

Introduced by Senator McPherson

February 8, 2001

An act to amend Section 5536 of the Business and Professions Code, to amend Section 670 of the Evidence Code, to amend Section 11019.0 of the Government Code, to amend Sections 11362.9, 11372, 11550, and 11573.5 of the Health and Safety Code, to amend Sections 28, 182, 186.11, 186.22, 368, 466, 530.7, 646.93, 666.7, 670, 1170.11, 1174.4, 1203.097, 1280.1, 1382, 2677, 2717.4, 3000, 3000.1, 3001, 3058.9, 4011.1, 4501.1, 6126.5, 6236, 7012, 11418, 11419, 12021, 12022.53, 12094, 12288, and 13519.4 of, to amend and renumber Sections 113 and 5058.5 of, and to amend and renumber the heading of Title 10.5 (commencing with Section 14150) of Part 4 of, the Penal Code, to amend Section 19705 of the Revenue and Taxation Code, to amend Section 22658.1 of the Vehicle Code, and to amend Sections 355.1 and 602 of, and to amend and renumber the heading of Article 18.5 (commencing with Section 743) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code, relating to crime, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 205, as introduced, McPherson. Crime.

Existing law contains numerous provisions pertaining to crime and the implementation of the criminal laws of this state.

This bill would make numerous, nonsubstantive changes to clarify and update these provisions.

The bill would also make various technical revisions. Among other things, it would revise provisions relating to the duration of, and discharge from, parole and provisions relating to punishment for



terrorism involving weapons of mass destruction and certain restricted biological agents.

Existing law prohibits certain persons, as specified, from owning or possessing a firearm.

This bill would revise these provisions to include a person who attempts to own or possess a firearm, under certain circumstances, as specified. By revising the definition of a crime, the bill would impose a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

- 1 SECTION 1. Section 5536 of the Business and Professions
- 2 Code is amended to read:
- 3 5536. (a) It is a misdemeanor, punishable by a fine of not less
- 4 than one hundred dollars (\$100) nor more than five thousand
- 5 dollars (\$5,000), or by imprisonment in the county jail not
- 6 exceeding one year, or by both that fine and imprisonment, for any
- 7 person who is not licensed to practice architecture under this
- 8 chapter to practice architecture in this state, to use any term
- 9 confusingly similar to the word architect,, to use the stamp of a
- 10 licensed architect, as provided in Section 5536.1, or to advertise
- 11 or put out any sign or card or other device that might indicate to
- 12 the public that he or she is an architect, that he or she is qualified
- 13 to engage in the practice of architecture, or that he or she is an
- 14 architectural designer.
- 15 (b) It is a misdemeanor, punishable as specified in subdivision
- 16 (a), for any person who is not licensed to practice architecture
- 17 under this chapter to affix a stamp or seal that bears the legend
- 18 "State of California" or words or symbols that represent or imply



1 that the person is so licensed by the state to *prepare* plans,
2 specifications, or instruments of service.

3 (c) It is a misdemeanor, punishable as specified in subdivision
4 (a), for any person to advertise or represent that he or she is a
5 “registered building designer” or is registered or otherwise
6 licensed by the state as a building designer.

7 SEC. 2. Section 670 of the Evidence Code is amended to read:

8 670. (a) In any dispute concerning payment by means of a
9 check, a copy of the check produced in accordance with Section
10 1550 of the Evidence Code, together with the original bank
11 statement that reflects payment of the check by the bank on which
12 it was drawn or a copy thereof produced in the same manner,
13 creates a presumption that the check has been paid.

14 (b) As used in this section:

15 (1) “Bank” means any person engaged in the business of
16 banking and includes, in addition to a commercial bank, a savings
17 and loan association, savings bank, or credit union.

18 (2) “Check” ~~mean~~ *means* a draft, other than a documentary
19 draft, payable on demand and drawn on a bank, even though it is
20 described by another term, such as “share draft” or “negotiable
21 order of withdrawal.”

22 SEC. 3. Section 11019.9 of the Government Code is amended
23 to read:

24 11019.9. Each state department and state agency shall enact
25 and maintain a permanent privacy policy, in adherence with the
26 Information Practices Act of 1977 (Title 1.8 (commencing with
27 Section 1798) of Part 4 of Division 3 of the Civil Code), that
28 includes, but is not limited to, the following principles:

29 (a) Personally ~~identifiable~~ *identifiable* information is only
30 obtained through lawful means.

31 (b) The purposes for which personally identifiable data are
32 collected are specified at or prior to the time of collection, and any
33 subsequent use is limited to the fulfillment of purposes not
34 inconsistent with those purposes previously specified.

35 (c) Personal data shall not be disclosed, made available, or
36 otherwise used for purposes other than those specified, except with
37 the consent of the subject of the data, or as authorized by law or
38 regulation.

39 (d) Personal data collected must be relevant to the purpose for
40 which it is collected.



1 (e) The general means by which personal data is protected
2 against loss, unauthorized access, use modification or disclosure
3 shall be posted, unless such disclosure of general means would
4 compromise legitimate state department or state agency objectives
5 or law enforcement purposes.

6 (f) Each state department or state agency shall designate a
7 position within the department or agency, the duties of which shall
8 include, but not be limited to, responsibility for the privacy policy
9 within that department or agency.

10 SEC. 4. Section 11362.9 of the Health and Safety Code is
11 amended to read:

12 11362.9. (a) (1) It is the intent of the Legislature that the
13 state commission objective scientific research by the premier
14 research institute of the world, the University of California,
15 regarding the efficacy and safety of administering marijuana as
16 part of medical treatment. If the Regents of the University of
17 California, by appropriate resolution, accept this responsibility,
18 the University of California shall create a three-year program, to
19 be known as the California Marijuana Research Program.

20 (2) The program shall develop and conduct studies intended to
21 ascertain the general medical safety and efficacy of marijuana and,
22 if found valuable, shall develop medical guidelines for the
23 appropriate administration and use of marijuana.

24 (b) The program may immediately solicit proposals for
25 research projects to be included in the marijuana studies. Program
26 requirements to be used when evaluating responses to its
27 solicitation for proposals, shall include, but not be limited to, all
28 of the following:

29 (1) Proposals shall demonstrate the use of key personnel,
30 including clinicians or scientists and support personnel, who are
31 prepared to develop a program of research regarding marijuana's
32 general medical efficacy and safety.

33 (2) Proposals shall contain procedures for outreach to patients
34 with various medical conditions who may be suitable participants
35 in research on marijuana.

36 (3) Proposals shall contain provisions for a patient registry.

37 (4) Proposals shall contain provisions for an information
38 system that is designed to record information about possible study
39 participants, investigators, and clinicians, and deposit and analyze
40 data that accrues as part of clinical trials.



1 (5) Proposals shall contain protocols suitable for research on
2 marijuana, addressing patients diagnosed with the acquired
3 immunodeficiency syndrome (AIDS) or the human
4 immunodeficiency virus (HIV), cancer, glaucoma, or seizures or
5 muscle spasms associated with a chronic, debilitating condition.
6 The proposal may also include research on other serious illnesses,
7 provided that resources are available and medical information
8 justifies the research.

9 (6) Proposals shall demonstrate the use of a specimen
10 laboratory capable of housing plasma, urine, and other specimens
11 necessary to study the concentration of cannabinoids in various
12 tissues, as well as housing specimens for studies of toxic effects of
13 marijuana.

14 (7) Proposals shall demonstrate the use of a laboratory capable
15 of analyzing marijuana, provided to the program under this
16 section, for purity and cannabinoid content and the capacity to
17 detect contaminants.

18 (c) In order to ensure objectivity in evaluating proposals, the
19 program shall use a peer review process that is modeled on the
20 process used by the National Institutes of Health, and that guards
21 against funding research that is biased in favor of or against
22 particular outcomes. Peer reviewers shall be selected for their
23 expertise in the scientific substance and methods of the proposed
24 research, and their lack of bias or conflict of interest regarding the
25 applicants or the topic of an approach taken in the proposed
26 research. Peer reviewers shall judge research proposals on several
27 criteria, foremost among which shall be both of the following:

28 (1) The scientific merit of the research plan, including whether
29 the research design and experimental procedures are potentially
30 biased for or against a particular outcome.

31 (2) Researchers' expertise in the scientific substance and
32 methods of the proposed research, and their lack of bias or conflict
33 of interest regarding the topic of, and the approach taken in, the
34 proposed research.

35 (d) If the program is administered by the Regents of the
36 University of California, any grant research proposals approved
37 by the program shall also require review and approval by the
38 research advisory panel.

39 (e) It is the intent of the Legislature that the program be
40 established as follows:



1 (1) The program shall be located at one or more University of
2 California campuses that have a core of faculty experienced in
3 organizing multidisciplinary scientific endeavors and, in
4 particular, strong experience in clinical trials involving
5 psychopharmacologic agents. The campuses at which research
6 under the auspices of the program is to take place shall
7 accommodate the administrative offices, including the director of
8 the program, as well as a data management unit, and facilities for
9 storage of specimens.

10 (2) When awarding grants under this section, the program shall
11 utilize principles and parameters of the other well-tested statewide
12 research programs administered by the University of California,
13 modeled after programs administered by the National Institutes of
14 Health, including peer review evaluation of the scientific merit of
15 applications.

16 (3) The scientific and clinical operations of the program shall
17 occur, partly at University of California campuses, and partly at
18 other postsecondary institutions, that have clinicians or scientists
19 with expertise to conduct the required studies. Criteria for
20 selection of research locations shall include the elements listed in
21 subdivision (b) and, additionally, shall give particular weight to
22 the organizational plan, leadership qualities of the program
23 director, and plans to involve investigators and patient populations
24 from multiple sites.

25 (4) The funds received by the program shall be allocated to
26 various research studies in accordance with a scientific plan
27 developed by the Scientific Advisory Council. As the first wave
28 of studies is completed, it is anticipated that the program will
29 receive requests for funding of additional studies. These requests
30 shall be reviewed by the Scientific Advisory Council.

31 (5) The size, scope, and number of studies funded shall be
32 commensurate with the amount of appropriated and available
33 program funding.

34 ~~(e)~~

35 (f) All personnel involved in implementing approved proposals
36 shall be authorized as required by Section 11604.

37 ~~(f)~~

38 (g) Studies conducted pursuant to this section shall include the
39 greatest amount of new scientific research possible on the medical
40 uses of, and medical hazards associated with, marijuana. The



1 program shall consult with the Research Advisory Panel
2 analogous agencies in other states, and appropriate federal
3 agencies in an attempt to avoid duplicative research and the
4 wasting of research dollars.

5 ~~(g)~~

6 (h) The program shall make every effort to recruit qualified
7 patients and qualified physicians from throughout the state.

8 ~~(h)~~

9 (i) The marijuana studies shall employ state-of-the-art research
10 methodologies.

11 ~~(i)~~

12 (j) The program shall ensure that all marijuana used in the
13 studies is of the appropriate medical quality and shall be obtained
14 from the National Institute on Drug Abuse or any other federal
15 agency designated to supply marijuana for authorized research. If
16 these federal agencies fail to provide a supply of adequate quality
17 and quantity within six months of the effective date of this section,
18 the Attorney General shall provide an adequate supply pursuant to
19 Section 11478.

20 ~~(j)~~

21 (k) The program may review, approve, or incorporate studies
22 and research by independent groups presenting scientifically valid
23 protocols for medical research, regardless of whether the areas of
24 study are being researched by the committee.

25 ~~(k)~~

26 (l) (1) To enhance understanding of the efficacy and adverse
27 effects of marijuana as a pharmacological agent, the program shall
28 conduct focused controlled clinical trials on the usefulness of
29 marijuana in patients diagnosed with AIDS or HIV, cancer,
30 glaucoma, or seizures or muscle spasms associated with a chronic,
31 debilitating condition. The program may add research on other
32 serious illnesses, provided that resources are available and medical
33 information justifies the research. The studies shall focus on
34 comparisons of both the efficacy and safety of methods of
35 administering the drug to patients, including inhalational,
36 tinctural, and oral, evaluate possible uses of marijuana as a primary
37 or adjunctive treatment, and develop further information on
38 optimal dosage, timing, mode of administration, and variations in
39 the effects of different cannabinoids and varieties of marijuana.



1 (2) The program shall examine the safety of marijuana in
2 patients with various medical disorders, including marijuana’s
3 interaction with other drugs, relative safety of inhalation versus
4 oral forms, and the effects on mental function in medically ill
5 persons.

6 (3) The program shall be limited to providing for objective
7 scientific research to ascertain the efficacy and safety of marijuana
8 as part of medical treatment, and should not be construed as
9 encouraging or sanctioning the social or recreational use of
10 marijuana.

11 ~~(t)~~
12 (m) (1) Subject to paragraph (2), the program shall, prior to
13 any approving proposals, seek to obtain research protocol
14 guidelines from the National Institutes of Health and shall, if the
15 National Institutes of Health issues research protocol guidelines,
16 comply with those guidelines.

17 (2) If, after a reasonable period of time of not less than six
18 months and not more than a year has elapsed from the date the
19 program seeks to obtain guidelines pursuant to paragraph (1), no
20 guidelines have been approved, the program may proceed using
21 the research protocol guidelines it develops.

22 ~~(m)~~
23 (n) In order to maximize the scope and size of the marijuana
24 studies, the program may do any of the following:

25 (1) Solicit, apply for, and accept funds from foundations,
26 private individuals, and all other funding sources that can be used
27 to expand the scope or timeframe of the marijuana studies that are
28 authorized under this section. The program shall not expend more
29 than 5 percent of its General Fund allocation in efforts to obtain
30 money from outside sources.

31 (2) Include within the scope of the marijuana studies other
32 marijuana research projects that are independently funded and that
33 meet the requirements set forth in subdivisions (a) to (c), inclusive.
34 In no case shall the program accept any funds that are offered with
35 any conditions other than that the funds be used to study the
36 efficacy and safety of marijuana as part of medical treatment. Any
37 donor shall be advised that funds given for purposes of this section
38 will be used to study both the possible benefits and detriments of
39 marijuana and that he or she will have no control over the use of
40 these funds.



1 ~~(n)~~
 2 (o) (1) Within six months of the effective date of this section,
 3 the program shall report to the Legislature, the Governor, and the
 4 Attorney General on the progress of the marijuana studies.

5 (2) Thereafter, the program shall issue a report to the
 6 Legislature every six months detailing the progress of the studies.
 7 The interim reports required under this paragraph shall include,
 8 but not be limited to, data on all of the following:

9 (A) The names and number of diseases or conditions under
 10 study.

11 (B) The number of patients enrolled in each study by disease.

12 (C) Any scientifically valid preliminary findings.

13 ~~(o)~~
 14 (p) If the Regents of the University of California implement
 15 this section, the President of the University of California shall
 16 appoint a multidisciplinary Scientific Advisory Council, not to
 17 exceed 15 members, to provide policy guidance in the creation and
 18 implementation of the program. Members shall be chosen on the
 19 basis of scientific expertise. Members of the council shall serve on
 20 a voluntary basis, with reimbursement for expenses incurred in the
 21 course of their participation. The members shall be reimbursed for
 22 travel and other necessary expenses incurred in their performance
 23 of the duties of the council.

24 ~~(p)~~
 25 (q) No more than 10 percent of the total funds appropriated be
 26 used for all aspects of the administration of this section.

27 ~~(q)~~
 28 (r) This section shall be implemented only to the extent that
 29 funding for its purposes is appropriated by the Legislature in the
 30 annual Budget Act.

31 SEC. 5. Section 11372 of the Health and Safety Code is
 32 amended to read:

33 11372. (a) In addition to the term of imprisonment provided
 34 by law for persons convicted of violating Section 11350, 11351,
 35 11351.5, 11352, 11353, 11355, 11359, 11360, or 11361, the trial
 36 court may impose a fine not exceeding twenty thousand dollars
 37 (\$20,000) for each such offense. In no event shall such fine be
 38 levied in lieu of or in substitution for the term of imprisonment
 39 provided by law for any of such offenses.



1 (b) Any person receiving an additional term pursuant to
2 paragraph (1) of subdivision (a) of Section 11370.4, may, in
3 addition, be fined an amount not exceeding one million dollars
4 (\$1,000,000) for each such offense.

5 (c) Any person receiving an additional term pursuant to
6 paragraph (2) of subdivision (a) of Section 11370.4, may, in
7 addition, be fined an amount not to exceed four million dollars
8 (\$4,000,000) for each such offense.

9 (d) Any person receiving an additional term pursuant to
10 paragraph (3), (4), (5), or (6) of subdivision (a) of Section
11 11370.4, may, in addition, be fined by *an* amount not to exceed
12 eight million dollars (\$8,000,000) for each such offense.

13 (e) The court shall make a finding, prior to the imposition of the
14 fines authorized by subdivision (b) to (e), inclusive, that there is
15 a reasonable expectation that the fine, or a substantial portion
16 thereof, could be collected within a reasonable period of time,
17 taking into consideration the defendant's income, earning
18 capacity, and financial resources.

19 SEC. 6. Section 11550 of the Health and Safety Code is
20 amended to read:

21 11550. (a) No person shall use, or be under the influence of
22 any controlled substance which is (1) specified in subdivision (b),
23 (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,
24 specified in paragraph (14), (15), (21), (22), or (23) of subdivision
25 (d) of Section 11054, specified in subdivision (b) or (c) of Section
26 11055, or specified in paragraph (1) or (2) of subdivision (d) or in
27 paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic
28 drug classified in Schedule III, IV, or V, except when administered
29 by or under the direction of a person licensed by the state to
30 dispense, prescribe, or administer controlled substances. It shall be
31 the burden of the defense to show that it comes within the
32 exception. Any person convicted of violating this subdivision is
33 guilty of a misdemeanor and shall be sentenced to serve a term of
34 not less than 90 days or more than one year in the county jail. The
35 court may place a person convicted under this subdivision on
36 probation for a period not to exceed five years and, except as
37 provided in subdivision (c), shall in all cases in which probation
38 is granted require, as a condition thereof, that the person be
39 confined in the county jail for at least 90 days. Other than as
40 provided by subdivision (c), in no event shall the court have the



1 power to absolve a person who violates this subdivision from the
2 obligation of spending at least 90 days in confinement in the
3 county jail.

4 (b) Any person who (1) is convicted of violating subdivision
5 (a) when the offense occurred within seven years of that person
6 being convicted of two or more separate violations of that
7 subdivision *or of subdivision (e)*, and (2) refuses to complete a
8 licensed drug rehabilitation program offered by the court pursuant
9 to subdivision (c), shall be punished by imprisonment in ~~the~~ a
10 county jail for not less than 180 days nor more than one year. In
11 no event does the court have the power to absolve a person
12 convicted of a violation of subdivision (a) that is punishable under
13 this subdivision from the obligation of spending at least 180 days
14 in confinement in ~~the~~ a county jail unless there are no licensed
15 drug rehabilitation programs reasonably available.

16 For the purpose of this section, a drug rehabilitation program
17 shall not be considered reasonably available unless the person is
18 required to pay no more than the court determines that he or she
19 is reasonably able to pay, in order to participate in the program.

20 (c) The court may, when it would be in the interest of justice,
21 permit any person convicted of a violation of subdivision (a)
22 punishable under subdivision (a) or (b) to complete a licensed drug
23 rehabilitation program in lieu of part or all of the imprisonment in
24 the county jail. As a condition of sentencing, the court may require
25 the offender to pay all or a portion of the drug rehabilitation
26 program.

27 In order to alleviate jail overcrowding and to provide recidivist
28 offenders with a reasonable opportunity to seek rehabilitation
29 pursuant to this subdivision, counties are encouraged to include
30 provisions to augment licensed drug rehabilitation programs in
31 their substance abuse proposals and applications submitted to the
32 state for federal and state drug abuse funds.

