee of up to thirty-five dollars*
34 *(\$35) to cover administrative and clerical costs for processing an*
35 *installment payment of the traffic violator school fee under this*
36 *paragraph.*

37 (3) If a defendant fails to make an installment payment of the
38 fee according to an installment agreement, the court may convert
39 the fee to bail, declare it forfeited, and report the forfeiture as a
40 conviction under Section 1803. The court may also charge a failure

1 to pay under Section 40508 or issue an arrest warrant for a failure
2 to pay. For the purposes of reporting a conviction under this
3 subdivision to the department under Section 1803, the date that
4 the court declares the bail forfeited shall be reported as the date
5 of conviction.

6 (b) Revenues derived from the fee collected under this section
7 shall be deposited in accordance with Section 68084 of the
8 Government Code in the general fund of the county and, as may
9 be applicable, distributed as follows:

10 (1) In any county in which a fund is established pursuant to
11 Section 76100 or 76101 of the Government Code, the sum of one
12 dollar (\$1) for each fund so established shall be deposited with the
13 county treasurer and placed in that fund.

14 (2) In any county that has established a Maddy Emergency
15 Medical Services Fund pursuant to Section 1797.98a of the Health
16 and Safety Code, an amount equal to the sum of each two dollars
17 (\$2) for every seven dollars (\$7) that would have been collected
18 pursuant to Section 76000 of the Government Code and,
19 commencing January 1, 2009, an amount equal to the sum of each
20 two dollars (\$2) for every ten dollars (\$10) that would have been
21 collected pursuant to Section 76000.5 of the Government Code
22 with respect to those counties to which that section is applicable
23 shall be deposited in that fund. Nothing in the act that added this
24 paragraph shall be interpreted in a manner that would result in
25 either of the following:

26 (A) The utilization of penalty assessment funds that had been
27 set aside, on or before January 1, 2000, to finance debt service on
28 a capital facility that existed before January 1, 2000.

29 (B) The reduction of the availability of penalty assessment
30 revenues that had been pledged, on or before January 1, 2000, as
31 a means of financing a facility which was approved by a county
32 board of supervisors, but on January 1, 2000, is not under
33 construction.

34 (3) The amount of the fee that is attributable to Section 70372
35 of the Government Code shall be transferred pursuant to
36 subdivision (f) of that section.

37 (c) For fees resulting from city arrests, an amount equal to the
38 amount of base fines that would have been deposited in the treasury
39 of the appropriate city pursuant to paragraph (3) of subdivision

(b) of Section 1463.001 of the Penal Code shall be deposited in the treasury of the appropriate city.

(d) The clerk of the court, in a county that offers traffic school shall include in any courtesy notice mailed to a defendant for an offense that qualifies for traffic school attendance the following statement:

NOTICE: If you are eligible and decide not to attend traffic school your automobile insurance may be adversely affected. For drivers with a noncommercial driver's license, one conviction in any 18-month period will be held confidential and not show on your driving record if you complete a traffic violator school program. For drivers with a commercial driver's license, one conviction in any 18-month period will show on your driving record without a violation point if you complete a traffic violator school program.

(e) Notwithstanding any other provision of law, a county that has established a Maddy Emergency Medical Services Fund pursuant to Section 1797.98a of the Health and Safety Code shall not be held liable for having deposited into the fund, prior to January 1, 2009, an amount equal to two dollars (\$2) for every ten dollars (\$10) that would have been collected pursuant to Section 76000.5 of the Government Code from revenues derived from traffic violator school fees collected pursuant to this section.

~~SEC. 132. Section 42007.1 of the Vehicle Code is amended to read:~~

~~42007.1. (a) The amount collected by the clerk pursuant to subdivision (a) of Section 42007 shall be in an amount equal to the total bail set forth for the eligible offense on the uniform countywide bail schedule.~~

~~SEC. 133. Section 42007.3 of the Vehicle Code is amended to read:~~

~~42007.3. Notwithstanding Section 42007, revenues derived from fees collected under Section 42007 from each person required or permitted to attend traffic violator school pursuant to Section 41501 or 42005 as a result of a violation of subdivision (a) or (c) of Section 21453, subdivision (c) of Section 21454, or subdivision (a) of Section 21457 shall be allocated as follows:~~

1 ~~(a) The first 30 percent of the amount collected shall be allocated~~
2 ~~to the general fund of the city or county in which the offense~~
3 ~~occurred.~~

4 ~~(b) The balance of the amount collected shall be deposited by~~
5 ~~the county treasurer under Section 42007.~~