33 (d) In addition to any fine assessed under this section, the judge
34 may assess a fine not to exceed seventy dollars (\$70) against any
35 person who violates this section, with the proceeds of this fine to
36 be used in accordance with Section 1463.23 of the Penal Code. The
37 court shall, however, take into consideration the defendant's
38 ability to pay, and no defendant shall be denied probation because
39 of his or her inability to pay the fine permitted under this
40 subdivision.



1 (e) Notwithstanding subdivisions (a) and (b) or any other
2 provision of law, any person who is unlawfully under the influence
3 of cocaine, cocaine base, heroin, methamphetamine, or
4 phencyclidine while in the immediate personal possession of a
5 loaded, operable firearm is guilty of a public offense punishable
6 by imprisonment in county jail for not exceeding one year or in
7 state prison.

8 As used in this subdivision “immediate personal possession”
9 includes, but is not limited to, the interior passenger compartment
10 of a motor vehicle.

11 (f) Every person who violates subdivision (e) is punishable
12 upon the second and each subsequent conviction by imprisonment
13 in the state prison for two, three, or four years.

14 (g) Nothing in this section prevents ~~diversion of a person~~
15 *deferred entry of judgment* under Chapter 2.5 (commencing with
16 Section 1000) of Title 6 of Part 2 of the Penal Code unless the
17 person is charged with violating subdivision (b) or (c) of Section
18 243 of the Penal Code. A person charged with violating this section
19 by being under the influence of any controlled substance which is
20 specified in paragraph (21), (22), or (23) of subdivision (d) of
21 Section 11054 or in paragraph (3) of subdivision (e) of Section
22 11055 and with violating either subdivision (b) or (c) of Section
23 243 of the Penal Code or with a violation of subdivision (e) shall
24 be ineligible for ~~diversion~~ *deferred entry of judgment*.

25 SEC. 7. Section 11573.5 of the Health and Safety Code is
26 amended to read:

27 11573.5. (a) At the time of application for issuance of a
28 temporary writ pursuant to Section 11573, if proof of the existence
29 of the nuisance depends, in whole or part, upon the affidavits of
30 witnesses who are not peace officers, upon a showing of prior
31 threats of violence or acts of violence by any defendant or other
32 person, the court may issue orders to protect those witnesses,
33 including, but not limited to, nondisclosure of the name, address,
34 or any other information which may identify those witnesses.

35 (b) A temporary writ issued pursuant to Section 11573 may
36 include closure of the premises pending trial when a prior writ does
37 not result in the abatement of the nuisance. The duration of the writ
38 shall be within the court’s discretion. In no event shall the total
39 period of closure pending trial exceed one year. Prior to ruling on
40 a request for closure the court may order that some or all of the rent



1 payments owing to the defendant be placed in an escrow account
2 for a period of up to 90 days or until the nuisance is abated. If the
3 court subsequently orders a closure of the premises, the money in
4 the escrow account shall be used to pay for relocation assistance
5 pursuant to subdivision (d). In ruling upon a request for closure,
6 whether for a defined or undefined duration, the court shall
7 consider all of the following factors:

8 (1) The extent and duration of the nuisance at the time of the
9 request.

10 (2) Prior efforts by the defendant to comply with previous court
11 orders to abate the nuisance.

12 (3) The nature and extent of any effect which the nuisance has
13 upon other persons, such as residents or businesses.

14 (4) Any effect of prior orders placing displaced residents' or
15 occupants' rent payments into an escrow account upon the
16 defendant's efforts to abate the nuisance.

17 (5) The effect of granting the request upon any resident or
18 occupant of the premises who is not named in the action, including
19 the availability of alternative housing or relocation assistance, the
20 ~~pendancy~~ *pendency* of any action to evict a resident or occupant,
21 and any evidence of participation by a resident or occupant in the
22 nuisance activity.

23 (c) In making an order of closure pursuant to this section, the
24 court may order the premises vacated and may issue any other
25 orders necessary to effectuate the closure. However, all tenants
26 who may be affected by the order shall be provided reasonable
27 notice and an opportunity to be heard at all hearings regarding the
28 closure request prior to the issuance of any order.

29 (d) In making an order of closure pursuant to this section, the
30 court shall order the defendant to provide relocation assistance to
31 any tenant ordered to vacate the premises, provided the court
32 determines that the tenant was not actively involved in the
33 nuisance activity. The relocation assistance ordered to be paid by
34 the defendant shall be in the amount necessary to cover moving
35 costs, security deposits for utilities and comparable housing,
36 adjustment in any lost rent, and any other reasonable expenses the
37 court may deem fair and reasonable as a result of the court's order.

38 (e) At the hearing to order closure pursuant to this section, the
39 court may make the following orders with respect to any displaced
40 tenant not actively involved in the nuisance:



1 (1) Priority for senior citizens, physically handicapped
2 persons, or persons otherwise suffering from a permanent or
3 temporary disability for claims against money for relocation
4 assistance.

5 (2) Order the local agency seeking closure pursuant to this
6 section to make reasonable attempts to seek additional sources of
7 funds for relocation assistance to displaced tenants, if deemed
8 necessary.

9 (3) Appoint a receiver to oversee the disbursement of
10 relocation assistance funds, whose services shall be paid from the
11 escrow fund.

12 (4) Where a defendant has paid relocation assistance pursuant
13 to subdivision (d), the escrow account under subdivision (b) may
14 be released to the defendant and no appointment under paragraph
15 (3) shall be made.

16 (f) (1) The remedies set forth pursuant to this section shall be
17 in addition to any other existing remedies for nuisance abatement
18 actions, including, but not limited to, the following:

19 (A) Capital improvements to the property, such as security
20 gates.

21 (B) Improved interior or exterior lighting.

22 (C) Security guards.

23 (D) Posting of signs.

24 (E) Owner membership in neighborhood or local merchants'
25 associations.

26 (F) Attending property management training programs.

27 (G) Making cosmetic improvements to the property.

28 (2) At all stages of an action brought pursuant to this article, the
29 court has equitable powers to order steps necessary to remedy the
30 problem and enhance the abatement process.

31 SEC. 8. Section 28 of the Penal Code is amended to read:

32 28. (a) Evidence of mental disease, mental defect, or mental
33 disorder shall not be admitted to show or negate the capacity to
34 form any mental state, including, but not limited to, purpose,
35 intent, knowledge, premeditation, deliberation, or malice
36 aforethought, with which the accused committed the act. Evidence
37 of mental disease, mental defect, or mental disorder is admissible
38 solely on the issue of whether or not the accused actually formed
39 a required specific intent, premeditated, deliberated, or harbored
40 malice aforethought, when a specific intent crime is charged.



1 (b) As a matter of public policy there shall be no defense of
2 diminished capacity, diminished responsibility, or irresistible
3 impulse in a criminal action or juvenile adjudication hearing.

4 (c) This section shall not be applicable to an insanity hearing
5 pursuant to Section 1026 or 1429.5.

6 (d) Nothing *is in* this section shall limit a court's discretion,
7 pursuant to the Evidence Code, to exclude psychiatric or
8 psychological evidence on whether the accused had a mental
9 disease, mental defect, or mental disorder at the time of the alleged
10 offense.

11 SEC. 9. Section 113 of the Penal Code, as added by Chapter
12 17 of the Statutes of 1994, 1st Extraordinary Session, is amended
13 and renumbered to read:

14 ~~113.~~

15 112. (a) Any person who manufactures or sells any false
16 government document with the intent to conceal the true
17 citizenship or resident alien status of another person is guilty of a
18 misdemeanor and shall be punished by imprisonment in a county
19 jail for one year. Every false government document that is
20 manufactured or sold in violation of this section may be charged
21 and prosecuted as a separate and distinct violation, and
22 consecutive sentences may be imposed for each violation.

23 (b) A prosecuting attorney shall have discretion to charge a
24 defendant with a violation of this section or any other law that
25 applies.

26 (c) As used in this section, "government document" means
27 any document issued by the United States government or any state
28 or local government, including, but not limited to, any passport,
29 immigration visa, employment authorization card, birth
30 certificate, driver's license, identification card, or social security
31 card.

32 SEC. 10. Section 182 of the Penal Code is amended to read:

33 182. (a) If two or more persons conspire:

34 (1) To commit any crime.

35 (2) Falsely and maliciously to indict another for any crime,
36 or to procure another to be charged or arrested for any crime.

37 (3) Falsely to move or maintain any suit, action or
38 proceeding.

39 (4) To cheat and defraud any person of any property, by any
40 means which are in themselves criminal, or to obtain money or



1 property by false pretenses or by false promises with fraudulent
2 intent not to perform such promises.

3 (5) To commit any act injurious to the public health, to public
4 morals, or to pervert or obstruct justice, or the due
5 administration of the laws.

6 (6) To commit any crime against the person of the President
7 or Vice President of the United States, the governor of any state
8 or territory, any United States justice or judge, or the secretary
9 of any of the executive departments of the United States.

10 They are punishable as follows:

11 When they conspire to commit any crime against the person of
12 any official specified in paragraph (6), they are guilty of a felony
13 and are punishable by imprisonment in the state prison for five,
14 seven, or nine years.

15 When they conspire to commit any other felony, they shall be
16 punishable in the same manner and to the same extent as is
17 provided for the punishment of ~~the~~ that felony. If the felony is one
18 for which different punishments are prescribed for different
19 degrees, the jury or court which finds the defendant guilty thereof
20 shall determine the degree of the felony defendant conspired to
21 commit. If the degree is not so determined, the punishment for
22 conspiracy to commit the felony shall be that prescribed for the
23 lesser degree, except in the case of conspiracy to commit murder,
24 in which case the punishment shall be that prescribed for murder
25 in the first degree.

26 If the felony is conspiracy to commit two or more felonies which
27 have different punishments and the commission of those felonies
28 constitute but one offense of conspiracy, the penalty shall be that
29 prescribed for the felony which has the greater maximum term.

30 When they conspire to do an act described in paragraph (4), they
31 shall be punishable by imprisonment in the state prison, or by
32 imprisonment in the county jail for not more than one year, or by
33 a fine not exceeding ten thousand dollars (\$10,000), or both.

34 When they conspire to do any of the other acts described in this
35 section, they shall be punishable by imprisonment in the county
36 jail for not more than one year, or in the state prison, or by a fine
37 not exceeding ten thousand dollars (\$10,000) or both.

38 All cases of conspiracy may be prosecuted and tried in the
39 superior court of any county in which any overt act tending to
40 effect such conspiracy shall be done.



1 (b) Upon a trial for conspiracy, in a case where an overt act is
2 necessary to constitute the offense, the defendant cannot be
3 convicted unless one or more overt acts are expressly alleged in the
4 indictment or information, nor unless one of the acts alleged is
5 proved; but other overt acts not alleged may be given in evidence.

6 SEC. 11. Section 186.11 of the Penal Code is amended to
7 read:

8 186.11. (a) (1) Any person who commits two or more
9 related felonies, a material element of which is fraud or
10 embezzlement, which involve a pattern of related felony conduct,
11 and the pattern of related felony conduct involves the taking of
12 more than one hundred thousand dollars (\$100,000), shall be
13 punished, upon conviction of two or more felonies in a single
14 criminal proceeding, in addition and consecutive to the
15 punishment prescribed for the felony offenses of which he or she
16 has been convicted, by an additional term of imprisonment in the
17 state prison as specified in paragraph (2) or (3). This enhancement
18 shall be known as the aggravated white collar crime enhancement.
19 The aggravated white collar crime enhancement shall only be
20 imposed once in a single criminal proceeding. For purposes of this
21 section, “pattern of related felony conduct” means engaging in at
22 least two felonies that have the same or similar purpose, result,
23 principals, victims, or methods of commission, or are otherwise
24 interrelated by distinguishing characteristics, and that are not
25 isolated events. For purposes of this section, “two or more related
26 felonies” means felonies committed against two or more separate
27 victims, or against the same victim on two or more separate
28 occasions.

29 (2) If the pattern of related felony conduct involves the taking
30 of more than five hundred thousand dollars (\$500,000), the
31 additional term of punishment shall be two, three, or five years in
32 the state prison.

33 (3) If the pattern of related felony conduct involves the taking
34 of more than one hundred thousand dollars (\$100,000), but not
35 more than five hundred thousand dollars (\$500,000), the
36 additional term of punishment shall be the term specified in
37 *paragraph (1) or (2) of subdivision (a) or (b) of Section 12022.6.*

38 (b) (1) The additional prison term and penalties provided for
39 in subdivisions (a), (c), and (d) shall not be imposed unless the



1 facts set forth in subdivision (a) are charged in the accusatory
2 pleading and admitted or found to be true by the trier of fact.

3 (2) The additional prison term provided in paragraph (2) of
4 subdivision (a) shall be in addition to any other punishment
5 provided by law, including Section 12022.6, and shall not be
6 limited by any other provision of law.

7 (c) Any person convicted of two or more felonies, as specified
8 in subdivision (a), shall also be liable for a fine not to exceed five
9 hundred thousand dollars (\$500,000) or double the value of the
10 taking, whichever is greater, if the existence of facts that would
11 make the person subject to the aggravated white collar crime
12 enhancement have been admitted or found to be true by the trier
13 of fact. However, if the pattern of related felony conduct involves
14 the taking of more than one hundred thousand dollars (\$100,000),
15 but not more than five hundred thousand dollars (\$500,000), the
16 fine shall not exceed one hundred thousand dollars (\$100,000) or
17 double the value of the taking, whichever is greater.

18 (d) Any person convicted of two or more felonies, as specified
19 in subdivision (a), shall be liable for the costs of restitution to
20 victims of the pattern of fraudulent or unlawful conduct, if the
21 existence of facts that would make the person subject to the
22 aggravated white collar crime enhancement have been admitted or
23 found to be true by the trier of fact.

24 (e) (1) If a person is alleged to have committed two or more
25 felonies, as specified in subdivision (a), and the aggravated white
26 collar crime enhancement is also charged, any asset or property
27 that is in the control of that person, and any asset or property that
28 has been transferred by that person to a third party, subsequent to
29 the commission of any criminal act alleged pursuant to subdivision
30 (a), other than in a bona fide purchase, whether found within or
31 outside the state, may be preserved by the superior court in order
32 to pay restitution and fines imposed pursuant to this section. Upon
33 conviction of two or more felonies, as specified in subdivision (a),
34 this property may be levied upon by the superior court to pay
35 restitution and fines imposed pursuant to this section if the
36 existence of facts that would make the person subject to the
37 aggravated white collar crime enhancement have been admitted or
38 found to be true by the trier of fact.

39 (2) To prevent dissipation or secreting of assets or property, the
40 prosecuting agency may, at the same time as or subsequent to the



1 filing of a complaint or indictment charging two or more felonies,
2 as specified in subdivision (a), and the enhancement specified in
3 subdivision (a), file a petition with the criminal division of the
4 superior court of the county in which the accusatory pleading was
5 filed, seeking a temporary restraining order, preliminary
6 injunction, the appointment of a receiver, or any other protective
7 relief necessary to preserve the property or assets. This petition
8 shall commence a proceeding that shall be pendent to the criminal
9 proceeding and maintained solely to effect the criminal remedies
10 provided for in this section. The proceeding shall not be subject to
11 or governed by the provisions of the Civil Discovery Act of 1986
12 as set forth in Article 3 (commencing with Section 2016) of
13 Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure. The
14 petition shall allege that the defendant has been charged with two
15 or more felonies, as specified in subdivision (a), and is subject to
16 the aggravated white collar crime enhancement specified in
17 subdivision (a). The petition shall identify that criminal
18 proceeding and the assets and property to be affected by an order
19 issued pursuant to this section.

20 (3) A notice regarding the petition shall be provided, by
21 personal service or registered mail, to every person who may have
22 an interest in the property specified in the petition. Additionally,
23 the notice shall be published for at least three successive weeks in
24 a newspaper of general circulation in the county where the
25 property affected by an order issued pursuant to this section is
26 located. The notice shall state that any interested person may file
27 a verified claim with the superior court stating the nature and
28 amount of their claimed interest. The notice shall set forth the time
29 within which a claim of interest in the protected property is
30 required to be filed.

31 (4) If the property to be preserved is real property, the
32 prosecuting agency shall record, at the time of filing the petition,
33 a lis pendens in each county in which the real property is situated
34 which specifically identifies the property by legal description, the
35 name of the owner of record as shown on the latest equalized
36 assessment roll, and the assessor's parcel number.

37 (5) If the property to be preserved are assets under the control
38 of a banking or financial institution, the prosecuting agency, at the
39 time of the filing of the petition, may obtain an order from the court
40 directing the banking or financial institution to immediately



1 disclose the account numbers and value of the assets of the accused
2 held by the banking or financial institution. The prosecuting
3 agency shall file a supplemental petition, specifically identifying
4 which banking or financial institution accounts shall be subject to
5 a temporary restraining order, preliminary injunction, or other
6 protective remedy.

7 (6) Any person claiming an interest in the protected property
8 may, at any time within 30 days from the date of the first
9 publication of the notice of the petition, or within 30 days after
10 receipt of actual notice, file with the superior court of the county
11 in which the action is pending a verified claim stating the nature
12 and amount of his or her interest in the property or assets. A
13 verified copy of the claim shall be served by the claimant on the
14 Attorney General or district attorney, as appropriate.

15 (7) The imposition of fines and restitution pursuant to this
16 section shall be determined by the superior court in which the
17 underlying criminal offense is sentenced. Any judge who is
18 assigned to the criminal division of the superior court in the county
19 where the petition is filed may issue a temporary restraining order
20 in conjunction with, or subsequent to, the filing of an allegation
21 pursuant to this section. Any subsequent hearing on the petition
22 shall also be heard by a judge assigned to the criminal division of
23 the superior court in the county in which the petition is filed. At
24 the time of the filing of an information or indictment in the
25 underlying criminal case, any subsequent hearing on the petition
26 shall be heard by the superior court judge assigned to the
27 underlying criminal case.

28 (f) Concurrent with or subsequent to the filing of the petition,
29 the prosecuting agency may move the superior court for, and the
30 superior court may issue, the following pendente lite orders to
31 preserve the status quo of the property alleged in the petition:

32 (1) An injunction to restrain any person from transferring,
33 encumbering, hypothecating, or otherwise disposing of that
34 property.

35 (2) Appointment of a receiver to take possession of, care for,
36 manage, and operate the assets and properties so that the property
37 may be maintained and preserved. The court may order that a
38 receiver appointed pursuant to this section shall be compensated
39 for all reasonable expenditures made or incurred by him or her in
40 connection with the possession, care, management, and operation



1 of any property or assets that are subject to the provisions of this
2 section.

3 (3) A bond or other undertaking, in lieu of other orders, of a
4 value sufficient to ensure the satisfaction of restitution and fines
5 imposed pursuant to this section.

6 (g) (1) No preliminary injunction may be granted or receiver
7 appointed by the court without notice that meets the requirements
8 of paragraph (3) of subdivision (e) to all known and reasonably
9 ascertainable interested parties and upon a hearing to determine
10 that an order is necessary to preserve the property pending the
11 outcome of the criminal proceedings. A temporary restraining
12 order may be issued by the court, ex parte, pending that hearing in
13 conjunction with or subsequent to the filing of the petition upon
14 the application of the prosecuting attorney. The temporary
15 restraining order may be based upon the sworn declaration of a
16 peace officer with personal knowledge of the criminal
17 investigation that establishes probable cause to believe that
18 aggravated white collar crime has taken place and that the amount
19 of restitution and fines established by this section exceeds or
20 equals the worth of the assets subject to the temporary restraining
21 order. The declaration may include the hearsay statements of
22 witnesses to establish the necessary facts. The temporary
23 restraining order may be issued without notice upon a showing of
24 good cause to the court.

25 (2) The defendant, or a person who has filed a verified claim as
26 provided in paragraph (6) of subdivision (e), shall have the right
27 to have the court conduct an order to show cause hearing within
28 10 days of the service of the request for hearing upon the
29 prosecuting agency, in order to determine whether the temporary
30 restraining order should remain in effect, whether relief should be
31 granted from any lis pendens recorded pursuant to paragraph (4)
32 of subdivision (e), or whether any existing order should be
33 modified in the interests of justice. Upon a showing of good cause,
34 the hearing shall be held within two days of the service of the
35 request for hearing upon the prosecuting agency.

36 (3) In determining whether to issue a preliminary injunction or
37 temporary restraining order in a proceeding brought by a
38 prosecuting agency in conjunction with or subsequent to the filing
39 of an allegation pursuant to this section, the court has the discretion
40 to consider any matter that it deems reliable and appropriate,



1 including hearsay statements, in order to reach a just and equitable
2 decision. The court shall weigh the relative degree of certainty of
3 the outcome on the merits and the consequences to each of the
4 parties of granting the interim relief. If the prosecution is likely to
5 prevail on the merits and the risk of the dissipation of assets
6 outweighs the potential harm to the defendants and the interested
7 parties, the court shall grant injunctive relief. The court shall give
8 significant weight to the following factors:

9 (A) The public interest in preserving the property or assets
10 pendente lite.

11 (B) The difficulty of preserving the property or assets pendente
12 lite where the underlying alleged crimes involve issues of fraud
13 and moral turpitude.

14 (C) The fact that the requested relief is being sought by a public
15 prosecutor on behalf of alleged victims of white collar crimes.

16 (D) The likelihood that substantial public harm has occurred
17 where aggravated white collar crime is alleged to have been
18 committed.

19 (E) The significant public interest involved in compensating
20 the victims of white collar crime and paying court imposed
21 restitution and fines.

22 (4) The court, in making its orders, may consider a defendant's
23 request for the release of a portion of the property affected by this
24 section in order to pay reasonable legal fees in connection with the
25 criminal proceeding, any necessary and appropriate living
26 expenses pending trial and sentencing, and for the purpose of
27 posting bail. The court shall weigh the needs of the public to retain
28 the property against the needs of the defendant to a portion of the
29 property. The court shall consider the factors listed in paragraph
30 (3) prior to making any order releasing property for these
31 purposes.

32 (5) The court, in making its orders, shall seek to protect the
33 interests of any innocent third persons, including an innocent
34 spouse, who were not involved in the commission of any criminal
35 activity.

36 (6) Any petition filed pursuant to this section is part of the
37 criminal proceedings for purposes of appointment of counsel and
38 shall be assigned to the criminal division of the superior court of
39 the county in which the accusatory pleading was filed.



1 (7) Based upon a noticed motion brought by the receiver
2 appointed pursuant to paragraph (2) of subdivision (f), the court
3 may order an interlocutory sale of property named in the petition
4 when the property is liable to perish, to waste, or to be significantly
5 reduced in value, or when the expenses of maintaining the property
6 are disproportionate to the value thereof. The proceeds of the
7 interlocutory sale shall be deposited with the court or as directed
8 by the court pending determination of the proceeding pursuant to
9 this section.

10 (8) The court may make any orders that are necessary to
11 preserve the continuing viability of any lawful business enterprise
12 that is affected by the issuance of a temporary restraining order or
13 preliminary injunction issued pursuant to this action.

14 (9) In making its orders, the court shall seek to prevent any asset
15 subject to a temporary restraining order or preliminary injunction
16 from perishing, spoiling, going to waste, or otherwise being
17 significantly reduced in value. Where the potential for diminution
18 in value exists, the court shall appoint a receiver to dispose of or
19 otherwise protect the value of the property or asset.

20 (10) A preservation order shall not be issued against any assets
21 of a business that are not likely to be dissipated and that may be
22 subject to levy or attachment to meet the purposes of this section.

23 (h) If the allegation that the defendant is subject to the
24 aggravated white collar crime enhancement is dismissed or found
25 by the trier of fact to be untrue, any preliminary injunction or
26 temporary restraining order issued pursuant to this section shall be
27 dissolved. If a jury is the trier of fact, and the jury is unable to reach
28 a unanimous verdict, the court shall have the discretion to continue
29 or dissolve all or a portion of the preliminary injunction or
30 temporary restraining order based upon the interests of justice.
31 However, if the prosecuting agency elects not to retry the case, any
32 preliminary injunction or temporary restraining order issued
33 pursuant to this section shall be dissolved.

34 (i) (1) (A) If the defendant is convicted of two or more
35 felonies, as specified in subdivision (a), and the existence of facts
36 that would make the person subject to the aggravated white collar
37 crime enhancement have been admitted or found to be true by the
38 trier of fact, the trial judge shall continue the preliminary
39 injunction or temporary restraining order until the date of the
40 criminal sentencing and shall make a finding at that time as to what



1 portion, if any, of the property or assets subject to the preliminary
2 injunction or temporary restraining order shall be levied upon to
3 pay fines and restitution to victims of the crime. The order
4 imposing fines and restitution may exceed the total worth of the
5 property or assets subjected to the preliminary injunction or
6 temporary restraining order. The court may order the immediate
7 transfer of the property or assets to satisfy any judgment and
8 sentence made pursuant to this section. Additionally, upon motion
9 of the prosecution, the court may enter an order as part of the
10 judgment and sentence making the order imposing fines and
11 restitution pursuant to this section enforceable pursuant to Title 9
12 (commencing with Section 680.010) of Part 2 of the Code of Civil
13 Procedure.

14 (B) Additionally, the court shall order the defendant to make
15 full restitution to the victim or to make restitution to the victim
16 based on his or her ability to pay, as defined in subdivision (b) of
17 Section 1203.1b. The payment of the restitution ordered by the
18 court pursuant to this section shall be made a condition of any
19 probation granted by the court if the existence of facts that would
20 make the defendant subject to the aggravated white collar crime
21 enhancement have been admitted or found to be true by the trier
22 of fact. Notwithstanding any other provision of law, the court may
23 order that the period of probation continue for up to 10 years or
24 until full restitution is made to the victim, whichever is earlier.

25 (C) The sentencing court shall retain jurisdiction to enforce the
26 order to pay additional fines and restitution and, in appropriate
27 cases, may initiate probation violation proceedings or contempt of
28 court proceedings against a defendant who is found to have
29 willfully failed to comply with any lawful order of the court.

30 (D) If the execution of judgment is stayed pending an appeal of
31 an order of the superior court pursuant to this section, the
32 preliminary injunction or temporary restraining order shall be
33 maintained in full force and effect during the pendency of the
34 appellate period.

35 (2) The order imposing fines and restitution shall not affect the
36 interest in real property of any third party that was acquired prior
37 to the recording of the lis pendens, unless the property was
38 obtained from the defendant other than as a bona fide purchaser for
39 value. If any assets or property affected by this section are subject
40 to a valid lien, mortgage, security interest, or interest under a



1 conditional sales contract and the amount due to the holder of the
2 lien, mortgage, interest, or contract is less than the appraised value
3 of the property, that person may pay to the state or the local
4 government that initiated the proceeding the amount of the
5 difference between the appraised value of the property and the
6 amount of the lien, mortgage, security interest, or interest under a
7 conditional sales contract. Upon that payment, the state or local
8 entity shall relinquish all claims to the property. If the holder of the
9 interest elects not to make that payment to the state or local
10 governmental entity, the interest in the property shall be deemed
11 transferred to the state or local governmental entity and any indicia
12 of ownership of the property shall be confirmed in the state or local
13 governmental entity. The appraised value shall be determined as
14 of the date judgment is entered either by agreement between the
15 holder of the lien, mortgage, security interest, or interest under a
16 conditional sales contract and the governmental entity involved,
17 or if they cannot agree, then by a court-appointed appraiser for the
18 county in which the action is brought. A person holding a valid
19 lien, mortgage, security interest, or interest under a conditional
20 sales contract shall be paid the appraised value of his or her
21 interest.

22 (3) In making its final order, the court shall seek to protect the
23 legitimately acquired interests of any innocent third persons,
24 including an innocent spouse, who were not involved in the
25 commission of any criminal activity.

26 (j) In all cases where property is to be levied upon pursuant to
27 this section, a receiver appointed by the court shall be empowered
28 to liquidate all property or assets which shall be distributed in the
29 following order of priority:

30 (1) To the receiver, or court-appointed appraiser, for all
31 reasonable expenditures made or incurred by him or her in
32 connection with the sale of the property or liquidation of assets,
33 including all reasonable expenditures for any necessary repairs,
34 storage, or transportation of any property levied upon under this
35 section.

36 (2) To any holder of a valid lien, mortgage, or security interest
37 up to the amount of his or her interest in the property or proceeds.

38 (3) To any victim as restitution for any fraudulent or unlawful
39 acts alleged in the accusatory pleading that were proven by the



1 prosecuting agency as part of the pattern of fraudulent or unlawful
2 acts.

3 (4) For payment of any fine imposed pursuant to this section.
4 The proceeds obtained in payment of a fine shall be paid to the
5 treasurer of the county in which the judgment was entered, or if the
6 action was undertaken by the Attorney General, to the Treasurer.
7 If the payment of any fine imposed pursuant to this section
8 involved losses resulting from violation of Section 550 of this code
9 or Section 1871.4 of the Insurance Code, one-half of the fine
10 collected shall be paid to the treasurer of the county in which the
11 judgment was entered, and one-half of the fine collected shall be
12 paid to the Department of Insurance for deposit in the appropriate
13 account in the Insurance Fund. The proceeds from the fine first
14 shall be used by a county to reimburse local prosecutors and
15 enforcement agencies for the reasonable costs of investigation and
16 prosecution of cases brought pursuant to this section.

17 (5) To the Restitution Fund, or in cases involving convictions
18 relating to insurance fraud, to the State Insurance Fund as
19 restitution for crimes not specifically pleaded and proven in the
20 accusatory pleading.

21 (k) If, after distribution pursuant to paragraphs (1) and (2) of
22 subdivision (j), the value of the property to be levied upon pursuant
23 to this section is insufficient to pay for restitution and fines, the
24 court shall order an equitable sharing of the proceeds of the
25 liquidation of the property, and any other recoveries, which shall
26 specify the percentage of recoveries to be devoted to each purpose.
27 At least 70 percent of the proceeds remaining after distribution
28 pursuant to paragraphs (1) and (2) of subdivision (j) shall be
29 devoted to restitution.

30 (l) Unless otherwise expressly provided, the remedies or
31 penalties provided by this section are cumulative to each other and
32 to the remedies or penalties available under all other laws of this
33 state, except that two separate actions against the same defendant
34 and pertaining to the same fraudulent or unlawful acts may not be
35 brought by a district attorney or the Attorney General pursuant to
36 this section and Chapter 5 (commencing with Section 17200) of
37 Part 2 of Division 7 of the Business and Professions Code. If a fine
38 is imposed under this section, it shall be in lieu of all other fines
39 that may be imposed pursuant to any other provision of law for the
40 crimes for which the defendant has been convicted in the action.



1 SEC. 12. Section 186.22 of the Penal Code is amended to
2 read:

3 186.22. (a) Any person who actively participates in any
4 criminal street gang with knowledge that its members engage in or
5 have engaged in a pattern of criminal gang activity, and who
6 willfully promotes, furthers, or assists in any felonious criminal
7 conduct by members of that gang, shall be punished by
8 imprisonment in a county jail for a period not to exceed one year,
9 or by imprisonment in the state prison for 16 months, or two or
10 three years.

11 (b) (1) Except as provided in paragraph (4) and (5), any person
12 who is convicted of a felony committed for the benefit of, at the
13 direction of, or in association with any criminal street gang, with
14 the specific intent to promote, further, or assist in any criminal
15 conduct by gang members, shall, upon conviction of that felony,
16 in addition and consecutive to the punishment prescribed for the
17 felony or attempted felony of which he or she has been convicted,
18 be punished *as follows*:

19 (A) *Except as provided in subparagraphs (B) and (C), the*
20 *person shall be punished by an additional term of two, three, or*
21 *four years at the court's discretion, ~~except that if.~~*

22 (B) *If the felony is a serious felony, as defined in subdivision*
23 *(c) of Section 1192.7, the person shall be punished by an additional*
24 *term of five years. ~~¶~~*

25 (C) *If the felony is a violent felony, as defined in subdivision*
26 *(c) of Section 667.5, the person shall be punished by an additional*
27 *term of 10 years.*

28 (2) If the underlying felony described in paragraph (1) is
29 committed on the grounds of, or within 1,000 feet of, a public or
30 private elementary, vocational, junior high, or high school, during
31 hours in which the facility is open for classes or school-related
32 programs or when minors are using the facility that fact shall be
33 a circumstance in aggravation of the crime in imposing a term
34 under paragraph (1).

35 (3) The court shall order the imposition of the middle term of
36 the sentence enhancement, unless there are circumstances in
37 aggravation or mitigation. The court shall state the reasons for its
38 choice of sentencing enhancements on the record at the time of the
39 sentencing.



1 (4) Any person who is convicted of a felony enumerated in this
2 paragraph committed for the benefit of, at the direction of, or in
3 association with any criminal street gang, with the specific intent
4 to promote, further, or assist in any criminal conduct by gang
5 members, shall, upon conviction of that felony, be sentenced to an
6 indeterminate term of life imprisonment with a minimum term of
7 the indeterminate sentence calculated as the greater of:

8 (A) The term determined by the court pursuant to Section 1170
9 for the underlying conviction, including any enhancement
10 applicable under Chapter 4.5 (commencing with Section 1170) of
11 Title 7 of Part 2, or any period prescribed by Section 3046, if the
12 felony is any of the offenses enumerated in subparagraphs (B) or
13 (C) of this paragraph.

14 (B) Imprisonment in the state prison for 15 years, if the felony
15 is a home invasion robbery, in violation of subparagraph (A) of
16 paragraph (1) of subdivision (a) of Section 213; carjacking, as
17 defined in Section 215; a felony violation of Section 246; or a
18 violation of Section 12022.55.

19 (C) Imprisonment in the state prison for seven years, if the
20 felony is extortion, as defined in Section 519; or threats to victims
21 and witnesses, as defined in Section 136.1.

22 (5) Except as provided in paragraph (4), any person who
23 violates this subdivision in the commission of a felony punishable
24 by imprisonment in the state prison for life, shall not be paroled
25 until a minimum of 15 calendar years have been served.

26 (c) If the court grants probation or suspends the execution of
27 sentence imposed upon the defendant for a violation of subdivision
28 (a), or in cases involving a true finding of the enhancement
29 enumerated in subdivision (b), the court shall require that the
30 defendant serve a minimum of 180 days in a county jail as a
31 condition thereof.

32 (d) Any person who is convicted of a public offense punishable
33 as a felony or a misdemeanor, which is committed for the benefit
34 of, at the direction of or in association with, any criminal street
35 gang with the specific intent to promote, further, or assist in any
36 criminal conduct by gang members, shall be punished by
37 imprisonment in the county jail not to exceed one year, or by
38 imprisonment in the state prison for one, two, or three years,
39 provided that any person sentenced to imprisonment in the county
40 jail shall be imprisoned for a period not to exceed one year, but not



1 less than 180 days, and shall not be eligible for release upon
2 completion of sentence, parole, or any other basis, until he or she
3 has served 180 days. If the court grants probation or suspends the
4 execution of sentence imposed upon the defendant, it shall require
5 as a condition thereof that the defendant serve 180 days in county
6 jail.

7 (e) As used in this chapter, “pattern of criminal gang activity”
8 means the commission of, attempted commission of, conspiracy
9 to commit, or solicitation of, sustained juvenile petition for, or
10 conviction of two or more of the following offenses, provided at
11 least one of these offenses occurred after the effective date of this
12 chapter and the last of those offenses occurred within three years
13 after a prior offense, and the offenses were committed on separate
14 occasions, or by two or more persons:

15 (1) Assault with a deadly weapon or by means of force likely
16 to produce great bodily injury, as defined in Section 245.

17 (2) Robbery, as defined in Chapter 4 (commencing with
18 Section 211) of Title 8 of Part 1.

19 (3) Unlawful homicide or manslaughter, as defined in Chapter
20 1 (commencing with Section 187) of Title 8 of Part 1.

21 (4) The sale, possession for sale, transportation, manufacture,
22 offer for sale, or offer to manufacture controlled substances as
23 defined in Sections 11054, 11055, 11056, 11057, and 11058 of the
24 Health and Safety Code.

25 (5) Shooting at an inhabited dwelling or occupied motor
26 vehicle, as defined in Section 246.

27 (6) Discharging or permitting the discharge of a firearm from
28 a motor vehicle, as defined in subdivisions (a) and (b) of Section
29 12034.

30 (7) Arson, as defined in Chapter 1 (commencing with Section
31 450) of Title 13.

32 (8) The intimidation of witnesses and victims, as defined in
33 Section 136.1.

34 (9) Grand theft, as defined in subdivisions (a) or (c) of Section
35 487.

36 (10) Grand theft of any firearm, vehicle, trailer, or vessel.

37 (11) Burglary, as defined in Section 459.

38 (12) Rape, as defined in Section 261.

39 (13) Looting, as defined in Section 463.

40 (14) Moneylaundering, as defined in Section 186.10.



- 1 (15) Kidnapping, as defined in Section 207.
2 (16) Mayhem, as defined in Section 203.
3 (17) Aggravated mayhem, as defined in Section 205.
4 (18) Torture, as defined in Section 206.
5 (19) Felony extortion, as defined in Sections 518 and 520.
6 (20) Felony vandalism, as defined in paragraph (1) of
7 subdivision (b) of Section 594.
8 (21) Carjacking, as defined in Section 215.
9 (22) The sale, delivery, or transfer of a firearm, as defined in
10 Section 12072.
11 (23) Possession of a pistol, revolver, or other firearm capable
12 of being concealed upon the person in violation of paragraph (1)
13 of subdivision (a) of Section 12101.
14 (24) Threats to commit crimes resulting in death or great bodily
15 injury, as defined in Section 422.
16 (25) Theft and unlawful taking or driving of a vehicle, as
17 defined in Section 10851 of the Vehicle Code.
18 (f) As used in this chapter, “criminal street gang” means any
19 ongoing organization, association, or group of three or more
20 persons, whether formal or informal, having as one of its primary
21 activities the commission of one or more of the criminal acts
22 enumerated in paragraphs (1) to (25), inclusive, of subdivision (e),
23 having a common name or common identifying sign or symbol,
24 and whose members individually or collectively engage in or have
25 engaged in a pattern of criminal gang activity.
26 (g) Notwithstanding any other law, the court may strike the
27 additional punishment for the enhancements provided in this
28 section or refuse to impose the minimum jail sentence for
29 misdemeanors in an unusual case where the interests of justice
30 would best be served, if the court specifies on the record and enters
31 into the minutes the circumstances indicating that the interests of
32 justice would best be served by that disposition.
33 (h) Notwithstanding any other provision of law, for each
34 person committed to the Youth Authority for a conviction pursuant
35 to subdivision (a) or (b) of this section, the offense shall be deemed
36 one for which the state shall pay the rate of 100 percent of the per
37 capita institutional cost of the Department of Youth Authority,
38 pursuant to Section 912.5 of the Welfare and Institutions Code.
39 (i) In order to secure a conviction, or sustain a juvenile petition,
40 pursuant to subdivision (a), it is not necessary for the prosecution



1 to prove that the person devotes all, or a substantial part of his or
2 her time or efforts to the criminal street gang, nor is it necessary
3 to prove that the person is a member of the criminal street gang.
4 Active participation in the criminal street gang is all that is
5 required.

6 SEC. 13. Section 368 of the Penal Code is amended to read:

7 368. (a) The Legislature finds and declares that crimes
8 against elders and dependent adults are deserving of special
9 consideration and protection, not unlike the special protections
10 provided for minor children, because elders and dependent adults
11 may be confused, on various medications, mentally or physically
12 impaired, or incompetent, and therefore less able to protect
13 themselves, to understand or report criminal conduct, or to testify
14 in court proceedings on their own behalf.