6 ~~SEC. 134. Section 42007.4 of the Vehicle Code is amended to~~
7 ~~read:~~

8 ~~42007.4. Notwithstanding Section 42007, revenues derived~~
9 ~~from fees collected under Section 42007 from each person required~~
10 ~~or permitted to attend traffic violator school pursuant to Section~~
11 ~~369b of the Penal Code as a result of a violation of subdivision (c)~~
12 ~~of Section 21752, involving railroad grade crossings, or Section~~
13 ~~22451 or 22452 shall be allocated as follows:~~

14 ~~(a) If the offense occurred in an area where a transit district or~~
15 ~~transportation commission established under Division 12~~
16 ~~(commencing with Section 130000) of the Public Utilities Code~~
17 ~~provides rail transportation, the first 30 percent of the amount~~
18 ~~collected shall be allocated to the general fund of that transit district~~
19 ~~or transportation commission to be used only for public safety and~~
20 ~~public education purposes relating to railroad grade crossings.~~

21 ~~(b) If there is no transit district or transportation commission~~
22 ~~providing rail transportation in the area where the offense occurred,~~
23 ~~the first 30 percent of the amount collected shall be allocated to~~
24 ~~the general fund of the county in which the offense occurred, to~~
25 ~~be used only for public safety and public education purposes~~
26 ~~relating to railroad grade crossings.~~

27 ~~(c) The balance of the amount collected shall be deposited by~~
28 ~~the county treasurer under Section 1463 of the Penal Code.~~

29 ~~(d) A transit district, transportation commission, or a county~~
30 ~~that is allocated funds pursuant to subdivision (a) or (b) shall~~
31 ~~provide public safety and public education relating to railroad~~
32 ~~grade crossings only to the extent that those purposes are funded~~
33 ~~by the allocations provided pursuant to subdivision (a) or (b).~~

34 ~~SEC. 135.~~

35 ~~SEC. 88. Section 42008.5 of the Vehicle Code is amended to~~
36 ~~read:~~

37 ~~42008.5. (a) A county may establish a one-time amnesty~~
38 ~~program for fines and bail that have been delinquent for not less~~
39 ~~than six months as of the date upon which the program commences~~
40 ~~and were imposed for an infraction or misdemeanor violation of~~

1 this code, except parking violations of this code and violations of
2 Section 23103, 23104, 23105, 23152, or 23153.

3 (b) A person owing a fine or bail that is eligible for amnesty
4 under the program may pay to the superior or juvenile court the
5 amount scheduled by the court, that shall be accepted by the court
6 in full satisfaction of the delinquent fine or bail and shall be either
7 of the following:

8 (1) Seventy percent of the total fine or bail.

9 (2) The amount of one hundred dollars (\$100) for an infraction
10 or five hundred dollars (\$500) for a misdemeanor.

11 (c) The amnesty program shall be implemented by the courts
12 of the county on a one-time basis and conducted in accordance
13 with Judicial Council guidelines for a period of not less than 120
14 days. The program shall operate not longer than six months from
15 the date the court initiates the program.

16 (d) No criminal action shall be brought against a person for a
17 delinquent fine or bail paid under the amnesty program and no
18 other additional penalties shall be assessed for the late payment
19 of the fine or bail made under the amnesty program.

20 (e) Notwithstanding Section 1463 of the Penal Code, the total
21 amount of funds collected by the courts pursuant to the amnesty
22 program shall be deposited in the county treasury until 150 percent
23 of the cost of operating the program, excluding capital
24 expenditures, have been so deposited. Thereafter, 37 percent of
25 the amount of the delinquent fines and bail deposited in the county
26 treasury shall be distributed by the county pursuant to Section 1464
27 of the Penal Code, 26 percent of the amount deposited shall be
28 distributed by the county pursuant to Article 2 (commencing with
29 Section 76100) of Chapter 12 of Title 8 of the Government Code,
30 and the remaining 37 percent of the amount deposited shall be
31 retained by the county.

32 (f) The deposit of fines and bails in the county treasury as
33 described in subdivision (e) is limited to the amnesty program
34 described in this section, and it is the intent of the Legislature that
35 it shall not be considered a precedent with respect to affecting
36 programs that receive funding pursuant to Section 1463 of the
37 Penal Code.

38 (g) Each county participating in the program shall file, not later
39 than six months after the termination of the program, a written
40 report with the Assembly Committee on Judiciary and the Senate

1 Committee on Judiciary. The report shall summarize the amount
2 of money collected, operating costs of the program, distribution
3 of funds collected, and when possible, how the funds were
4 expended.

5 ~~SEC. 136.~~

6 *SEC. 89.* Section 42008.7 of the Vehicle Code is amended to
7 read:

8 42008.7. (a) The State of California continues to face a fiscal
9 and economic crisis affecting the State Budget and the overall state
10 economy. In light of this crisis, a one-time infraction amnesty
11 program would do the following:

12 (1) Provide relief to individuals who have found themselves in
13 violation of a court-ordered obligation because they are financially
14 unable to pay traffic bail or fines.

15 (2) Provide increased revenue at a time when revenue is scarce
16 by encouraging payment of old fines that have remained unpaid.

17 (3) Allow courts and counties to resolve older delinquent cases
18 and focus limited resources on collecting on more recent cases.

19 (b) A one-time amnesty program for fines and bail meeting the
20 eligibility requirements set forth in subdivision (e) shall be
21 established in each county. Unless agreed otherwise by the court
22 and the county in writing, the government entities that are
23 responsible for the collection of delinquent court-ordered debt
24 shall be responsible for implementation of the amnesty program
25 as to that debt, maintaining the same division of responsibility in
26 place with respect to the collection of court-ordered debt under
27 subdivision (b) of Section 1463.010 of the Penal Code.

28 (c) As used in this section, the term “fine” or “bail” refers to
29 the total amounts due in connection with a specific violation, which
30 ~~include, but are~~ *includes, but is* not limited to, the following:

31 (1) Base fine or bail, as established by court order, by statute,
32 or by the court’s bail schedule.

33 (2) Penalty assessments imposed pursuant to Section 1464 of
34 the Penal Code and Sections 70372, 76000, 76000.5, 76104.6, and
35 76104.7 of the Government Code.

36 (3) State surcharge imposed pursuant to Section 1465.7 of the
37 Penal Code.

38 (4) Court security fee imposed pursuant to Section 1465.8 of
39 the Penal Code.

(d) In addition to and at the same time as the mandatory one-time amnesty program is established pursuant to subdivision (b), the court and the county may jointly agree to extend that amnesty program to fines and bail imposed for a misdemeanor violation of this code and a violation of Section 853.7 of the Penal Code added to the misdemeanor case otherwise subject to the amnesty. The amnesty program authorized pursuant to this subdivision shall not apply to parking violations and violations of Section 23103, 23104, 23105, 23152, or 23153 of this code.

(e) Violations are only eligible for amnesty if paragraph (1), (2), or (3) applies and the requirements of paragraphs (4), (5), and (6) are met:

(1) The violation is an infraction violation filed with the court.

(2) It is a violation of subdivision (a) or (b) of Section 40508, or a violation of Section 853.7 of the Penal Code added to the case subject to paragraph (1).

(3) The violation is a misdemeanor violation filed with the court to which subdivision (d) applies.

(4) The due date for payment of the fine or bail was on or before January 1, 2009.

(5) The defendant does not owe victim restitution on any case within the county.

(6) There are no outstanding misdemeanor or felony warrants for the defendant within the county, except for misdemeanor warrants for misdemeanor violations authorized by the court and the county pursuant to subdivision (d).

(f) Each amnesty program shall accept, in full satisfaction of any eligible fine or bail, 50 percent of the fine or bail amount, as defined in subdivision (c) of this section. Payment of a fine or bail under an amnesty program implemented pursuant to this section shall be accepted beginning January 1, 2012, and ending June 30, 2012. The Judicial Council shall adopt guidelines for the amnesty program no later than November 1, 2011, and each program shall be conducted in accordance with Judicial Council guidelines.

(g) No criminal action shall be brought against a person for a delinquent fine or bail paid under the amnesty program.

(h) The total amount of funds collected under the amnesty program shall as soon as practical after receipt thereof be deposited in the county treasury or the account established under Section 77009 of the Government Code. Any unreimbursed costs of

operating the amnesty program, excluding capital expenditures, may be deducted from the revenues collected under the amnesty program by the court or the county that incurred the expense of operating the program. Notwithstanding Section 1203.1d of the Penal Code, the remaining revenues collected under the amnesty program shall be distributed on a pro rata basis in the same manner as a partial payment distributed pursuant to Section 1462.5 of the Penal Code.

(i) Each court or county implementing an amnesty program shall file, not later than September 30, 2012, a written report with the Judicial Council, on a form approved by the Judicial Council. The report shall include information about the number of cases resolved, the amount of money collected, and the operating costs of the amnesty program. Notwithstanding Section 10231.5 of the Government Code, on or before December 31, 2012, the Judicial Council shall submit a report to the Legislature summarizing the information provided by each court or county.