15 (b) (1) Any person who, under circumstances or conditions
16 likely to produce great bodily harm or death, willfully causes or
17 permits any elder or dependent adult, with knowledge that he or
18 she is an elder or a dependent adult, to suffer, or inflicts thereon
19 unjustifiable physical pain or mental suffering, or having the care
20 or custody of any elder or dependent adult, willfully causes or
21 permits the person or health of the elder or dependent adult to be
22 injured, or willfully causes or permits the elder or dependent adult
23 to be placed in a situation in which his or her person or health is
24 endangered, is punishable by imprisonment in a county jail not
25 exceeding one year, or by a fine not to exceed six thousand dollars
26 (\$6,000), or by both that fine and imprisonment, or in the state
27 prison for two, three, or four years.

28 (2) If in the commission of an offense described in paragraph
29 (1), the victim suffers great bodily injury, as defined in subdivision
30 ~~(e)~~ (f) of Section 12022.7, the defendant shall receive an additional
31 term in the state prison as follows:

32 (A) Three years if the victim is under 70 years of age.

33 (B) Five years if the victim is 70 years of age or older.

34 (3) If in the commission of an offense described in paragraph
35 (1), the defendant proximately causes the death of the victim, the
36 defendant shall receive an additional term in the state prison as
37 follows:

38 (A) Five years if the victim is under 70 years of age.

39 (B) Seven years if the victim is 70 years of age or older.



1 (c) Any person who, under circumstances or conditions other
2 than those likely to produce great bodily harm or death, willfully
3 causes or permits any elder or dependent adult, with knowledge
4 that he or she is an elder or a dependent adult, to suffer, or inflicts
5 thereon unjustifiable physical pain or mental suffering, or having
6 the care or custody of any elder or dependent adult, willfully
7 causes or permits the person or health of the elder or dependent
8 adult to be injured or willfully causes or permits the elder or
9 dependent adult to be placed in a situation in which his or her
10 person or health may be endangered, is guilty of a misdemeanor.

11 (d) Any person who is not a caretaker who violates any
12 provision of law proscribing theft or embezzlement, with respect
13 to the property of an elder or dependent adult, and who knows or
14 reasonably should know that the victim is an elder or dependent
15 adult, is punishable by imprisonment in a county jail not exceeding
16 one year, or in the state prison for two, three, or four years, when
17 the money, labor, or real or personal property taken is of a value
18 exceeding four hundred dollars (\$400); and by a fine not exceeding
19 one thousand dollars (\$1,000), by imprisonment in a county jail
20 not exceeding one year, or by both that fine and imprisonment,
21 when the money, labor, or real or personal property taken is of a
22 value not exceeding four hundred dollars (\$400).

23 (e) Any caretaker of an elder or a dependent adult who violates
24 any provision of law proscribing theft or embezzlement, with
25 respect to the property of that elder or dependent adult, is
26 punishable by imprisonment in a county jail not exceeding one
27 year, or in the state prison for two, three, or four years when the
28 money, labor, or real or personal property taken is of a value
29 exceeding four hundred dollars (\$400), and by a fine not exceeding
30 one thousand dollars (\$1,000), by imprisonment in a county jail
31 not exceeding one year, or by both that fine and imprisonment,
32 when the money, labor, or real or personal property taken is of a
33 value not exceeding four hundred dollars (\$400).

34 (f) Any person who commits the false imprisonment of an elder
35 or dependent adult by the use of violence, menace, fraud, or deceit
36 is punishable by imprisonment in the state prison for two, three,
37 or four years.

38 (g) As used in this section, “elder” means any person who is
39 65 years of age or older.



1 (h) As used in this section, “dependent adult” means any
2 person who is between the ages of 18 and 64, who has physical or
3 mental limitations which restrict his or her ability to carry out
4 normal activities or to protect his or her rights, including, but not
5 limited to, persons who have physical or developmental
6 disabilities or whose physical or mental abilities have diminished
7 because of age. “Dependent adult” includes any person between
8 the ages of 18 and 64 who is admitted as an inpatient to a 24-hour
9 health facility, as defined in Sections 1250, 1250.2, and 1250.3 of
10 the Health and Safety Code.

11 (i) As used in this section, “caretaker” means any person who
12 has the care, custody, or control of, or who stands in a position of
13 trust with, an elder or a dependent adult.

14 (j) Nothing in this section shall preclude prosecution under
15 both this section and Section 187 or 12022.7 or any other provision
16 of law. However, a person shall not receive an additional term of
17 imprisonment under both paragraphs (2) and (3) of subdivision (b)
18 for any single offense, nor shall a person receive an additional term
19 of imprisonment under both Section 12022.7 and paragraph (2) or
20 (3) of subdivision (b) for any single offense.

21 SEC. 14. Section 466 of the Penal Code is amended to read:

22 466. Every person having upon him or her in his or her
23 possession a picklock, crow, keybit, crowbar, screwdriver, ~~vise~~
24 *vise* grip pliers, water-pump pliers, slidehammer, slim jim, tension
25 bar, lock pick gun, tubular lock pick, floor-safe door puller, master
26 key, or other instrument or tool with intent feloniously to break or
27 enter into any building, railroad car, aircraft, or vessel, trailer
28 coach, or vehicle as defined in the Vehicle Code, or who shall
29 knowingly make or alter, or shall attempt to make or alter, any key
30 or other instrument above named so that the same will fit or open
31 the lock of a building, railroad car, aircraft, or vessel, trailer coach,
32 or vehicle as defined in the Vehicle Code, without being requested
33 so to do by some person having the right to open the same, or who
34 shall make, alter, or repair any instrument or thing, knowing or
35 having reason to believe that it is intended to be used in committing
36 a misdemeanor or felony, is guilty of *a* misdemeanor. Any of the
37 structures mentioned in Section 459 shall be deemed to be a
38 building within the meaning of this section.

39 SEC. 15. Section 530.7 of the Penal Code is amended to read:



1 530.7. (a) In order for a victim of identity theft to be included
2 in the data base established pursuant to subdivision (c), he or she
3 shall submit to the Department of Justice a court order obtained
4 pursuant to any provision of law, a full set of fingerprints, and any
5 other information prescribed by the department.

6 (b) Upon receiving information pursuant to subdivision (a), the
7 Department of Justice shall verify the identity of the victim against
8 any drivers license or other identification record maintained by the
9 Department of Motor Vehicles.

10 (c) The Department of Justice shall establish and maintain a
11 data base of individuals who have been victims of identity theft.
12 The department shall provide a victim of identity theft or his or her
13 authorized representative access to the data base in order to
14 establish that the individual has been a victim of identity theft.
15 Access to the data base shall be limited to criminal justice agencies,
16 victims of identity theft, and individuals and agencies authorized
17 by the victims.

18 (d) The Department of Justice shall establish and maintain a toll
19 free number to provide access to information under subdivision
20 (c).

21 (e) This section shall be operative September 1, 2001.

22 SEC. 16. Section 646.93 of the Penal Code is amended to
23 read:

24 646.93. (a) (1) In those counties where the arrestee is
25 initially incarcerated in a jail operated by the county sheriff, the
26 sheriff shall designate a telephone number that shall be available
27 to the public to inquire about bail status or to determine if the
28 person arrested has been released and if not yet released, the
29 scheduled release date, if known. This subdivision does not
30 require a county sheriff or jail administrator to establish a new
31 telephone number but shall require that the information contained
32 on the victim resource card, as defined in Section 264.2, specify
33 the phone number that a victim should call to obtain this
34 information. This subdivision shall not require the county sheriff
35 or municipal police departments to produce new victim resource
36 cards containing a designated phone number for the public to
37 inquire about the bail or custody status of a person who has been
38 arrested until their existing supply of victim resource cards has
39 been exhausted.



1 (2) In those counties where the arrestee is initially incarcerated
2 in an incarceration facility other than a jail operated by the county
3 sheriff and in those counties that do not operate a Victim
4 Notification (VNE) system, a telephone number shall be available
5 to the public to inquire about bail status or to determine if the
6 person arrested has been released and if not yet released, the
7 scheduled release date, if known. This subdivision does not require
8 a municipal police agency or jail administrator to establish a new
9 telephone number but shall require that the information contained
10 on the victim resource card, as defined in Section 264.2, specify
11 the phone number that a victim should call to obtain this
12 information. This subdivision shall not require the county sheriff
13 or municipal police departments to produce new victim resource
14 cards containing a designated phone number for the public to
15 inquire about the bail or custody status of a person who has been
16 arrested until their existing supply of victim resource cards has
17 been exhausted.

18 (3) If an arrestee is transferred to another incarceration facility
19 and is no longer in the custody of the initial arresting agency, the
20 transfer date and new incarceration location shall be made
21 available through the telephone number designated by the
22 arresting agency.

23 (4) The resource ~~ear~~ card provided to victims pursuant to
24 Section 264.2 shall list the designated telephone numbers to which
25 this section refers.

26 (b) Any request to lower bail shall be heard in open court in
27 accordance with Section 1270.1. In addition, the prosecutor shall
28 make all reasonable efforts to notify the victim or victims of the
29 bail hearing. The victims may be present at the hearing and shall
30 be permitted to address the court on the issue of bail.

31 (c) Unless good cause is shown not to impose the following
32 conditions, the judge shall impose as additional conditions of
33 release on bail that:

34 (1) The defendant shall not initiate contact in person, by
35 telephone, or any other means with the alleged victims.

36 (2) The defendant shall not knowingly go within 100 yards of
37 the alleged victims, their residence, or place of employment.

38 (3) The defendant shall not possess any firearms or other
39 deadly or dangerous weapons.

40 (4) The defendant shall obey all laws.



1 (5) The defendant, upon request at the time of his or her
2 appearance in court, shall provide the court with an address where
3 he or she is residing or will reside, a business address and telephone
4 number if employed, and a residence telephone number if the
5 defendant's residence has a telephone.

6 A showing by declaration that any of these conditions are
7 violated shall, unless good cause is shown, result in the issuance
8 of a no-bail warrant.

9 SEC. 17. Section 666.7 of the Penal Code is amended to read:

10 666.7. It is the intent of the Legislature that this section serve
11 merely as a nonsubstantive comparative reference of current
12 sentence enhancement provisions. Nothing in this section shall
13 have any substantive effect on the application of any sentence
14 enhancement contained in any provision of law, including, but not
15 limited to, all of the following: omission of any sentence
16 enhancement provision, inclusion of any obsolete sentence
17 enhancement provision, or inaccurate reference or summary of a
18 sentence enhancement provision.

19 It is the intent of the Legislature to amend this section as
20 necessary to accurately reflect current sentence enhancement
21 provisions, including the addition of new provisions and the
22 deletion of obsolete provisions.

23 For the purposes of this section, the term "sentence
24 enhancement" means an additional term of imprisonment in the
25 state prison added to the base term for the underlying offense. A
26 sentence enhancement is imposed because of the nature of the
27 offense at the time the offense was committed or because the
28 defendant suffered a qualifying prior conviction before
29 committing the current offense.

30 (a) The provisions listed in this subdivision imposing a
31 sentence enhancement of one year imprisonment in the state prison
32 may be referenced as Schedule A.

33 (1) Money laundering when the value of transactions exceeds
34 fifty thousand dollars (\$50,000), but is less than one hundred fifty
35 thousand dollars (\$150,000) (subpara. (A), para. (1), subd. (c),
36 Sec. 186.10, Pen. C.).

37 (2) Commission of two or more related felonies, a material
38 element of which is fraud or embezzlement, which involve a
39 pattern of related felony conduct, involving the taking of more



1 than one hundred thousand dollars (\$100,000) (para. (3), subd. (a),
2 Sec. 186.11, Pen. C.).

3 (3) Felony conviction of willful harm or injury to a child,
4 involving female genital mutilation (~~See—(subd. (a), Sec. 273.4,~~
5 Pen. C.).

6 (4) Prior conviction of felony hate crime with a current
7 conviction of felony hate crime (subd. (e), Sec. 422.75, Pen. C.).

8 (5) Harming, obstructing, or interfering with any horse or dog
9 being used by any peace officer in the discharge or attempted
10 discharge of his or her duties and, with the intent to so harm,
11 obstruct, or interfere, personally causing the death, destruction, or
12 serious physical injury of any horse or dog (subd. (c), Sec. 600,
13 Pen. C.).

14 (6) Prior prison term with current felony conviction (subd. (b),
15 Sec. 667.5, Pen. C.).

16 (7) Commission of any specified offense against a person who
17 is 65 years of age or older, blind, a paraplegic or quadriplegic, or
18 under 14 years of age (subd. (a), Sec. 667.9, Pen. C.).

19 (8) Showing child pornography to a minor prior to or during the
20 commission or attempted commission of any lewd or lascivious
21 act with the minor (subd. (a), Sec. 667.15, Pen. C.).

22 (9) Felony conviction of forgery, grand theft, or false pretenses
23 as part of plan or scheme to defraud an owner in connection with
24 repairs to a structure damaged by a natural disaster (~~See—(subd.~~
25 ~~(a), Sec. 667.16,~~ Pen. C.).

26 (10) Impersonating a peace officer during the commission of a
27 felony (Sec. 667.17, Pen. C.).

28 (11) Felony conviction of any specified offense, including, but
29 not limited to, forgery, grand theft, and false pretenses, as part of
30 plan or scheme to defraud an owner in connection with repairs to
31 a structure damaged by natural disaster with prior felony
32 conviction of any of those offenses (~~See—(subd. (c), Sec. 670,~~ Pen.
33 C.).

34 (12) Commission or attempted commission of a felony while
35 armed with a firearm (para. (1), subd. (a), Sec. 12022, Pen. C.).

36 (13) Personally using a deadly or dangerous weapon in the
37 commission or attempted commission of a felony (para. (1), subd.
38 (b), Sec. 12022, Pen. C.).

39 (14) Taking, damaging, or destroying any property in the
40 commission or attempted commission of a felony with the intent



1 to cause that taking, damage, or destruction when the loss exceeds
2 fifty thousand dollars (\$50,000) (para. (1), subd. (a), Sec. 12022.6,
3 Pen. C.).

4 (15) Transferring, lending, selling, or giving any assault
5 weapon to a minor (para. (2), subd. (a), Sec. 12280, Pen. C.).

6 (16) Manufacturing, causing to be manufactured, distributing,
7 transporting, importing, keeping for sale, offering or exposing for
8 sale, giving, or lending any assault weapon while committing
9 another crime (subd. ~~(e)~~ (e), Sec. 12280, Pen. C.).

10 (17) Inducing, employing, or using a minor to commit a drug
11 offense involving heroin, cocaine, or cocaine base, or unlawfully
12 furnishing one of these controlled substances to a minor, upon the
13 grounds of, or within, a church, playground, youth center, child
14 day care facility, or public swimming pool during business hours
15 or whenever minors are using the facility (para. (1), subd. (a), Sec.
16 11353.1, H.& S.C.).

17 (18) Inducing another person to commit a drug offense as part
18 of the drug transaction for which the defendant is convicted when
19 the value of the controlled substance involved exceeds five
20 hundred thousand dollars (\$500,000) (para. (1), subd. (a), Sec.
21 11356.5, H.& S.C.).

22 (19) Manufacturing, compounding, converting, producing,
23 deriving, processing, or preparing methamphetamine or
24 phencyclidine (PCP), or attempting to commit any of those acts,
25 or possessing specified combinations of substances with the intent
26 to manufacture either methamphetamine or phencyclidine (PCP),
27 when the commission or attempted commission of the offense
28 causes the death or great bodily injury of another person other than
29 an accomplice ~~(See-~~ (subd. (a), Sec. 11379.9, H.& S.C.).

30 (20) Using a minor to commit a drug offense involving
31 phencyclidine (PCP), methamphetamine, or lysergic acid
32 diethylamide (LSD), or unlawfully furnishing one of these
33 controlled substances to a minor, when the commission of the
34 offense occurs upon the grounds of, or within, a church,
35 playground, youth center, child day care facility, or public
36 swimming pool during business hours or whenever minors are
37 using the facility (para. (1), subd. (a), Sec. 11380.1, H.& S.C.).

38 (21) Possessing for sale, or selling, heroin, cocaine, cocaine
39 base, methamphetamine, or phencyclidine (PCP), when the
40 commission of the offense occurs upon the grounds of a public



1 park, public library, or oceanfront beach (para. (1), subd. (a), Sec.
2 11380.5, H.& S.C.).

3 (22) Causing bodily injury or death to more than one victim in
4 any one instance of driving under the influence of any alcoholic
5 beverage or drug (Sec. 23558, Veh. C.).

6 (23) Fraudulently appropriating food stamps, electronically
7 transferred benefits, or authorizations to participate in the federal
8 Food Stamp Program entrusted to a public employee, or
9 knowingly using, transferring, selling, purchasing, or possessing,
10 any of the same in an unauthorized manner, when the offense is
11 committed by means of an electronic transfer of benefits in an
12 amount exceeding fifty thousand dollars (\$50,000), but less than
13 one hundred fifty thousand dollars (\$150,000) (subpara. (A), para.
14 (1), subd. (h), Sec. 10980, W.& I.C.).

15 (b) The provisions listed in this subdivision imposing a
16 sentence enhancement of one, two, or three years' imprisonment
17 in the state prison may be referenced as Schedule B.

18 (1) ~~Commission of a felony for the benefit of, at the direction~~
19 ~~of, or in association with any criminal street gang, with the specific~~
20 ~~intent to promote, further, or assist in any criminal conduct by gang~~
21 ~~members (para. (1), subd. (b), Sec. 186.22, Pen. C.).~~

22 (2) ~~Commission or attempted commission of a felony hate~~
23 ~~crime (subd. (a), Sec. 422.75, Pen. C.).~~

24 (3)

25 (2) Commission or attempted commission of a felony against
26 the property of a public or private institution because the property
27 is associated with a person or group of identifiable race, color,
28 religion, nationality, country of origin, ancestry, gender, disability,
29 or sexual orientation (subd. (b), Sec. 422.75, Pen. C.).

30 (4)

31 (3) Felony conviction of unlawfully causing a fire of any
32 structure, forest land, or property when the defendant has been
33 previously convicted of arson or unlawfully causing a fire, or when
34 a firefighter, peace officer, or emergency personnel suffered great
35 bodily injury, or when the defendant proximately caused great
36 bodily injury to more than one victim, or caused multiple
37 structures to burn ~~(See: (subd. (a), Sec. 452.1, Pen. C.).~~

38 (5)



- 1 (4) Carrying a loaded or unloaded firearm during the
2 commission or attempted commission of any felony street gang
3 crime (subd. (a), Sec. 12021.5, Pen. C.).
- 4 ~~(6)~~
- 5 (5) Personally using a deadly or dangerous weapon in the
6 commission of carjacking or attempted carjacking (para. (2), subd.
7 (b), Sec. 12022, Pen. C.).
- 8 ~~(7)~~
- 9 (6) Being a principal in the commission or attempted
10 commission of any specified drug offense, knowing that another
11 principal is personally armed with a firearm (subd. (d), Sec. 12022,
12 Pen. C.).
- 13 ~~(8)~~
- 14 (7) Furnishing or offering to furnish a firearm to another for the
15 purpose of aiding, abetting, or enabling that person or any other
16 person to commit a felony (Sec. 12022.4, Pen. C.).
- 17 ~~(9)~~
- 18 (8) Selling, supplying, delivering, or giving possession or
19 control of a firearm to any person within a prohibited class or to
20 a minor when the firearm is used in the subsequent commission of
21 a felony (para. (4), subd. (g), Sec. 12072, Pen. C.).
- 22 ~~(10)~~
- 23 (9) Inducing, employing, or using a minor who is at least four
24 years younger than the defendant to commit a drug offense
25 involving any specified controlled substance, including, but not
26 limited to, heroin, cocaine, and cocaine base, or unlawfully
27 providing one of these controlled substances to a minor (para. (3),
28 subd. (a), Sec. 11353.1, H.& S.C.).
- 29 ~~(11)~~
- 30 (10) Prior conviction of inducing, employing, or using a minor
31 to commit a drug offense involving cocaine base, or unlawfully
32 providing cocaine base to a minor that resulted in a prison sentence
33 with a current conviction of the same offense (subd. (a), Sec.
34 11353.4, H.& S.C.).
- 35 ~~(12)~~
- 36 (11) Prior conviction of inducing, employing, or using a minor
37 to commit a drug offense involving cocaine base, or unlawfully
38 providing cocaine base to a minor with a current conviction of the
39 same offense involving a minor who is 14 years of age or younger
40 (subd. (b), Sec. 11353.4, H.& S.C.).