~~SEC. 137. Section 42008.8 of the Vehicle Code is amended to read:~~

~~42008.8. (a) The Legislature finds and declares that a one-time infraction amnesty program would do all of the following:~~

~~(1) Provide relief to individuals who have found themselves in violation of a court-ordered obligation because they have unpaid traffic bail or fines.~~

~~(2) Provide relief to individuals who have found themselves in violation of a court-ordered obligation or who have had their driving privileges suspended pursuant to Section 13365.~~

~~(3) Provide increased revenue at a time when revenue is scarce by encouraging payment of old fines that have remained unpaid.~~

~~(4) Allow courts and counties to resolve older delinquent cases and focus limited resources on collections for more recent cases.~~

~~(b) A one-time amnesty program for unpaid fines and bail meeting the eligibility requirements set forth in subdivision (g) shall be established in each county. Unless agreed otherwise by the court and the county in writing, the government entities that are responsible for the collection of delinquent court-ordered debt shall be responsible for implementation of the amnesty program as to that debt, maintaining the same division of responsibility in place with respect to the collection of court-ordered debt under subdivision (b) of Section 1463.010 of the Penal Code.~~

1 (e) ~~As used in this section, the term “fine” or “bail” refers to~~
2 ~~the total amounts due in connection with a specific violation;~~
3 ~~including, but not limited to, all of the following:~~

4 (1) ~~Base fine or bail, as established by court order, by statute,~~
5 ~~or by the court’s bail schedule.~~

6 (2) ~~Penalty assessments imposed pursuant to Section 1464 of~~
7 ~~the Penal Code, and Sections 70372, 76000, 76000.5, 76104.6,~~
8 ~~and 76104.7 of, and paragraph (1) of subdivision (c) of Section~~
9 ~~76000.10 of, the Government Code, and Section 42006 of this~~
10 ~~code.~~

11 (3) ~~State surcharges imposed pursuant to Section 1465.7 of the~~
12 ~~Penal Code.~~

13 (4) ~~Court operations assessments imposed pursuant to Section~~
14 ~~1465.8 of the Penal Code.~~

15 (5) ~~Criminal conviction assessments pursuant to Section 70373~~
16 ~~of the Government Code.~~

17 (d) ~~Notwithstanding subdivision (c), any civil assessment~~
18 ~~imposed pursuant to former Section 1214.1 of the Penal Code shall~~
19 ~~not be collected, nor shall the payment of that assessment be a~~
20 ~~requirement of participation in the amnesty program.~~

21 (e) ~~Concurrent with the amnesty program established pursuant~~
22 ~~to subdivision (b), between October 1, 2015, to March 31, 2017,~~
23 ~~inclusive, the following shall apply:~~

24 (1) ~~The court shall, within 90 days, issue and file the appropriate~~
25 ~~certificate pursuant to subdivisions (a) and (b) of Section 40509~~
26 ~~for any participant of the one-time amnesty program established~~
27 ~~pursuant to subdivision (b) demonstrating that the participant has~~
28 ~~appeared in court, paid the fine, or otherwise satisfied the court,~~
29 ~~if the driving privilege of that participant was suspended pursuant~~
30 ~~to Section 13365 in connection with a specific violation described~~
31 ~~in paragraph (1), (2), or (3) of subdivision (g). For applications~~
32 ~~submitted prior to January 1, 2017, that remain outstanding as of~~
33 ~~that date, the court shall issue and file the certificate no later than~~
34 ~~March 31, 2017. For applications submitted on or before March~~
35 ~~31, 2017, all terms and procedures related to the participant’s~~
36 ~~payment plans shall remain in effect after March 31, 2017.~~

37 (2) ~~The court shall, within 90 days, issue and file with the~~
38 ~~department the appropriate certificate pursuant to subdivisions (a)~~
39 ~~and (b) of Section 40509 for any person in good standing in a~~
40 ~~comprehensive collection program pursuant to subdivision (c) of~~

1 Section 1463.007 of the Penal Code demonstrating that the person
2 has appeared in court, paid the fine, or otherwise satisfied the court,
3 if the driving privilege was suspended pursuant to Section 13365
4 in connection with a specific violation described in paragraph (1);
5 (2), or (3) of subdivision (g). For applications submitted prior to
6 January 1, 2017, that remain outstanding as of that date, the court
7 shall issue and file the certificate no later than March 31, 2017.
8 For applications submitted on or before March 31, 2017, all terms
9 and procedures related to the participant's payment plans shall
10 remain in effect after March 31, 2017.

11 (3) Any person who is eligible for a driver's license pursuant
12 to Section 12801, 12801.5, or 12801.9 shall be eligible for the
13 amnesty program established pursuant to subdivision (b) for any
14 specific violation described in subdivision (g). The department
15 shall issue a driver's license to any person who is eligible pursuant
16 to Section 12801, 12801.5, or 12801.9 if the person is participating
17 in the amnesty program and is otherwise eligible for the driver's
18 license but for the fines or bail to be collected through the program.

19 (4) The Department of Motor Vehicles shall not deny reinstating
20 the driving privilege of any person who participates in the amnesty
21 program established pursuant to subdivision (b) for any fines or
22 bail in connection with the specific violation that is the basis for
23 participation in the amnesty program.

24 (f) In addition to, and at the same time as, the mandatory
25 one-time amnesty program is established pursuant to subdivision
26 (b), the court and the county may jointly agree to extend that
27 amnesty program to fines and bail imposed for a misdemeanor
28 violation of this code and a violation of Section 853.7 of the Penal
29 Code that was added to the misdemeanor case otherwise subject
30 to the amnesty. The amnesty program authorized pursuant to this
31 subdivision shall not apply to parking violations and violations of
32 Sections 23103, 23104, 23105, 23152, and 23153.

33 (g) A violation is only eligible for amnesty if paragraph (1), (2),
34 or (3) applies, and the requirements of paragraphs (4) to (8),
35 inclusive, are met:

36 (1) The violation is an infraction violation filed with the court.

37 (2) It is a violation of subdivision (a) or (b) of Section 40508,
38 or a violation of Section 853.7 of the Penal Code that was added
39 to the case subject to paragraph (1).

1 ~~(3) The violation is a misdemeanor violation filed with the court~~
2 ~~to which subdivision (f) applies.~~

3 ~~(4) The initial due date for payment of the fine or bail was on~~
4 ~~or before January 1, 2013.~~

5 ~~(5) There are no outstanding misdemeanor or felony warrants~~
6 ~~for the defendant within the county, except for misdemeanor~~
7 ~~warrants for misdemeanor violations subject to this section.~~

8 ~~(6) The person does not owe victim restitution on any case~~
9 ~~within the county.~~

10 ~~(7) The person has not made any payments for the violation~~
11 ~~after September 30, 2015, to a comprehensive collection program~~
12 ~~in the county pursuant to subdivision (c) of Section 1463.007 of~~
13 ~~the Penal Code.~~

14 ~~(8) The person filed a request with the court on or before March~~
15 ~~31, 2017.~~

16 ~~(h) (1) Except as provided in paragraph (2), each amnesty~~
17 ~~program shall accept, in full satisfaction of any eligible fine or~~
18 ~~bail, 50 percent of the fine or bail amount, as defined in subdivision~~
19 ~~(c).~~

20 ~~(2) If the participant certifies under penalty of perjury that the~~
21 ~~participant receives any of the public benefits listed in subdivision~~
22 ~~(a) of Section 68632 of the Government Code or is within the~~
23 ~~conditions described in subdivision (b) of Section 68632 of the~~
24 ~~Government Code, the amnesty program shall accept, in full~~
25 ~~satisfaction of any eligible fine or bail, 20 percent of the fine or~~
26 ~~bail amount, as defined in subdivision (c).~~

27 ~~(i) The Judicial Council, in consultation with the California~~
28 ~~State Association of Counties, shall adopt guidelines for the~~
29 ~~amnesty program no later than October 1, 2015, and each program~~
30 ~~shall be conducted in accordance with the Judicial Council's~~
31 ~~guidelines. As part of its guidelines, the Judicial Council shall~~
32 ~~include all of the following:~~

33 ~~(1) A payment plan option created pursuant to Judicial Council~~
34 ~~guidelines in which a monthly payment is equal to the amount that~~
35 ~~an eligible participant can afford to pay per month consistent with~~
36 ~~Sections 68633 and 68634 of the Government Code. If a participant~~
37 ~~chooses the payment plan option, the county or court shall collect~~
38 ~~all relevant information to allow for collection by the Franchise~~
39 ~~Tax Board pursuant to existing protocols prescribed by the~~
40 ~~Franchise Tax Board to collect delinquent debts of any amount in~~

1 which a participant is delinquent or otherwise in default under the
2 amnesty payment plan:

3 ~~(2) If a participant does not comply with the terms of the~~
4 ~~participant's payment plan under the amnesty program, including~~
5 ~~failing to make one or more payments, the appropriate agency~~
6 ~~shall send a notice to the participant that they have failed to make~~
7 ~~one or more payments and that the participant has 30 days to either~~
8 ~~resume making payments or to request that the agency change the~~
9 ~~payment amount. If the participant fails to respond to the notice~~
10 ~~within 30 days, the appropriate agency may refer the participant~~
11 ~~to the Franchise Tax Board for collection of any remaining balance~~
12 ~~owed, including an amount equal to the reasonable administrative~~
13 ~~costs incurred by the Franchise Tax Board to collect the delinquent~~
14 ~~amount owed. The Franchise Tax Board shall collect any~~
15 ~~delinquent amounts owed pursuant to existing protocols prescribed~~
16 ~~by the Franchise Tax Board. The comprehensive collection~~
17 ~~program may also utilize additional collection efforts pursuant to~~
18 ~~Section 1463.007 of the Penal Code, except for subparagraph (C)~~
19 ~~of paragraph (4) of subdivision (c) of that section.~~

20 ~~(3) A plan for outreach that will, at a minimum, make available~~
21 ~~via an internet website relevant information regarding the amnesty~~
22 ~~program, including how an individual may participate in the~~
23 ~~amnesty program.~~

24 ~~(4) The Judicial Council shall reimburse costs incurred by the~~
25 ~~Department of Motor Vehicles up to an amount not to exceed two~~
26 ~~hundred fifty thousand dollars (\$250,000), including all of the~~
27 ~~following:~~

28 ~~(A) Providing on a separate insert with each motor vehicle~~
29 ~~registration renewal notice a summary of the amnesty program~~
30 ~~established pursuant to this section that is compliant with Section~~
31 ~~7292 of the Government Code.~~

32 ~~(B) Posting on the department's internet website information~~
33 ~~regarding the amnesty program.~~

34 ~~(C) Personnel costs associated with the amnesty program.~~

35 ~~(j) The Judicial Council, in consultation with the department,~~
36 ~~may, within its existing resources, consider, adopt, or develop~~
37 ~~recommendations for an appropriate mechanism or mechanisms~~
38 ~~to allow reinstatement of the driving privilege of any person who~~
39 ~~otherwise meets the criteria for amnesty but who has violations in~~
40 ~~more than one county.~~

1 ~~(k) A criminal action shall not be brought against a person for~~
2 ~~a delinquent fine or bail paid under the amnesty program.~~

3 ~~(l) (1) The total amount of funds collected under the amnesty~~
4 ~~program shall, as soon as practical after receipt thereof, be~~
5 ~~deposited in the county treasury or the account established under~~
6 ~~Section 77009 of the Government Code. After acceptance of the~~
7 ~~amount specified in subdivision (h), notwithstanding Section~~
8 ~~1203.1d of the Penal Code, the remaining revenues collected under~~
9 ~~the amnesty program shall be distributed on a pro rata basis in the~~
10 ~~same manner as a partial payment distributed pursuant to Section~~
11 ~~1462.5 of the Penal Code.~~

12 ~~(2) Notwithstanding Section 1464 of the Penal Code, the amount~~
13 ~~of funds collected pursuant to this section that would be available~~
14 ~~for distribution pursuant to subdivision (f) of Section 1464 of the~~
15 ~~Penal Code shall instead be distributed as follows:~~

16 ~~(A) The first two hundred fifty thousand dollars (\$250,000)~~
17 ~~received shall be transferred to the Judicial Council.~~

18 ~~(B) Following the transfer of the funds described in~~
19 ~~subparagraph (A), once a month, both of the following transfers~~
20 ~~shall occur:~~

21 ~~(i) An amount equal to 82.20 percent of the amount of funds~~
22 ~~collected pursuant to this section during the preceding month shall~~
23 ~~be transferred into the Peace Officers' Training Fund.~~

24 ~~(ii) An amount equal to 17.80 percent of the amount of funds~~
25 ~~collected pursuant to this section during the preceding month shall~~
26 ~~be transferred into the Corrections Training Fund.~~

27 ~~(m) Each court or county implementing an amnesty program~~
28 ~~shall file, not later than May 31, 2017, a written report with the~~
29 ~~Judicial Council, on a form approved by the Judicial Council. The~~
30 ~~report shall include information about the number of cases resolved,~~
31 ~~the amount of money collected, and the operating costs of the~~
32 ~~amnesty program. Notwithstanding Section 10231.5 of the~~
33 ~~Government Code, on or before August 31, 2017, the Judicial~~
34 ~~Council shall submit a report to the Legislature summarizing the~~
35 ~~information provided by each court or county.~~