1 ~~(13)~~

2 (12) Inducing, employing, or using a minor who is at least four
3 years younger than the defendant to commit a drug offense
4 involving any specified controlled substance, including, but not
5 limited to, phencyclidine (PCP), methamphetamine, and lysergic
6 acid diethylamide (LSD), or unlawfully providing one of these
7 controlled substances to a minor (para. (3), subd. (a), Sec. 11380.1,
8 H.& S.C.).

9 ~~(14)~~

10 (13) Causing great bodily injury or a substantial probability
11 that death could result by the knowing disposal, transport,
12 treatment, storage, burning, or incineration of any hazardous
13 waste at a facility without permits or at an unauthorized point
14 (subd. (e), Sec. 25189.5, and subd. (c), Sec. 25189.7, H.& S.C.).

15 (c) The provisions listed in this subdivision imposing a
16 sentence enhancement of one, two, or five years' imprisonment in
17 the state prison may be referenced as Schedule C.

18 (1) Wearing a bullet-resistant body vest in the commission or
19 attempted commission of a violent offense (subd. (b), Sec.
20 12022.2, Pen. C.).

21 (2) Commission or attempted commission of any specified sex
22 offense while armed with a firearm or deadly weapon (subd. (b),
23 Sec. 12022.3, Pen. C.).

24 (d) *The provisions listed in this subdivision imposing a*
25 *sentence enhancement of 16 months, or two or three years'*
26 *imprisonment in the state prison may be referenced as Schedule D.*

27 (1) *Knowing failure to register pursuant to Section 186.30 and*
28 *subsequent conviction or violation of Section 186.30, as specified*
29 *(para. (1), subd. (b), Sec. 186.33, Pen. C.).*

30 (e) The provisions listed in this subdivision imposing a
31 sentence enhancement of two years' imprisonment in the state
32 prison may be referenced as Schedule ~~D~~ E.

33 (1) Money laundering when the value of the transactions
34 exceeds one hundred fifty thousand dollars (\$150,000), but is less
35 than one million dollars (\$1,000,000) (subpara. (B), para. (1),
36 subd. (c), Sec. 186.10, Pen. C.).

37 (2) Commission of two or more related felonies, a material
38 element of which is fraud or embezzlement, which involve a
39 pattern of related felony conduct, involving the taking of more



1 than one hundred fifty thousand dollars (\$150,000) (para. (3),
2 subd. (a), Sec. 186.11, Pen. C.).

3 (3) Conviction of any specified felony sex offense that is
4 committed after fleeing to this state under specified circumstances
5 (subd. (d), Sec. 289.5, Pen. C.).

6 (4) Prior conviction of any specified insurance fraud offense
7 with current conviction of willfully injuring, destroying,
8 secreting, abandoning, or disposing of any property insured
9 against loss or damage by theft, embezzlement, or any casualty
10 with the intent to defraud or prejudice the insurer (subd. (b), Sec.
11 548, Pen. C.).

12 (5) Prior conviction of any specified insurance fraud offense
13 with current conviction of knowingly presenting any false or
14 fraudulent insurance claim or multiple claims for the same loss or
15 injury, or knowingly causing or participating in a vehicular
16 collision for the purpose of presenting any false or fraudulent
17 claim, or providing false or misleading information or concealing
18 information for purpose of insurance fraud (subd. (e), Sec. 550,
19 Pen. C.).

20 (6) Causing serious bodily injury as a result of knowingly
21 causing or participating in a vehicular collision or accident for the
22 purpose of presenting any false or fraudulent claim (subd. (g), Sec.
23 550, Pen. C.).

24 (7) Harming, obstructing, or interfering with any horse or dog
25 being used by any peace officer in the discharge or attempted
26 discharge of his or her duties and, with the intent to cause great
27 bodily injury, personally causing great bodily injury to any person
28 other than an accomplice (subd. (d), Sec. 600, Pen. C.).

29 (8) Prior conviction of any specified offense with current
30 conviction of any of those offenses committed against a person
31 who is 65 years of age or older, blind, a paraplegic or quadriplegic,
32 or under 14 years of age (subd. (b), Sec. 667.9, Pen. C.).

33 (9) Prior conviction for ~~penetration of genital or anal openings~~
34 ~~by foreign or unknown object~~ *sexual penetration* with current
35 conviction of the same offense committed against a person who is
36 65 years of age or older, blind, deaf, developmentally disabled, a
37 paraplegic or quadriplegic, or under 14 years of age (subd. (a), Sec.
38 667.10, Pen. C.).



1 (10) Showing child pornography to minor prior to or during the
2 commission or attempted commission of continuous sexual abuse
3 of the minor (subd. (b), Sec. 667.15, Pen. C.).

4 (11) Primary care provider in a day care facility committing
5 any specified felony sex offense against a minor entrusted to his
6 or her care (subd. (a), Sec. 674, Pen. C.).

7 (12) Commission of a felony offense while released from
8 custody on bail or own recognizance (subd. (b), Sec. 12022.1, Pen.
9 C.).

10 (13) Taking, damaging, or destroying any property in the
11 commission or attempted commission of a felony with the intent
12 to cause that taking, damage, or destruction when the loss exceeds
13 one hundred fifty thousand dollars (\$150,000) (para. (2), subd. (a),
14 Sec. 12022.6, Pen. C.).

15 (14) Inducing, employing, or using a minor to commit a drug
16 offense involving heroin, cocaine, or cocaine base, or unlawfully
17 furnishing one of these controlled substances to a minor, upon, or
18 within 1,000 feet of, the grounds of a school during school hours
19 or whenever minors are using the facility (para. (2), subd. (a), Sec.
20 11353.1, H.& S.C.).

21 (15) Inducing another person to commit a drug offense as part
22 of the drug transaction for which the defendant is convicted when
23 the value of the controlled substance involved exceeds two million
24 dollars (\$2,000,000) (para. (2), subd. (a), Sec. 11356.5, H.& S.C.).

25 (16) Manufacturing, compounding, converting, producing,
26 deriving, processing, or preparing methamphetamine or
27 phencyclidine (PCP), or attempting to commit any of those acts,
28 or possessing specified combinations of substances with the intent
29 to manufacture either methamphetamine or phencyclidine (PCP),
30 when the commission or attempted commission of the crime
31 occurs in a structure where any child under 16 years of age is
32 present (subd. (a), Sec. 11379.7, H.& S.C.).

33 (17) Using a minor to commit a drug offense involving
34 phencyclidine (PCP), methamphetamine, or lysergic acid
35 diethylamide (LSD), or unlawfully furnishing one of these
36 controlled substances to a minor, upon, or within 1,000 feet of, the
37 grounds of a school during school hours or whenever minors are
38 using the facility (para. (2), subd. (a), Sec. 11380.1, H.& S.C.).

39 (18) Prior felony conviction of any specified insurance fraud
40 offense with a current conviction of making false or fraudulent



1 statements concerning a workers' compensation claim (subd. (c),
2 Sec. 1871.4, Ins. C.).

3 (19) Prior felony conviction of making or causing to be made
4 any knowingly false or fraudulent statement of any fact material
5 to the determination of the premium, rate, or cost of any policy of
6 workers' compensation insurance for the purpose of reducing the
7 premium, rate, or cost of the insurance with a current conviction
8 of the same offense (subd. (b), Sec. 11760, Ins. C.).

9 (20) Prior felony conviction of making or causing to be made
10 any knowingly false or fraudulent statement of any fact material
11 to the determination of the premium, rate, or cost of any policy of
12 workers' compensation insurance issued or administered by the
13 State Compensation Insurance Fund for the purpose of reducing
14 the premium, rate, or cost of the insurance with a current
15 conviction of the same offense (subd. (b), Sec. 11880, Ins. C.).

16 (21) Fraudulently appropriating food stamps, electronically
17 transferred benefits, or authorizations to participate in the federal
18 Food Stamp Program entrusted to a public employee, or
19 knowingly using, transferring, selling, purchasing, or possessing,
20 any of the same in an unauthorized manner, when the offense is
21 committed by means of an electronic transfer of benefits in an
22 amount exceeding one hundred fifty thousand dollars (\$150,000),
23 but less than one million dollars (\$1,000,000) (subpara. (B), para.
24 (1), subd. (h), Sec. 10980, W.& I.C.).

25 ~~(e)~~

26 (f) The provisions listed in this subdivision imposing a
27 sentence enhancement of two, three, or four years' imprisonment
28 in the state prison may be referenced as Schedule ~~E~~ F.

29 (1) Commission of a felony, *other than a serious or violent*
30 *felony*, for the benefit of, at the direction of, or in association with
31 any criminal street gang, with the specific intent to promote,
32 further, or assist in any criminal conduct by gang members, ~~and on~~
33 ~~the grounds of, or within 1,000 feet of, a school during school~~
34 ~~hours or when minors are using the facility (para. (2) (subpara.~~
35 (A), para. (2), subd. (b), Sec. 186.22, Pen. C.).

36 (2) Acting in concert with another person or aiding or abetting
37 another person in committing or attempting to commit a felony
38 hate crime (subd. (c), Sec. 422.75, Pen. C.).

39 (3) Carrying a loaded or unloaded firearm together with a
40 detachable shotgun magazine, a detachable pistol magazine, a



1 detachable magazine, or a belt-feeding device during the
2 commission or attempted commission of any felony street gang
3 crime (subd. (b), Sec. 12021.5, Pen. C.).

4 ~~(f)~~

5 (g) The provisions listed in this subdivision imposing a
6 sentence enhancement of two, three, or five years' imprisonment
7 in the state prison may be referenced as Schedule ~~F~~ G.

8 (1) Commission of two or more related felonies, a material
9 element of which is fraud or embezzlement, which involve a
10 pattern of related felony conduct, involving the taking of more
11 than five hundred thousand dollars (\$500,000) (para. (2), subd.
12 (a), Sec. 186.11, Pen. C.).

13 ~~(g)~~

14 (h) The provisions listed in this subdivision imposing a
15 sentence enhancement of three years' imprisonment in the state
16 prison may be referenced as Schedule ~~G~~ H.

17 (1) Money laundering when the value of transactions exceeds
18 one million dollars (\$1,000,000), but is less than two million five
19 hundred thousand dollars (\$2,500,000) (subpara. (C), para. (1),
20 subd. (c), Sec. 186.10, Pen. C.).

21 ~~(2) Commission of a felony for the benefit of, at the direction~~
22 ~~of, or in association with any criminal street gang, with the specific~~
23 ~~intent to promote, further, or assist in any criminal conduct by gang~~
24 ~~members, if also convicted of a felony violation of witness or~~
25 ~~victim intimidation involving a credible threat of violence or death~~
26 ~~made to the witness or victim of a violent felony for the purpose~~
27 ~~of preventing or dissuading the witness or victim from attending~~
28 ~~or giving testimony at any trial for a violent felony (para. (5), subd.~~
29 ~~(b) Solicitation, recruitment, or coercion, of a minor to actively~~
30 ~~participate in a criminal street gang (subd. (d), Sec. 186.22~~
31 ~~186.26, Pen. C.).~~

32 (3) Willfully mingling any poison or harmful substance which
33 may cause death if ingested, or which causes the infliction of great
34 bodily injury on any person, with any food, drink, medicine, or
35 pharmaceutical product or willfully placing such poison or
36 harmful substance in any spring, well, reservoir, or public water
37 supply ~~(subd. (para. (2), subd. (a), Sec. 347, Pen. C.).~~

38 (4) Causing great bodily injury by willfully causing or
39 permitting any elder or dependent adult to suffer, or inflicting pain
40 or mental suffering upon, or endangering the health of, an elder or



1 dependent adult when the victim is under 70 years of age (subpara.
2 (A), para. (2), subd. (b), Sec. 368, Pen. C.).

3 (5) Maliciously driving or placing, in any tree, saw-log,
4 shingle-bolt, or other wood, any iron, steel, ceramic, or other
5 substance sufficiently hard to injure saws and causing bodily
6 injury to another person other than an accomplice (subd. (b), Sec.
7 593a, Pen. C.).

8 (6) Prior prison term for violent felony with current violent
9 felony conviction (subd. (a), Sec. 667.5, Pen. C.).

10 (7) Commission of any specified felony sex offense by a
11 primary care provider in a day care facility against a minor
12 entrusted to his or her care while voluntarily acting in concert with
13 another (subd. (b), Sec. 674, Pen. C.).

14 (8) Commission or attempted commission of a felony while
15 armed with an assault weapon or a machinegun (para. (2), subd.
16 (a), Sec. 12022, Pen. C.).

17 (9) Taking, damaging, or destroying any property in the
18 commission or attempted commission of a felony with the intent
19 to cause that taking, damage, or destruction when the loss exceeds
20 one million dollars (\$1,000,000) (para. (3), subd. (a), Sec.
21 12022.6, Pen. C.).

22 (10) Personally inflicting great bodily injury on any person
23 other than an accomplice in the commission or attempted
24 commission of a felony (subd. (a), Sec. 12022.7, Pen. C.).

25 (11) Administering by injection, inhalation, ingestion, or any
26 other means, any specified controlled substance against the
27 victim's will by means of force, violence, or fear of immediate and
28 unlawful bodily injury to the victim or another person for the
29 purpose of committing a felony (Sec. 12022.75, Pen. C.).

30 (12) Commission of any specified sex offense with knowledge
31 that the defendant has acquired immune deficiency syndrome
32 (AIDS) or with the knowledge that he or she carries antibodies of
33 the human immunodeficiency virus at the time of the commission
34 of the offense (~~See~~ (subd. (a), Sec. 12022.85, Pen. C.).

35 (13) Inducing another person to commit a drug offense as part
36 of the drug transaction for which the defendant is convicted when
37 the value of the controlled substance involved exceeds five million
38 dollars (\$5,000,000) (para. (3), subd. (a), Sec. 11356.5, H.& S.C.).



1 (14) Prior conviction of any specified drug offense with current
2 conviction of any specified drug offense (subs. (a), (b), and (c),
3 Sec. 11370.2, H.& S.C.).

4 (15) Commission of any specified drug offense involving a
5 substance containing heroin, cocaine base, cocaine,
6 methamphetamine, amphetamine, or phencyclidine (PCP), when
7 the substance exceeds one kilogram or 30 liters (para. (1), subd.
8 (a), and para. (1), subd. (b), Sec. 11370.4, H.& S.C.).

9 (16) Manufacturing, compounding, converting, producing,
10 deriving, processing, or preparing any substance containing
11 amphetamine, methamphetamine, or phencyclidine (PCP) or its
12 analogs or precursors, or attempting to commit any of those acts,
13 when the substance exceeds three gallons or one pound (para. (1),
14 subd. (a), Sec. 11379.8, H.& S.C.).

15 (17) Four or more prior convictions of specified
16 alcohol-related vehicle offenses with current conviction of driving
17 under the influence and causing great bodily injury (subd. (c), Sec.
18 ~~23190~~ 23566, Veh. C.).

19 (18) Fraudulently appropriating food stamps, electronically
20 transferred benefits, or authorizations to participate in the federal
21 Food Stamp Program entrusted to a public employee, or
22 knowingly using, transferring, selling, purchasing, or possessing,
23 any of the same in an unauthorized manner, when the offense is
24 committed by means of an electronic transfer of benefits in an
25 amount exceeding one million dollars (\$1,000,000), but less than
26 two million five hundred thousand dollars (\$2,500,000) (subpara.
27 (C), para. (1), subd. (h), Sec. 10980, W.& I.C.).

28 ~~(h)~~

29 (i) The provisions listed in this subdivision imposing a
30 sentence enhancement of three, four, or five years' imprisonment
31 in the state prison may be referenced as Schedule ~~H~~ I.

32 (1) Commission of felony arson with prior conviction of arson
33 or unlawfully starting a fire, or causing great bodily injury to a
34 firefighter, peace officer, other emergency personnel, or multiple
35 victims, or causing the burning of multiple structures, or using an
36 accelerator or ignition delay device (subd. (a), Sec. 451.1, Pen.
37 C.).

38 (2) Commission or attempted commission of any specified
39 drug offense while personally armed with a firearm (subd. (c), Sec.
40 12022, Pen. C.).



1 (3) Personally inflicting great bodily injury under
2 circumstances involving domestic violence in the commission or
3 attempted commission of a felony (subd. ~~(d)~~ (e), Sec. 12022.7,
4 Pen. C.).

5 (4) Commission of any specified drug offense involving
6 cocaine base, heroin, or methamphetamine, or a conspiracy to
7 commit any of those offenses, upon the grounds of, or within 1,000
8 feet of, a school during school hours or when minors are using the
9 facility (subd. (b), Sec. 11353.6, H.& S.C.).

10 (5) Commission of any specified drug offense involving
11 cocaine base, heroin, or methamphetamine, or a conspiracy to
12 violate any of those offenses, involving a minor who is at least four
13 years younger than the defendant (subd. (c), Sec. 11353.6, H.&
14 S.C.).

15 ~~(i)~~

16 (j) The provisions listed in this subdivision imposing a
17 sentence enhancement of 3, 4, or 10 years' imprisonment in the
18 state prison may be referenced as Schedule ~~I~~ J.

19 (1) Commission or attempted commission of any felony while
20 armed with a firearm and in the immediate possession of
21 ammunition for the firearm designed primarily to penetrate metal
22 or armor (subd. (a), Sec. 12022.2, Pen. C.).

23 (2) Commission or attempted commission of any specified sex
24 offense while using a firearm or deadly weapon (subd. (a), Sec.
25 12022.3, Pen. C.).

26 (3) Commission or attempted commission of a felony while
27 personally using a firearm (para. (1), subd. (a), Sec. 12022.5, Pen.
28 C.).

29 (4) Commission or attempted commission of any specified
30 drug offense while personally using a firearm (subd. (c), Sec.
31 12022.5, Pen. C.).

32 ~~(j)~~

33 (k) The provisions listed in this subdivision imposing a
34 sentence enhancement of four years' imprisonment in the state
35 prison may be referenced as Schedule ~~J~~ K.

36 (1) Money laundering when the value of transactions exceeds
37 two million five hundred thousand dollars (\$2,500,000) (subpara.
38 (D), para. (1), subd. (c), Sec. 186.10, Pen. C.).

39 (2) Prior conviction of willfully inflicting upon a child any
40 cruel or inhuman corporal punishment or injury resulting in a



1 traumatic condition with current conviction of that offense (subd.
2 (b), Sec. 273d, Pen. C.).

3 (3) Taking, damaging, or destroying any property in the
4 commission or attempted commission of a felony with the intent
5 to cause that taking, damage, or destruction when the loss exceeds
6 two million five hundred thousand dollars (\$2,500,000) (para. (4),
7 subd. (a), Sec. 12022.6, Pen. C.).

8 (4) Personally, willfully, and maliciously discharging a firearm
9 from a motor vehicle at another person other than an occupant of
10 a motor vehicle and causing a victim to suffer paralysis or
11 paraparesis of a major body part (para. (1), subd. (b), Sec. 12022.9,
12 Pen. C.).