36 ~~SEC. 138.~~

37 ~~SEC. 90. Section 44237 is added to the Vehicle Code, to read:~~

38 ~~44237. On and after January 1, 2020, the unpaid balance of~~
39 ~~any court-imposed costs pursuant to subdivision (e) of Section~~
40 ~~44208, Sections 23573, 23575.3, 40508.5, and 40508.6; and~~

1 40508.5, and subdivision (g) of Section 40510.5, ~~Section 40611,~~
2 ~~the imposition of the thirty-five-dollar (\$35) fee specified in~~
3 ~~paragraph (2) of subdivision (a) of Section 42007, the~~
4 ~~forty-nine-dollar (\$49) fee specified in Section 42007.1, and~~
5 ~~paragraph (2) of subdivision (i) of Section 42008.8,~~ as those
6 sections read on December 31, 2019, shall be unenforceable and
7 uncollectible and any portion of a judgment imposing those costs
8 shall be vacated.

9 ~~SEC. 139.~~

10 *SEC. 91.* Section 903.3 of the Welfare and Institutions Code
11 is repealed.

12 ~~SEC. 140.~~

13 *SEC. 92.* Section 903.45 of the Welfare and Institutions Code
14 is amended to read:

15 903.45. (a) The board of supervisors may designate a county
16 financial evaluation officer pursuant to Section 27750 of the
17 Government Code to make financial evaluations of liability for
18 reimbursement pursuant to Sections 903, 903.1, 903.2, 903.25,
19 and 903.5, and other reimbursable costs allowed by law, as set
20 forth in this section.

21 (b) (1) (A) In a county where a board of supervisors has
22 designated a county financial evaluation officer, the juvenile court
23 shall, at the close of the disposition hearing, order any person liable
24 for the cost of support, pursuant to Section 903, the cost of legal
25 services as provided for in Section 903.1, supervision costs as
26 provided for in Section 903.2, or any other reimbursable costs
27 allowed under this code, to appear before the county financial
28 evaluation officer for a financial evaluation of the person's ability
29 to pay those costs. If the responsible person is not present at the
30 disposition hearing, the court shall cite the person to appear for a
31 financial evaluation. In the case of a parent, guardian, or other
32 person assessed for the costs of transport, food, shelter, or care of
33 a minor under Section 903.25, the juvenile court shall, upon request
34 of the county probation department, order the appearance of the
35 parent, guardian, or other person before the county financial
36 evaluation officer for a financial evaluation of their ability to pay
37 the costs assessed.

38 (B) (i) This paragraph does not apply to costs described in this
39 paragraph for purposes of a minor who is adjudged a ward of the
40 juvenile court, who is placed on probation pursuant to Section 725,

1 who is the subject of a petition that has been filed to adjudge the
2 minor a ward of the juvenile court, or who is the subject of a
3 program of supervision undertaken pursuant to Section 654.

4 (ii) Notwithstanding clause (i), this paragraph applies to a minor
5 who is designated as a dual status child pursuant to Section 241.1,
6 for purposes of the dependency jurisdiction only and not for
7 purposes of the delinquency jurisdiction.

8 (2) If the county financial evaluation officer determines that a
9 person so responsible has the ability to pay all or part of the costs,
10 the county financial evaluation officer shall petition the court for
11 an order requiring the person to pay that sum to the county or court,
12 depending on which entity incurred the expense. If the parent or
13 guardian is liable for costs for legal services pursuant to Section
14 903.1, the parent or guardian has been reunified with the child
15 pursuant to a court order, and the county financial evaluation officer
16 determines that repayment of the costs would harm the ability of
17 the parent or guardian to support the child, then the county financial
18 evaluation officer shall not petition the court for an order of
19 repayment, and the court shall not make that order. In addition, if
20 the parent or guardian is currently receiving reunification services,
21 and the court finds, or the county financial officer determines, that
22 repayment by the parent or guardian will pose a barrier to
23 reunification with the child because it will limit the ability of the
24 parent or guardian to comply with the requirements of the
25 reunification plan or compromise the parent's or guardian's current
26 or future ability to meet the financial needs of the child, or in any
27 case in which the court finds that the repayment would be unjust
28 under the circumstances of the case, then the county financial
29 evaluation officer shall not petition the court for an order of
30 repayment, and the court shall not order repayment by the parent
31 or guardian. In evaluating a person's ability to pay under this
32 section, the county financial evaluation officer and the court shall
33 take into consideration the family's income, the necessary
34 obligations of the family, and the number of persons dependent
35 upon this income. A person appearing for a financial evaluation
36 has the right to dispute the county financial evaluation officer's
37 determination, in which case the person is entitled to a hearing
38 before the juvenile court. The county financial evaluation officer,
39 at the time of the financial evaluation, shall advise the person of

1 the right to a hearing and of their rights pursuant to subdivision
2 (c).