13 (5) Personally, willfully, and maliciously discharging a firearm
14 from a motor vehicle at another occupied motor vehicle and
15 causing a victim to suffer paralysis or paraparesis of a major body
16 part (para. (2), subd. (b), Sec. 12022.9, Pen. C.).

17 (6) Willfully causing or permitting any child to suffer, or
18 inflicting on the child unjustifiable physical pain or injury that
19 results in death under circumstances or conditions likely to
20 produce great bodily harm or death, or, having the care or custody
21 of any child, willfully causing or permitting that child to be injured
22 or harmed under circumstances likely to produce great bodily
23 harm or death, when that injury or harm results in death (Sec.
24 12022.95, Pen. C.).

25 (7) Fraudulently appropriating food stamps, electronically
26 transferred benefits, or authorizations to participate in the federal
27 Food Stamp Program entrusted to a public employee, or
28 knowingly using, transferring, selling, purchasing, or possessing,
29 any of the same in an unauthorized manner, when the offense is
30 committed by means of an electronic transfer of benefits in an
31 amount exceeding two million five hundred thousand dollars
32 (\$2,500,000) (subpara. (D), para. (1), subd. (h), Sec. 10980, W.&
33 I.C.).

34 ~~(8)~~

35 (8) *Execution of a scheme or artifice to defraud the Medi-Cal*
36 *program or any other health care program administered by the*
37 *State Department of Health Services or its agents or contractors,*
38 *or to obtain under false or fraudulent pretenses, representations,*
39 *or promises any property owned by or under the custody of the*
40 *Medi-Cal program or any health care program administered by the*



1 department, its agents, or contractors under circumstances likely
2 to cause or that do cause two or more persons great bodily injury
3 (subd. (d), Sec. 14107, W.& I.C.).

4 (l) The provisions listed in this subdivision imposing a sentence
5 enhancement of four, five, or six years' imprisonment in the state
6 prison may be referenced as Schedule L.

7 (1) Personally inflicting great bodily harm on a child under the
8 age of five years in the commission of a felony (subd. (d), Sec.
9 12022.7, Pen. C.).

10 (m) The provisions listed in this subdivision imposing a
11 sentence enhancement of 4, 5, or 10 years' imprisonment in the
12 state prison may be referenced as Schedule ~~K~~ M.

13 (1) Commission or attempted commission of a felony while
14 personally using a firearm with prior conviction of carjacking or
15 attempted carjacking (para. (2), subd. (a), Sec. 12022.5, Pen. C.).

16 ~~(+)~~

17 (n) The provisions listed in this subdivision imposing a
18 sentence enhancement of five years' imprisonment in the state
19 prison may be referenced as Schedule ~~L~~ N.

20 (1) Commission of a serious felony for the benefit of, at the
21 direction of, or in association with, any criminal street gang, with
22 the specific intent to promote, further, or assist in any criminal
23 conduct by gang members (subpara. (B), para. (1), subd. (b), Sec.
24 186.22, Pen. C.).

25 (2) Using sex offender registration information to commit a
26 felony ~~(subd. (1), subd. (q), Sec. 290, and para. (1), subd.~~
27 ~~(b), Sec. 290.4, Pen. C.).~~

28 ~~(2)~~

29 (3) Causing great bodily injury by willfully causing or
30 permitting any elder or dependent adult to suffer, or inflicting pain
31 or mental suffering upon, or endangering the health of, an elder or
32 dependent adult when the victim is 70 years of age or older
33 (subpara. (B), para. (2), subd. (b), Sec. 368, Pen. C.).

34 ~~(3)~~

35 (4) Causing death by willfully causing or permitting any elder
36 or dependent adult to suffer, or inflicting pain or mental suffering
37 upon, or endangering the health of, an elder or dependent adult
38 when the victim is under 70 years of age (subpara. (A), para. (3),
39 subd. (b), Sec. 368, Pen. C.).

40 ~~(4)~~



1 (5) Two prior felony convictions of knowingly causing or
2 participating in a vehicular collision or accident for the purpose of
3 presenting any false or fraudulent claim with current conviction of
4 the same (subd. (f), Sec. 550, Pen. C.).

5 ~~(5)~~

6 (6) Prior conviction of a serious felony with current conviction
7 of a serious felony (para. (1), subd. (a), Sec. 667, Pen. C.).

8 ~~(6)~~

9 (7) Prior conviction of any specified sex offense with current
10 conviction of lewd and lascivious acts with a child under 14 years
11 of age (subd. (a), Sec. 667.51, Pen. C.).

12 ~~(7)~~

13 (8) Prior conviction of any specified sex offense with current
14 conviction of any of those sex offenses (subd. (a), Sec. 667.6, Pen.
15 C.).

16 ~~(8)~~

17 (9) Kidnapping or carrying away any child under 14 years of
18 age with the intent to permanently deprive the parent or legal
19 guardian custody of that child (Sec. 667.85, Pen. C.).

20 ~~(9)~~

21 (10) Personally inflicting great bodily injury on any person
22 other than an accomplice in the commission or attempted
23 commission of a felony that causes the victim to become comatose
24 due to a brain injury or to suffer paralysis of a permanent nature
25 (subd. (b), Sec. 12022.7, Pen. C.).

26 ~~(10)~~

27 (11) Personally inflicting great bodily injury on another person
28 who is 70 years of age or older other than an accomplice in the
29 commission or attempted commission of a felony (subd. (c), Sec.
30 12022.7, Pen. C.).

31 ~~(11)~~

32 (12) Inflicting great bodily injury on any victim in the
33 commission or attempted commission of any specified sex offense
34 (Sec. 12022.8, Pen. C.).

35 ~~(12)~~

36 (13) Personally and intentionally inflicting injury upon a
37 pregnant woman during the commission or attempted commission
38 of a felony that results in the termination of the pregnancy when
39 the defendant knew or reasonably should have known that the
40 victim was pregnant (subd. (a), Sec. 12022.9, Pen. C.).



1 ~~(13)~~
 2 (14) Using information disclosed to the licensee of a
 3 community care facility by a prospective client regarding his or her
 4 status as a sex offender to commit a felony (subd. (c), Sec. 1522.01,
 5 H.& S.C.).

6 ~~(14)~~
 7 (15) Commission of any specified drug offense involving a
 8 substance containing heroin, cocaine base, cocaine,
 9 methamphetamine, amphetamine, or phencyclidine (PCP), when
 10 the substance exceeds 4 kilograms or 100 liters (para. (2), subd.
 11 (a), and para. (2), subd. (b), Sec. 11370.4, H.& S.C.).

12 ~~(15)~~
 13 (16) Manufacturing, compounding, converting, producing,
 14 deriving, processing, or preparing methamphetamine or
 15 phencyclidine (PCP), or attempting to commit any of those acts,
 16 or possessing specified combinations of substances with the intent
 17 to manufacture either methamphetamine or phencyclidine (PCP),
 18 when the commission of the crime causes any child under 16 years
 19 of age to suffer great bodily injury (subd. (b), Sec. 11379.7, H.&
 20 S.C.).

21 ~~(16)~~
 22 (17) Manufacturing, compounding, converting, producing,
 23 deriving, processing, or preparing any substance containing
 24 amphetamine, methamphetamine, or phencyclidine (PCP) or its
 25 analogs or precursors, or attempting to commit any of those acts,
 26 when the substance exceeds 10 gallons or three pounds (para. (2),
 27 subd. (a), Sec. 11379.8, H.& S.C.).

28 ~~(17)~~
 29 (18) Fleeing the scene of the crime after commission of
 30 vehicular manslaughter (subd. (c), Sec. 20001, Veh. C.).

31 ~~(m)~~
 32 (o) The provisions listed in this subdivision imposing a
 33 sentence enhancement of 5, 6, or 10 years' imprisonment in the
 34 state prison may be referenced as Schedule ~~M~~ O.

35 (1) Discharging a firearm at an occupied motor vehicle in the
 36 commission or attempted commission of a felony which caused
 37 great bodily injury or death to another person (para. (1), subd. (b),
 38 Sec. 12022.5, Pen. C.).



1 (2) Commission or attempted commission of a felony while
2 personally using an assault weapon or a machinegun (para. (2),
3 subd. (b), Sec. 12022.5, Pen. C.).

4 (3) Discharging a firearm from a motor vehicle in the
5 commission or attempted commission of a felony with the intent
6 to inflict great bodily injury or death and causing great bodily
7 injury or death (Sec. 12022.55, Pen. C.).

8 ~~(t)~~

9 (p) The provisions listed in this subdivision imposing a
10 sentence enhancement of seven years' imprisonment in the state
11 prison may be referenced as Schedule ~~N~~ P.

12 (1) Causing death by willfully causing or permitting any elder
13 or dependent adult to suffer, or inflicting pain or mental suffering
14 upon, or endangering the health of, an elder or dependent adult
15 when the victim is 70 years of age or older (subpara. (B), para. (3),
16 subd. (b), Sec. 368, Pen. C.).

17 ~~(o)~~

18 (q) The provisions listed in this subdivision imposing a
19 sentence enhancement of nine years' imprisonment in the state
20 prison may be referenced as Schedule ~~O~~ Q.

21 (1) Kidnapping victim for purpose of committing any specified
22 felony sex offense (subd. (a), Sec. 667.8, Pen. C.).

23 ~~(p)~~

24 (r) The provisions listed in this subdivision imposing a
25 sentence enhancement of 10 years' imprisonment in the state
26 prison may be referenced as Schedule ~~P~~ R.

27 (1) *Commission of a violent felony for the benefit of, at the*
28 *direction of, or in the association with, any criminal street gang,*
29 *with the specific intent to promote, further, or assist in any criminal*
30 *conduct by gang members (subpara. (C), para. (1), subd. (b), Sec.*
31 *186.22, Pen. C.).*

32 (2) Two or more prior prison terms for any specified sex
33 offense with current conviction of any of those sex offenses (subd.
34 (b), Sec. 667.6, Pen. C.).

35 ~~(2)~~

36 (3) Commission or attempted commission of any specified
37 felony offense while personally using a firearm (subd. (b), Sec.
38 12022.53, Pen. C.).

39 ~~(3)~~



1 (4) Commission of any specified drug offense involving a
2 substance containing heroin, cocaine base, cocaine,
3 methamphetamine, amphetamine, or phencyclidine (PCP), when
4 the substance exceeds 10 kilograms or 200 liters (para. (3), subd.
5 (a), and para. (3), subd. (b), Sec. 11370.4, H.& S.C.).

6 ~~(4)~~

7 (5) Manufacturing, compounding, converting, producing,
8 deriving, processing, or preparing any substance containing
9 amphetamine, methamphetamine, or phencyclidine (PCP) or its
10 analogs or precursors, or attempting to commit any of those acts,
11 when the substance exceeds 25 gallons or 10 pounds (para. (3),
12 subd. (a), Sec. 11379.8, H.& S.C.).

13 ~~(5)~~

14 (s) The provisions listed in this subdivision imposing a
15 sentence enhancement of 15 years' imprisonment in the state
16 prison may be referenced as Schedule Q S.

17 (1) Kidnapping victim under 14 years of age for purpose of
18 committing any specified felony sex offense (subd. (b), Sec.
19 667.8, Pen. C.).

20 (2) Commission of any specified drug offense involving a
21 substance containing heroin, cocaine base, cocaine,
22 methamphetamine, amphetamine, or phencyclidine (PCP), when
23 the substance exceeds 20 kilograms or 400 liters (para. (4), subd.
24 (a), and para. (4), subd. (b), Sec. 11370.4, H.& S.C.).

25 (3) Manufacturing, compounding, converting, producing,
26 deriving, processing, or preparing any substance containing
27 amphetamine, methamphetamine, or phencyclidine (PCP) or its
28 analogs or precursors, or attempting to commit any of those acts,
29 when the substance exceeds 105 gallons or 44 pounds (para. (4),
30 subd. (a), Sec. 11379.8, H.& S.C.).

31 ~~(3)~~

32 (t) The provisions listed in this subdivision imposing a
33 sentence enhancement of 20 years' imprisonment in the state
34 prison may be referenced as Schedule R T.

35 (1) Intentionally and personally discharging a firearm in the
36 commission or attempted commission of any specified felony
37 offense (subd. (c), Sec. 12022.53, Pen. C.).

38 (2) Commission of any specified drug offense involving a
39 substance containing heroin, cocaine base, or cocaine, when the



1 substance exceeds 40 kilograms (para. (5), subd. (a), Sec. 11370.4,
2 H.& S.C.).

3 ~~(s)~~

4 (u) The provisions listed in this subdivision imposing a
5 sentence enhancement of 25 years' imprisonment in the state
6 prison may be referenced as Schedule ~~S~~ U.

7 (1) Commission of any specified drug offense involving a
8 substance containing heroin, cocaine base, or cocaine, when the
9 substance exceeds 80 kilograms (para. (6), subd. (a), Sec. 11370.4,
10 H.& S.C.).

11 ~~(t)~~

12 (v) The provisions listed in this subdivision imposing a
13 sentence enhancement of 25 years to life imprisonment in the state
14 prison may be referenced as Schedule ~~T~~ V.

15 (1) Intentionally and personally discharging a firearm in the
16 commission or attempted commission of any specified felony
17 offense and proximately causing great bodily injury to any person
18 other than an accomplice (subd. (d), Sec. 12022.53, Pen. C.).

19 SEC. 18. Section 670 of the Penal Code is amended to read:

20 670. (a) Any person who violates Section 7158 or 7159 of, or
21 subdivision (b), (c), (d), or (e) of Section 7161 of, the Business and
22 Professions Code or Section 470, 484, 487, or 532 of this code as
23 part of a plan or scheme to defraud an owner or lessee of a
24 residential or nonresidential structure in connection with the offer
25 or performance of repairs to the structure for damage caused by a
26 natural disaster specified in subdivision (b), shall be subject to the
27 penalties and enhancements specified in subdivisions (c) and (d).
28 The existence of any fact which would bring a person under this
29 section shall be alleged in the information or indictment and either
30 admitted by the defendant in open court, or found to be true by the
31 jury trying the issue of guilt or by the court where guilt is
32 established by a plead of guilty or nolo contendere or by trial by
33 the court sitting without a jury.

34 (b) This section applies to natural disasters for which a state of
35 emergency is proclaimed by the Governor pursuant to Section
36 8625 of the Government Code or for which an emergency or major
37 disaster is declared by the President of the United States.

38 (c) The maximum or prescribed amounts of fines for offenses
39 subject to this section shall be doubled. If the person has been
40 previously convicted of a felony offense specified in subdivision



1 (a), the person shall receive a one-year enhancement in addition to,
2 and to run consecutively to, the term of imprisonment for any
3 felony otherwise prescribed by this subdivision.

4 (d) Additionally, the court shall order any person sentenced
5 pursuant to this section to make full restitution to the victim or to
6 make restitution to the victim based on the person’s ability to pay,
7 as defined in subdivision (b) of Section 1203.1b. The payment of
8 the restitution ordered by the court pursuant to this subdivision
9 shall be made a condition of any probation granted by the court for
10 an offense punishable under this section. Notwithstanding any
11 other provision of law, the period of probation shall be at least five
12 years or until full restitution is made to the victim, whichever first
13 occurs.

14 (f)

15 (e) Notwithstanding any other provision of law, the
16 prosecuting agency shall be entitled to recover its costs of
17 investigation and prosecution from any fines imposed for a
18 conviction under this section.

19 SEC. 19. Section 1170.11 of the Penal Code is amended to
20 read:

21 1170.11. As used in Section 1170.1, the term “specific
22 enhancement” means enhancements that relate to the
23 circumstances of the crime. It includes, but is not limited to, the
24 enhancements provided in Sections 186.10, 186.11, 186.22,
25 186.26, 186.33, 273.4, 289.5, 290, 290.4, 347, and 368,
26 subdivisions (a), (b), and (c) of Section 422.75, paragraphs (2),
27 (3), (4), and (5) of subdivision (a) of Section 451.1, paragraphs (2),
28 (3), and (4) of subdivision (a) of Section 452.1, subdivision (g) of
29 Section 550, Sections 593a, 600, 667.8, 667.85, 667.9, 667.10,
30 667.15, 667.16, 667.17, 674, 12021.5, 12022, 12022.2, 12022.3,
31 12022.4, 12022.5, 12022.53, 12022.55, 12022.6, 12022.7,
32 12022.75, 12022.8, 12022.85, 12022.9, 12022.95, 12072, and
33 12280 of this code, and in Sections 1522.01 and 11353.1,
34 subdivision (b) of Section 11353.4, Sections 11353.6, 11356.5,
35 11370.4, 11379.7, 11379.8, 11379.9, 11380.1, 11380.5, 25189.5,
36 and 25189.7 of the Health and Safety Code, and in Sections 20001
37 and 23558 of the Vehicle Code, and in ~~Section~~ Sections 10980 and
38 14017 of the Welfare and Institutions Code.

39 SEC. 20. Section 1174.4 of the Penal Code is amended to
40 read:



1 1174.4. (a) Persons eligible for participation in this
2 alternative sentencing program shall meet all of the following
3 criteria:

4 (1) Pregnant women with an established history of substance
5 abuse, or pregnant or parenting women with an established history
6 of substance abuse who have one or more children under six years
7 old at the time of entry into the program. For women with children,
8 at least one eligible child shall reside with the mother in the facility.

9 (2) Never served a prior prison term for, nor been convicted in
10 the present proceeding of, committing or attempting to commit,
11 any of the following offenses:

12 (A) Murder or voluntary manslaughter.

13 (B) Mayhem.

14 (C) Rape.

15 (D) Kidnapping.

16 (E) Sodomy by force, violence, duress, menace, or fear of
17 immediate and unlawful bodily injury on the victim or another
18 person.

19 (F) Oral copulation by force, violence, duress, menace, or fear
20 of immediate and unlawful bodily injury on the victim or another
21 person.

22 (G) Lewd acts on a child under 14 years of age, as defined in
23 Section 288.

24 (H) Any felony punishable by death or imprisonment in the
25 state prison for life.

26 (I) Any felony in which the defendant inflicts great bodily
27 injury on any person, other than an accomplice, that has been
28 charged and proved as provided for in Section 12022.53, 12022.7
29 or 12022.9, or any felony in which the defendant uses a firearm,
30 as provided in Section 12022.5, 12022.53, or 12022.55, in which
31 the use has been charged and proved.

32 (J) Robbery.

33 (K) Any robbery perpetrated in an inhabited dwelling house or
34 trailer coach as defined in the Vehicle Code, or in the inhabited
35 portion of any other building, wherein it is charged and proved that
36 the defendant personally used a deadly or dangerous weapon, as
37 provided in subdivision (b) of Section 12022, in the commission
38 of that robbery.

39 (L) Arson in violation of subdivision (a) of Section 451.



- 1 (M) Sexual penetration in violation of subdivision (a) of
2 Section 289 if the act is accomplished against the victim’s will by
3 force, violence, duress, menace, or fear of immediate and unlawful
4 bodily injury on the victim or another person.
- 5 (N) Rape or sexual penetration in concert, in violation of
6 Section 264.1.
- 7 (O) Continual sexual abuse of a child in violation of Section
8 288.5.
- 9 (P) Assault with intent to commit mayhem, rape, sodomy, oral
10 copulation, rape in concert, with another, lascivious acts upon a
11 child, or *sexual* penetration ~~by a foreign object~~.
- 12 (Q) Assault with a deadly weapon or with force likely to
13 produce great bodily injury in violation of subdivision (a) of
14 Section 245.
- 15 (R) Any violent felony defined in Section 667.5.
- 16 (S) A violation of Section 12022.
- 17 (T) A violation of Section 12308.
- 18 (U) Burglary of the first degree.
- 19 (V) A violation of Section 11351, 11351.5, 11352, 11353,
20 11358, 11359, 11360, 11370.1, 11370.6, 11378, 11378.5, 11379,
21 11379.5, 11379.6, 11380, or 11383 of the Health and Safety Code.
- 22 (3) Has not been sentenced to state prison for a term exceeding
23 36 months.
- 24 (b) Prior to sentencing, if the court proposes to give
25 consideration to a placement, the court shall consider a written
26 evaluation by the probation department, which shall include the
27 following:
 - 28 (1) Whether the defendant is eligible for participation pursuant
29 to this section.
 - 30 (2) Whether participation by the defendant and her eligible
31 children is deemed to be in the best interests of the children.
 - 32 (3) Whether the defendant is amenable to treatment for
33 substance abuse and would benefit from participation in the
34 program.
 - 35 (4) Whether the program is deemed to be in the best interests
36 of an eligible child of the defendant, as determined by a
37 representative of the appropriate child welfare services agency of
38 the county if the child is a dependent child of the juvenile court
39 pursuant to Section 300 of the Welfare and Institutions Code.



1 (c) The district attorney shall make a recommendation to the
2 court as to whether or not the defendant would benefit from the
3 program, which the court shall consider in making its decision. If
4 the court's decision is without the concurrence of the district
5 attorney, the court shall specify its reasons in writing and enter
6 them into the record.

7 (d) If the court determines that the defendant may benefit from
8 participation in this program, the court may impose a state prison
9 sentence with the recommendation that the defendant participate
10 in the program pursuant to this chapter. The court shall notify the
11 department within 48 hours of imposition of this sentence.

12 (e) The Director of Corrections shall consider the court's
13 recommendation in making a determination on the inmate's
14 placement in the program.

15 (f) Women accepted for the program by the Director of
16 Corrections shall be delivered by the county, pursuant to Section
17 1202a, to the facility selected by the department. Before the
18 director accepts a woman for the program, the county shall provide
19 to the director the necessary information to determine her
20 eligibility and appropriate placement status. Priority for services
21 and aftercare shall be given to inmates who are incarcerated in a
22 county, or adjacent to a county, in which a program facility is
23 located.

24 (g) Prior to being admitted to the program, each participant
25 shall voluntarily sign an agreement specifying the terms and
26 conditions of participation in the program.

27 (h) The department may refer inmates back to the sentencing
28 court if the department determines that an eligible inmate has not
29 been recommended for the program. The department shall refer
30 the inmate to the court by an evaluative report so stating the
31 department's assessment of eligibility, and requesting a
32 recommendation by the court.

33 (i) Women who successfully complete the program, including
34 the minimum of one year of transition services under intensive
35 parole supervision, shall be discharged from parole. Women who
36 do not successfully complete the program shall be returned to the
37 state prison where they shall serve their original sentences. These
38 persons shall receive full credit against their original sentences for
39 the time served in the program, pursuant to Section 2933.



1 SEC. 21. Section 1203.097 of the Penal Code is amended to
2 read:

3 1203.097. (a) If a person is granted probation for a crime in
4 which the victim is a person defined in Section 6211 of the Family
5 Code, the terms of probation shall include all of the following:

6 (1) A minimum period of probation of 36 months, which may
7 include a period of summary probation as appropriate.

8 (2) A criminal court protective order protecting the victim from
9 further acts of violence, threats, stalking, sexual abuse, and
10 harassment, and, if appropriate, containing residence exclusion or
11 stay-away conditions.

12 (3) Notice to the victim of the disposition of the case.

13 (4) Booking the defendant within one week of sentencing if the
14 defendant has not already been booked.

15 (5) A minimum payment by the defendant of two hundred
16 dollars (\$200) to be disbursed as specified in this paragraph. If,
17 after a hearing in court on the record, the court finds that the
18 defendant does not have the ability to pay, the court may reduce or
19 waive this fee.

20 One-third of the moneys deposited with the county treasurer
21 pursuant to this section shall be retained by counties and deposited
22 in the domestic violence programs special fund created pursuant
23 to Section 18305 of the Welfare and Institutions Code, to be
24 expended for the purposes of Chapter 5 (commencing with Section
25 18290) of Part 6 of Division 9 of the Welfare and Institutions Code.
26 The remainder shall be transferred, once a month, to the Controller
27 for deposit in equal amounts in the Domestic Violence Restraining
28 Order Reimbursement Fund and in the Domestic Violence
29 Training and Education Fund, which are hereby created, in an
30 amount equal to two-thirds of funds collected during the preceding
31 month. Moneys deposited into these funds *pursuant* to this section
32 shall be available upon appropriation by the Legislature and shall
33 be distributed each fiscal year as follows:

34 (A) Funds from the Domestic Violence Restraining Order
35 Reimbursement Fund shall be distributed to local law enforcement
36 or other criminal justice agencies for state-mandated local costs
37 resulting from the notification requirements set forth in
38 subdivision (a) of Section 6385 of the Family Code, based on the
39 annual notification from the Department of Justice of the number
40 of restraining orders issued and registered in the state domestic



1 violence restraining order registry maintained by the Department
2 of Justice, for the development and maintenance of the domestic
3 violence restraining order data bank system.

4 (B) Funds from the Domestic Violence Training and Education
5 Fund shall support a statewide training and education program to
6 increase public awareness of domestic violence and to improve the
7 scope and quality of services provided to the victims of domestic
8 violence. Grants to support this program shall be awarded on a
9 competitive basis and be administered by the State Department of
10 Health Services, in consultation with the statewide domestic
11 violence coalition, which is eligible to receive funding under this
12 section.

13 (6) Successful completion of a batterer's program, as defined
14 in subdivision (c), or if none is available, another appropriate
15 counseling program designated by the court, for a period not less
16 than one year with periodic progress reports by the program to the
17 court every three months or less and weekly sessions of a minimum
18 of two hours class time duration.

19 (7) (A) (i) The court shall order the defendant to comply with
20 all probation requirements, including the requirements to attend
21 counseling, keep all program appointments, and pay program fees
22 based upon the ability to pay.

23 (ii) The terms of probation for offenders shall not be lifted until
24 all reasonable fees due to the counseling program have been paid
25 in full, but in no case shall probation be extended beyond the term
26 provided in subdivision (a) of Section 1203.1. If the court finds
27 that the defendant does not have the ability to pay the fees based
28 on the defendant's changed circumstances, the court may reduce
29 or waive the fees.

30 (B) Upon request by the batterer's program, the court shall
31 provide the defendant's arrest report, prior incidents of violence,
32 and treatment history to the program.

33 (8) The court also shall order the defendant to perform a
34 specified amount of appropriate community service, as designated
35 by the court. The defendant shall present the court with proof of
36 completion of community service and the court shall determine if
37 the community service has been satisfactorily completed. If
38 sufficient staff and resources are available, the community service
39 shall be performed under the jurisdiction of the local agency
40 overseeing a community service program.



1 (9) If the program finds that the defendant is unsuitable, the
2 program shall immediately contact the probation department or
3 the court. The probation department or court shall either
4 recalendar the case for hearing or refer the defendant to an
5 appropriate alternative batterer's program.

6 (10) (A) Upon recommendation of the program, a court shall
7 require a defendant to participate in additional sessions throughout
8 the probationary period, unless it finds that it is not in the interests
9 of justice to do so, states its reasons on the record, and enters them
10 into the minutes. In deciding whether the defendant would benefit
11 from more sessions, the court shall consider whether any of the
12 following conditions exist:

13 (i) The defendant has been violence free for a minimum of six
14 months.

15 (ii) The defendant has cooperated and participated in the
16 batterer's program.

17 (iii) The defendant demonstrates an understanding of and
18 practices positive conflict resolution skills.

19 (iv) The defendant blames, degrades, or has committed acts
20 that dehumanize the victim or puts at risk the victim's safety,
21 including, but not limited to, molesting, stalking, striking,
22 attacking, threatening, sexually assaulting, or battering the victim.

23 (v) The defendant demonstrates an understanding that the use
24 of coercion or violent behavior to maintain dominance is
25 unacceptable in an intimate relationship.

26 (vi) The defendant has made threats to harm anyone in any
27 manner.

28 (vii) The defendant has complied with applicable requirements
29 under paragraph (6) of subdivision (c) or subparagraph (C) to
30 receive alcohol counseling, drug counseling, or both.

31 (viii) The defendant demonstrates acceptance of responsibility
32 for the abusive behavior perpetrated against the victim.

33 (B) The program shall immediately report any violation of the
34 terms of the protective order, including any new acts of violence
35 or failure to comply with the program requirements, to the court,
36 the prosecutor, and, if formal probation has been ordered, to the
37 probation department. The probationer shall file proof of
38 enrollment in a batterer's program with the court within 30 days
39 of conviction.



1 (C) Concurrent with other requirements under this section, in
2 addition to, and not in lieu of, the batterer's program, and unless
3 prohibited by the referring court, the probation department or the
4 court may make provisions for a defendant to use his or her
5 resources to enroll in a chemical dependency program or to enter
6 voluntarily a licensed chemical dependency recovery hospital or
7 residential treatment program that has a valid license issued by the
8 state to provide alcohol or drug services to receive program
9 participation credit, as determined by the court. The probation
10 department shall document evidence of this hospital or residential
11 treatment participation in the defendant's program file.

12 (11) The conditions of probation may include, in lieu of a fine,
13 but not in lieu of the fund payment required under paragraph (5),
14 one or more of the following requirements:

15 (A) That the defendant make payments to a battered women's
16 shelter, up to a maximum of five thousand dollars (\$5,000).

17 (B) That the defendant reimburse the victim for reasonable
18 expenses that the court finds are the direct result of the defendant's
19 offense.

20 For any order to pay a fine, to make payments to a battered
21 women's shelter, or to pay restitution as a condition of probation
22 under this subdivision, the court shall make a determination of the
23 defendant's ability to pay. Determination of a defendant's ability
24 to pay may include his or her future earning capacity. A defendant
25 shall bear the burden of demonstrating lack of his or her ability to
26 pay. Express findings by the court as to the factors bearing on the
27 amount of the fine shall not be required. In no event shall any order
28 to make payments to a battered women's shelter be made if it
29 would impair the ability of the defendant to pay direct restitution
30 to the victim or court-ordered child support. When the injury to a
31 married person is caused in whole or in part by the criminal acts
32 of his or her spouse in violation of this section, the community
33 property shall not be used to discharge the liability of the offending
34 spouse for restitution to the injured spouse, as required by Section
35 1203.04, as operative on or before August 2, 1995, or Section
36 1202.4, or to a shelter for costs with regard to the injured spouse,
37 until all separate property of the offending spouse is exhausted.

38 (12) If it appears to the prosecuting attorney, the court, or the
39 probation department that the defendant is performing
40 unsatisfactorily in the assigned program, is not benefiting from



1 counseling, or has engaged in criminal conduct, upon request of
2 the probation officer, the prosecuting attorney, or on its own
3 motion, the court, as a priority calendar item, shall hold a hearing
4 to determine whether further sentencing should proceed. The court
5 may consider factors, including, but not limited to, any violence
6 by the defendant against the former or a new victim while on
7 probation and noncompliance with any other specific condition of
8 probation. If the court finds that the defendant is not performing
9 satisfactorily in the assigned program, is not benefiting from the
10 program, has not complied with a condition of probation, or has
11 engaged in criminal conduct, the court shall terminate the
12 defendant's participation in the program and shall proceed with
13 further sentencing.

14 (b) If a person is granted formal probation for a crime in which
15 the victim is a person defined in Section 6211 of the Family Code,
16 in addition to the terms specified in subdivision (a), all of the
17 following shall apply:

18 (1) The probation department shall make an investigation and
19 take into consideration the defendant's age, medical history,
20 employment and service records, educational background,
21 community and family ties, prior incidents of violence, police
22 report, treatment history, if any, demonstrable motivation, and
23 other mitigating factors in determining which batterer's program
24 would be appropriate for the defendant. This information shall be
25 provided to the batterer's program if it is requested. The probation
26 department shall also determine which community programs the
27 defendant would benefit from and which of those programs would
28 accept the defendant. The probation department shall report its
29 findings and recommendations to the court.

30 (2) The court shall advise the defendant that the failure to report
31 to the probation department for the initial investigation, as directed
32 by the court, or the failure to enroll in a specified program, as
33 directed by the court or the probation department, shall result in
34 possible further incarceration. The court, in the interests of justice,
35 may relieve the defendant from the prohibition set forth in this
36 subdivision based upon the defendant's mistake or excusable
37 neglect. Application for this relief shall be filed within 20 court
38 days of the missed deadline. This time limitation may not be
39 extended. A copy of any application for relief shall be served on
40 the office of the prosecuting attorney.



- 1 (3) After the court orders the defendant to a batterer’s program,
2 the probation department shall conduct an initial assessment of the
3 defendant, including, but not limited to, all of the following:
4 (A) Social, economic, and family background.
5 (B) Education.
6 (C) Vocational achievements.
7 (D) Criminal history.
8 (E) Medical history.
9 (F) Substance abuse history.
10 (G) Consultation with the probation officer.
11 (H) Verbal consultation with the victim, only if the victim
12 desires to participate.
13 (I) Assessment of the future probability of the defendant
14 committing murder.
- 15 (4) The probation department shall attempt to notify the victim
16 regarding the requirements for the defendant’s participation in the
17 batterer’s program, as well as regarding available victim
18 resources. The victim also shall be informed that attendance in any
19 program does not guarantee that an abuser will not be violent.
- 20 (c) The court or the probation department shall refer
21 defendants only to batterer’s programs that follow standards
22 outlined in paragraph (1), which may include, but are not limited
23 to, lectures, classes, group discussions, and counseling. The
24 probation department shall design and implement an approval and
25 renewal process for batterer’s programs and shall solicit input
26 from criminal justice agencies and domestic violence victim
27 advocacy programs.
- 28 (1) The goal of a batterer’s program under this section shall be
29 to stop domestic violence. A batterer’s program shall consist of the
30 following components:
31 (A) Strategies to hold the defendant accountable for the
32 violence in a relationship, including, but not limited to, providing
33 the defendant with a written statement that the defendant shall be
34 held accountable for acts or threats of domestic violence.
35 (B) A requirement that the defendant participate in ongoing
36 same-gender group sessions.
37 (C) An initial intake that provides written definitions to the
38 defendant of physical, emotional, sexual, economic, and verbal
39 abuse, and the techniques for stopping these types of abuse.



1 (D) Procedures to inform the victim regarding the
2 requirements for the defendant's participation in the intervention
3 program as well as regarding available victim resources. The
4 victim also shall be informed that attendance in any program does
5 not guarantee that an abuser will not be violent.

6 (E) A requirement that the defendant attend group sessions free
7 of chemical influence.

8 (F) Educational programming that examines, at a minimum,
9 gender roles, socialization, the nature of violence, the dynamics of
10 power and control, and the effects of abuse on children and others.

11 (G) A requirement that excludes any couple counseling or
12 family counseling, or both.

13 (H) Procedures that give the program the right to assess
14 whether or not the defendant would benefit from the program and
15 to refuse to enroll the defendant if it is determined that the
16 defendant would not benefit from the program, so long as the
17 refusal is not because of the defendant's inability to pay. If
18 possible, the program shall suggest an appropriate alternative
19 program.

20 (I) Program staff who, to the extent possible, have specific
21 knowledge regarding, but not limited to, spousal abuse, child
22 abuse, sexual abuse, substance abuse, the dynamics of violence
23 and abuse, the law, and procedures of the legal system.

24 (J) Program staff who are encouraged to utilize the expertise,
25 training, and assistance of local domestic violence centers.

26 (K) A requirement that the defendant enter into a written
27 agreement with the program, which shall include an outline of the
28 contents of the program, the attendance requirements, the
29 requirement to attend group sessions free of chemical influence,
30 and a statement that the defendant may be removed from the
31 program if it is determined that the defendant is not benefiting
32 from the program or is disruptive to the program.

33 (L) A requirement that the defendant sign a confidentiality
34 statement prohibiting disclosure of any information obtained
35 through participating in the program or during group sessions
36 regarding other participants in the program.

37 (M) Program content that provides cultural and ethnic
38 sensitivity.

39 (N) A requirement of a written referral from the court or
40 probation department prior to permitting the defendant to enroll in



1 the program. The written referral shall state the number of
2 minimum sessions required by the court.

3 (O) Procedures for submitting to the probation department all
4 of the following uniform written responses:

5 (i) Proof of enrollment, to be submitted to the court and the
6 probation department and to include the fee determined to be
7 charged to the defendant, based upon the ability to pay, for each
8 session.

9 (ii) Periodic progress reports that include attendance, fee
10 payment history, and program compliance.

11 (iii) Final evaluation that includes the program's evaluation of
12 the defendant's progress, using the criteria set forth in paragraph
13 (4) of subdivision (a) and recommendation for either successful or
14 unsuccessful termination or continuation in the program.

15 (P) A sliding fee schedule based on the defendant's ability to
16 pay. The batterer's program shall develop and utilize a sliding fee
17 scale that recognizes both the defendant's ability to pay and the
18 necessity of programs to meet overhead expenses. An indigent
19 defendant may negotiate a deferred payment schedule, but shall
20 pay a nominal fee, if the defendant has the ability to pay the
21 nominal fee. Upon a hearing and a finding by the court that the
22 defendant does not have the financial ability to pay the nominal
23 fee, the court shall waive this fee. The payment of the fee shall be
24 made a condition of probation if the court determines the
25 defendant has the present ability to pay the fee. The fee shall be
26 paid during the term of probation unless the program sets other
27 conditions. The acceptance policies shall be in accordance with the
28 scaled fee system.

29 (2) The court shall refer persons only to batterer's programs
30 that have been approved by the probation department pursuant to
31 paragraph (5). The probation department shall do both of the
32 following:

33 (A) Provide for the issuance of a provisional approval,
34 provided that the applicant is in substantial compliance with
35 applicable laws and regulations and an urgent need for approval
36 exists. A provisional approval shall be considered an authorization
37 to provide services and shall not be considered a vested right.

38 (B) If the probation department determines that a program is
39 not in compliance with standards set by the department, the
40 department shall provide written notice of the noncompliant areas



1 to the program. The program shall submit a written plan of
2 corrections within 14 days from the date of the written notice on
3 noncompliance. A plan of correction shall include, but not be
4 limited to, a description of each corrective action and timeframe
5 for implementation. The department shall review and approve all
6 or any part of the plan of correction and notify the program of
7 approval or disapproval in writing. If the program fails to submit
8 a plan of correction or fails to implement the approved plan of
9 correction, the department shall consider whether to revoke or
10 suspend approval and, upon revoking or suspending approval,
11 shall have the option to cease referrals of defendants under this
12 section.

13 (3) No program, regardless of its source of funding, shall be
14 approved unless it meets all of the following standards:

15 (A) The establishment of guidelines and criteria for education
16 services, including standards of services that may include lectures,
17 classes, and group discussions.

18 (B) Supervision of the defendant for the purpose of evaluating
19 the person's progress in the program.

20 (C) Adequate reporting requirements to ensure that all persons
21 who, after being ordered to attend and complete a program, may
22 be identified for either failure to enroll in, or failure to successfully
23 complete, the program or for the successful completion of the
24 program as ordered. The program shall notify the court and the
25 probation department in writing within the period of time and in
26 the manner specified by the court of any person who fails to
27 complete the program. Notification shall be given if the program
28 determines that the defendant is performing unsatisfactorily or if
29 the defendant is not benefiting from the education, treatment, or
30 counseling.

31 (D) No victim shall be compelled to participate in a program or
32 counseling, and no program may condition a defendant's
33 enrollment on participation by the victim.

34 (4) In making referrals of indigent defendants to approved
35 batterer's programs, the probation department shall apportion
36 these referrals evenly among the approved programs.

37 (5) The probation department shall have the sole authority to
38 approve a batterer's program for probation. The program shall be
39 required to obtain only one approval but shall renew that approval
40 annually.