3 (3) At the hearing, a person responsible for costs is entitled to
4 have, but shall not be limited to, the opportunity to be heard in
5 person, to present witnesses and other documentary evidence, to
6 confront and cross-examine adverse witnesses, to disclosure of
7 the evidence against them and to receive a written statement of
8 the findings of the court. The person has the right to be represented
9 by counsel, and, if the person is unable to afford counsel, the right
10 to appointed counsel. If the court determines that the person has
11 the ability to pay all or part of the costs, including the costs of any
12 counsel appointed to represent the person at the hearing, the court
13 shall set the amount to be reimbursed and order them to pay that
14 sum to the county or court, depending on which entity incurred
15 the expense, in a manner in which the court believes reasonable
16 and compatible with the person's financial ability.

17 (4) If the person, after having been ordered to appear before the
18 county financial evaluation officer, has been given proper notice
19 and fails to appear as ordered, the county financial evaluation
20 officer shall recommend to the court that the person be ordered to
21 pay the full amount of the costs. Proper notice to the person shall
22 contain all of the following:

23 (A) That the person has a right to a statement of the costs as
24 soon as it is available.

25 (B) The person's procedural rights under Section 27755 of the
26 Government Code.

27 (C) The time limit within which the person's appearance is
28 required.

29 (D) A warning that if the person fails to appear before the county
30 financial evaluation officer, the officer will recommend that the
31 court order the person to pay the costs in full.

32 (5) If the county financial evaluation officer determines that the
33 person has the ability to pay all or a portion of these costs, with or
34 without terms, and the person concurs in this determination and
35 agrees to the terms of payment, the county financial evaluation
36 officer, upon the officer's written evaluation and the person's
37 written agreement, shall petition the court for an order requiring
38 the person to pay that sum to the county or the court in a manner
39 that is reasonable and compatible with the person's financial ability.

40 This order may be granted without further notice to the person,

1 provided that a copy of the order is served on the person by mail
2 or by electronic means pursuant to Section 212.5.

3 (6) However, if the county financial evaluation officer cannot
4 reach an agreement with the person with respect to either the
5 liability for the costs, the amount of the costs, the person's ability
6 to pay the costs, or the terms of payment, the matter shall be
7 deemed in dispute and referred by the county financial evaluation
8 officer back to the court for a hearing.

9 (c) At any time prior to the satisfaction of a judgment entered
10 pursuant to this section, a person against whom the judgment was
11 entered may petition the rendering court to modify or vacate the
12 judgment on the basis of a change in circumstances relating to
13 their ability to pay the judgment.

14 (d) Execution may be issued on the order in the same manner
15 as on a judgment in a civil action, including any balance remaining
16 unpaid at the termination of the court's jurisdiction over the minor.

17 ~~SEC. 141.~~

18 *SEC. 93.* Section 904 of the Welfare and Institutions Code is
19 amended to read:

20 904. (a) The monthly or daily charge, not to exceed cost, for
21 care, support, and maintenance of minor persons placed or detained
22 in or committed to any institution by order of a juvenile court, and
23 the cost of supervision referred to by Section 903.2 shall be
24 determined by the board of supervisors. The cost of
25 dependency-related legal services referred to by Section 903.1
26 shall be determined by the court. Any determination made by a
27 court under this section shall be valid only if either (1) made under
28 procedures adopted by the Judicial Council or (2) approved by the
29 Judicial Council.

30 (b) (1) This section does not apply to a minor who is adjudged
31 a ward of the juvenile court, who is placed on probation pursuant
32 to Section 725, who is the subject of a petition that has been filed
33 to adjudge the minor a ward of the juvenile court, or who is the
34 subject of a program of supervision undertaken pursuant to Section
35 654.

36 (2) Notwithstanding paragraph (1), this section applies to a
37 minor who is designated as a dual status child pursuant to Section
38 241.1, for purposes of the dependency jurisdiction only and not
39 for purposes of the delinquency jurisdiction.

1 ~~SEC. 142.~~

2 *SEC. 94.* If the Commission on State Mandates determines that
3 this act contains costs mandated by the state, reimbursement to
4 local agencies and school districts for those costs shall be made
5 pursuant to Part 7 (commencing with Section 17500) of Division
6 4 of Title 2 of the Government Code.

O