1 (A) The procedure for the approval of a new or existing
2 program shall include all of the following:

3 (i) The completion of a written application containing
4 necessary and pertinent information describing the applicant
5 program.

6 (ii) The demonstration by the program that it possesses
7 adequate administrative and operational capability to operate a
8 batterer's treatment program. The program shall provide
9 documentation to prove that the program has conducted batterer's
10 programs for at least one year prior to application. This
11 requirement may be waived under subparagraph (A) of paragraph
12 (2) if there is no existing batterer's program in the city, county, or
13 city and county.

14 (iii) The onsite review of the program, including monitoring of
15 a session to determine that the program adheres to applicable
16 statutes and regulations.

17 (iv) The payment of the approval fee.

18 (B) The probation department shall fix a fee for approval not
19 to exceed two hundred fifty dollars (\$250) and for approval
20 renewal not to exceed two hundred fifty dollars (\$250) every year
21 in an amount sufficient to cover its cost in administering the
22 approval process under this section. No fee shall be charged for the
23 approval of local governmental entities.

24 (C) The probation department has the sole authority to approve
25 the issuance, denial, suspension, or revocation of approval and to
26 cease new enrollments or referrals to a batterer's program under
27 this section. The probation department shall review information
28 relative to a program's performance or failure to adhere to
29 standards, or both. The probation department may suspend or
30 revoke any approval issued under this subdivision or deny an
31 application to renew an approval or to modify the terms and
32 conditions of approval, based on grounds established by
33 probation, including, but not limited to, either of the following:

34 (i) Violation of this section by any person holding approval or
35 by a program employee in a program under this section.

36 (ii) Misrepresentation of any material fact in obtaining the
37 approval.

38 (6) For defendants who are chronic users or serious abusers of
39 drugs or alcohol, standard components in the program shall
40 include concurrent counseling for substance abuse and violent



1 behavior, and in appropriate cases, detoxification and abstinence
2 from the abused substance.

3 (7) The program shall conduct an exit conference that assesses
4 the defendant's progress during his or her participation in the
5 batterer's program.

6 SEC. 22. Section 1280.1 of the Penal Code is amended to
7 read:

8 1280.1. (a) From the time of recording an affidavit for the
9 justification of bail, the affidavit shall constitute an attachment lien
10 governed by Sections 488. 500, 488.510 and 489.310 of the Code
11 of Civil Procedure in the amount of the bail undertaking, until
12 exonerated, released, or otherwise discharged. Any release of the
13 undertaking shall be effected by an order of the court, filed with
14 the clerk of the court, with a certified copy of the order recorded
15 in the office of the county recorder.

16 (b) If the bail is forfeited and summary judgment is entered,
17 pursuant to Sections 1305 and 1306, the lien shall have the force
18 and effect of a judgment lien, by recordation of an abstract of
19 judgment, which, may be enforced and satisfied pursuant to
20 Section 1306 as well as through the applicable execution process
21 set forth in Title 9 (commencing with Section 680.010) of Part 2
22 of the Code of Civil Procedure.

23 SEC. 23. Section 1382 of the Penal Code is amended to read:

24 1382. (a) The court, unless good cause to the contrary is
25 shown, shall order the action to be dismissed in the following
26 cases:

27 (1) When a person has been held to answer for a public offense
28 and an information is not filed against that person within 15 days.

29 (2) In a felony case, when a defendant is not brought to trial
30 within 60 days of the defendant's arraignment on an indictment or
31 information, or reinstatement of criminal proceedings pursuant to
32 Chapter 6 (commencing with Section 1367) of Title 10 of Part 2,
33 or, in case the cause is to be tried again following a mistrial, an
34 order granting a new trial from which an appeal is not taken, or an
35 appeal from the superior court, within 60 days after the mistrial has
36 been declared, after entry of the order granting the new trial, or
37 after the filing of the remittitur in the trial court, or after the
38 issuance of a writ or order which, in effect, grants a new trial,
39 within 60 days after notice of the writ or order is filed in the trial
40 court and served upon the prosecuting attorney, or within 90 days



1 after notice of the writ or order is filed in the trial court and served
2 upon the prosecuting attorney in any case where the district
3 attorney chooses to resubmit the case for a preliminary
4 examination after an appeal or the issuance of a writ reversing a
5 judgment of conviction upon a plea of guilty prior to a preliminary
6 hearing. However, an action shall not be dismissed under this
7 paragraph if either of the following circumstances exist:

8 (A) The defendant enters a general waiver of the 60-day trial
9 requirement. A general waiver of the 60-day trial requirement
10 entitles the superior court to set or continue a trial date without the
11 sanction of dismissal should the case fail to proceed on the date set
12 for trial. If the defendant, after proper notice to all parties, later
13 withdraws his or her waiver in the superior court, the defendant
14 shall be brought to trial within 60 days of the date of that
15 withdrawal. If a general time waiver is not expressly entered,
16 subparagraph (B) shall apply.

17 (B) The defendant requests or consents to the setting of a trial
18 date beyond the 60-day period. Whenever a case is set for trial
19 beyond the 60-day period by request or consent, expressed or
20 implied, of the defendant without a general waiver, the defendant
21 shall be brought to trial on the date set for trial or within 10 days
22 thereafter.

23 Whenever a case is set for trial after a defendant enters either a
24 general waiver as to the 60-day trial requirement or requests or
25 consents, expressed or implied, to the setting of a trial date beyond
26 the 60-day period pursuant to this paragraph, the court may not
27 grant a motion of the defendant to vacate the date set for trial and
28 to set an earlier trial date unless all parties are properly noticed and
29 the court finds good cause for granting that motion.

30 (3) Regardless of when the complaint is filed, when a defendant
31 in a misdemeanor or infraction case is not brought to trial within
32 30 days after he or she is arraigned or enters his or her plea,
33 whichever occurs later, *or after reinstatement of criminal*
34 *proceedings pursuant to Chapter 6 (commencing with Section*
35 *1367) of Title 10 of Part 2*, if the defendant is in custody at the time
36 of arraignment or plea, whichever occurs later, or in all other cases,
37 within 45 days after the defendant's arraignment or entry of the
38 plea, whichever occurs later, *or after reinstatement of criminal*
39 *proceedings pursuant to Chapter 6 (commencing with Section*
40 *1367) of Title 10 of Part 2*, or in case the cause is to be tried again



1 following a mistrial, an order granting a new trial from which no
2 appeal is taken, or an appeal from a judgment in a misdemeanor
3 or infraction case, within 30 days after the mistrial has been
4 declared, after entry of the order granting the new trial, or after the
5 remittitur is filed in the trial court. However, an action shall not be
6 dismissed under this subdivision if any of the following
7 circumstances exist:

8 (A) The defendant enters a general waiver of the 30-day or
9 45-day trial requirement. A general waiver of the 30-day or 45-day
10 trial requirement entitles the court to set or continue a trial date
11 without the sanction of dismissal should the case fail to proceed on
12 the date set for trial. If the defendant, after proper notice to all
13 parties, later withdraws his or her waiver, the defendant shall be
14 brought to trial within 30 days of the date of that withdrawal. If a
15 general time waiver is not expressly entered, subparagraph (B)
16 shall apply.

17 (B) The defendant requests or consents to the setting of a trial
18 date beyond the 30-day or 45-day period. In the absence of an
19 express general time waiver from the defendant, the court shall set
20 a trial date. Whenever a case is set for trial beyond the 30-day or
21 45-day period by request or consent, expressed or implied, of the
22 defendant without a general waiver, the defendant shall be brought
23 to trial on the date set for trial or within 10 days thereafter.

24 (C) The defendant in a misdemeanor case has been ordered to
25 appear on a case set for hearing prior to trial, but the defendant fails
26 to appear on that date and a bench warrant is issued, or the case is
27 not tried on the date set for trial because of the defendant's neglect
28 or failure to appear, in which case the defendant shall be deemed
29 to have been arraigned within the meaning of this subdivision on
30 the date of his or her subsequent arraignment on a bench warrant
31 or his or her submission to the court.

32 (b) Whenever a defendant has been ordered to appear in
33 superior court on a felony case set for trial or set for a hearing prior
34 to trial after being held to answer, if the defendant fails to appear
35 on that date and a bench warrant is issued, the defendant shall be
36 brought to trial within 60 days after the defendant next appears in
37 the superior court unless a trial date previously had been set which
38 is beyond that 60-day period.

39 (c) If the defendant is not represented by counsel, the defendant
40 shall not be deemed under this section to have consented to the date



1 for the defendant's trial unless the court has explained to the
2 defendant his or her rights under this section and the effect of his
3 or her consent.

4 SEC. 24. Section 2677 of the Penal Code is amended to read:

5 2677. At the time of filing of a petition pursuant to Section
6 2676 by the person, or pursuant to Section 2675 by the warden, the
7 court shall appoint the public defender or other attorney to
8 represent the person unless the person is financially able to provide
9 his or her own attorney. The attorney shall advise the person of his
10 or her rights in relation to the proceeding in question and shall
11 represent him or her before the court.

12 The court shall also appoint an independent medical expert on
13 the person's behalf to examine the person's medical, mental, or
14 emotional condition and to testify thereon, unless the person is
15 financially able to obtain the expert testimony. However, if the
16 person has given his or her informed consent to the proposed
17 organic therapy, other than psychosurgery as referred to in
18 subdivision (c) of Section 2670.5, and his or her attorney concurs
19 in the proposed administration of the organic therapy, the court
20 may waive the requirement that ~~the~~ an independent medical expert
21 be appointed.

22 SEC. 25. Section 2717.4 of the Penal Code is amended to
23 read:

24 2717.4. (a) There is hereby established within the
25 Department of Corrections the Joint Venture Policy Advisory
26 Board. The Joint Venture Policy Advisory Board shall consist of
27 the Director of Corrections, who shall serve as chair, the Director
28 of the Employment Development Department, and five members,
29 to be appointed by the Governor, three of whom shall be public
30 members, one of whom shall represent organized labor and one of
31 whom shall represent industry. Five members shall constitute a
32 quorum and a vote of the majority of the members in office shall
33 be necessary for the transaction of the business of the board.
34 Appointed members of the board shall be compensated at the rate
35 of two hundred dollars (\$200) for each day while on official
36 business of the board and shall be reimbursed for necessary
37 expenses. The initial terms of the members appointed by the
38 Governor shall be for one year (one member), two years (two
39 members), three years (one member), and four years (one



1 member), as determined by the Governor. After the initial term, all
2 members shall serve for four years.

3 (b) The board shall advise the Director of Corrections of
4 policies that further the purposes of the Prison Inmate Labor
5 Initiative of 1990 to be considered in the implementation of joint
6 venture programs.

7 SEC. 26. Section 3000 of the Penal Code is amended to read:

8 3000. (a) (1) The Legislature finds and declares that the
9 period immediately following incarceration is critical to
10 successful reintegration of the offender into society and to positive
11 citizenship. It is in the interest of public safety for the state to
12 provide for the supervision of and surveillance of parolees,
13 including the judicious use of revocation actions, and to provide
14 educational, vocational, family and personal counseling necessary
15 to assist parolees in the transition between imprisonment and
16 discharge. A sentence pursuant to Section 1168 or 1170 shall
17 include a period of parole, unless waived, as provided in this
18 section.

19 (2) The Legislature finds and declares that it is not the intent of
20 this section to diminish resources allocated to the Department of
21 Corrections for parole functions for which the department is
22 responsible. It is also not the intent of this section to diminish the
23 resources allocated to the Board of Prison Terms to execute its
24 duties with respect to parole functions for which the board is
25 responsible.

26 (3) The Legislature finds and declares that diligent effort must
27 be made to ensure that parolees are held accountable for their
28 criminal behavior, including, but not limited to, the satisfaction of
29 restitution fines and orders.

30 (4) Any finding made pursuant to Article 4 (commencing
31 with Section 6600) of Chapter 2 of Part 2 of Division 6 of the
32 Welfare and Institutions Code, that a person is a sexually violent
33 predator shall not toll, discharge, or otherwise affect that person's
34 period of parole.

35 (b) Notwithstanding any provision to the contrary in Article 3
36 (commencing with Section 3040) of this chapter, the following
37 shall apply:

38 (1) At the expiration of a term of imprisonment of one year and
39 one day, or a term of imprisonment imposed pursuant to Section
40 1170 or at the expiration of a term reduced pursuant to Section



1 2931 *or* 2933, if applicable, the inmate shall be released on parole
2 for a period not exceeding three years, except that any inmate
3 sentenced for an offense specified in paragraph (3), (4), (5), (6),
4 (11), (16), or (18) of subdivision (c) of Section 667.5, shall be
5 released on parole for a period not exceeding five years, unless in
6 either case the parole authority for good cause waives parole and
7 discharges the inmate from the custody of the department.

8 (2) In the case of any inmate sentenced under Section 1168, the
9 period of parole shall not exceed five years in the case of an inmate
10 imprisoned for any offense other than first or second degree
11 murder for which the inmate has received a life sentence, and shall
12 not exceed three years in the case of any other inmate, unless in
13 either case the parole authority for good cause waives parole and
14 discharges the inmate from custody of the department. This
15 subdivision shall also be applicable to inmates who committed
16 crimes prior to July 1, 1977, to the extent specified in Section
17 1170.2.

18 (3) Notwithstanding paragraphs (1) and (2), in the case of any
19 offense for which the inmate has received a life sentence pursuant
20 to Section 667.61, the period of parole shall be five years. Upon
21 the request of the Department of Corrections, and on the grounds
22 that the paroled inmate may pose a substantial danger to public
23 safety, the Board of Prison Terms shall conduct a hearing to
24 determine if the parolee shall be subject to a single additional
25 five-year period of parole. The board shall conduct the hearing
26 pursuant to the procedures and standards governing parole
27 revocation. The request for parole extension shall be made no less
28 than 180 days prior to the expiration of the initial five-year period
29 of parole.

30 (4) The parole authority shall consider the request of any
31 inmate regarding the length of his or her parole and the conditions
32 thereof.

33 (5) Upon successful completion of parole, or at the end of the
34 maximum statutory period of parole specified for the inmate under
35 paragraph (1) ~~or~~, (2), *or* (3), as the case may be, whichever is
36 earlier, the inmate shall be discharged from custody. The date of
37 the maximum statutory period of parole under this subdivision and
38 paragraphs (1) ~~and~~, (2), *and* (3), shall be computed from the date
39 of initial parole *or from the date of extension of parole pursuant to*
40 *paragraph (3)* and shall be a period chronologically determined.



1 Time during which parole is suspended because the prisoner has
2 absconded or has been returned to custody as a parole violator shall
3 not be credited toward any period of parole unless the prisoner is
4 found not guilty of the parole violation. However, in no case,
5 except as provided in Section 3064, may a prisoner subject to three
6 years on parole be retained under parole supervision or in custody
7 for a period longer than four years from the date of his or her initial
8 parole, and, except as provided in Section 3064, in no case may a
9 prisoner subject to five years on parole be retained under parole
10 supervision or in custody for a period longer than seven years from
11 the date of his or her initial parole *or from the date of extension of*
12 *parole pursuant to paragraph (3).*

13 (6) The Department of Corrections shall meet with each inmate
14 at least 30 days prior to his or her good time release date and shall
15 provide, under guidelines specified by the parole authority, the
16 conditions of parole and the length of parole up to the maximum
17 period of time provided by law. The inmate has the right to
18 reconsideration of the length of parole and conditions thereof by
19 the parole authority. The Department of Corrections or the Board
20 of Prison Terms may impose as a condition of parole that a prisoner
21 make payments on the prisoner's outstanding restitution fines or
22 orders imposed pursuant to subdivision (a) or (c) of Section 13967
23 of the Government Code, as operative prior to September 28,
24 1994, or subdivision (b) or (f) of Section 1202.4.

25 (7) For purposes of this chapter, the Board of Prison Terms
26 shall be considered the parole authority.

27 (8) The sole authority to issue warrants for the return to actual
28 custody of any state prisoner released on parole rests with the
29 Board of Prison Terms, except for any escaped state prisoner or
30 any state prisoner released prior to his or her scheduled release date
31 who should be returned to custody, and Section 3060 shall apply.

32 SEC. 27. Section 3000.1 of the Penal Code is amended to
33 read:

34 3000.1. (a) In the case of any inmate sentenced under Section
35 1168 for any offense of first or second degree murder with a
36 maximum term of life imprisonment, the period of parole, if parole
37 is granted, shall be the remainder of the inmate's life.

38 (b) Notwithstanding any other provision of law, when any
39 person referred to in subdivision (a) has been released on parole
40 from the state prison, and has been on parole continuously for



1 seven years in the case of any person imprisoned for first degree
2 murder, and five years in the case of any person imprisoned for
3 second degree murder, ~~rape, or child molestation~~, since release
4 from confinement, the board shall, within 30 days, discharge that
5 person from parole, unless the board, for good cause, determines
6 that the person will be retained on parole. The board shall make a
7 written record of its determination and transmit a copy of it to the
8 parolee.

9 (c) In the event of a retention on parole, the parolee shall be
10 entitled to a review by the board each year thereafter.

11 (d) There shall be a hearing as provided in Sections 3041.5 and
12 3041.7 within 12 months of the date of any revocation of parole to
13 consider the release of the inmate on parole, and notwithstanding
14 the provisions of paragraph (2) of subdivision (b) of Section
15 3041.5, there shall be annual parole consideration hearings
16 thereafter, unless the person is released or otherwise ineligible for
17 parole release. The panel or board shall release the person within
18 one year of the date of the revocation unless it determines that the
19 circumstances and gravity of the parole violation are such that
20 consideration of the public safety requires a more lengthy period
21 of incarceration or unless there is a new prison commitment
22 following a conviction.

23 (e) The provisions of Section 3042 shall not apply to any
24 hearing held pursuant to this section.

25 SEC. 28. Section 3001 of the Penal Code is amended to read:

26 3001. (a) Notwithstanding any other provision of law, when
27 any person referred to in paragraph (1) of subdivision (b) of
28 Section 3000 who was not imprisoned for committing a violent
29 felony, as defined in subdivision (c) of Section 667.5, has been
30 released on parole from the state prison, and has been on parole
31 continuously for one year since release from confinement, within
32 30 days, that person shall be discharged from parole, unless the
33 Department of Corrections recommends to the Board of Prison
34 Terms that the person be retained on parole and the board, for good
35 cause, determines that the person will be retained.
36 Notwithstanding any other provision of law, when any person
37 referred to in paragraph (1) of subdivision (b) of Section 3000 who
38 was imprisoned for committing a violent felony, as defined in
39 subdivision (c) of Section 667.5, has been released on parole from
40 the state prison, and has been on parole continuously for two years



1 since release from confinement *for a person subject to three years*
2 *on parole or has been on parole continuously for three years since*
3 *release from confinement for a person subject to five years on*
4 *parole*, the department shall discharge, within 30 days, that person
5 from parole, unless the department recommends to the board that
6 the person be retained on parole and the board for good cause,
7 determines that the person will be retained. The board shall make
8 a written record of its determination and the department shall
9 transmit a copy thereof to the parolee.

10 (b) Notwithstanding any other provision of law, when any
11 person referred to in paragraph (2) *or* (3) of subdivision (b) of
12 Section 3000 has been released on parole from the state prison, and
13 has been on parole continuously for three years since release from
14 confinement *or since extension of parole*, the board shall
15 discharge, within 30 days, the person from parole, unless the
16 board, for good cause, determines that the person will be retained
17 on parole. The board shall make a written record of its
18 determination and the department shall transmit a copy thereof to
19 the parolee.

20 (c) In the event of a retention on parole, the parolee shall be
21 entitled to a review by the parole authority each year thereafter
22 until the maximum statutory period of parole has expired.

23 (d) The amendments to this section made during the 1987–88
24 Regular Session of the Legislature shall only be applied
25 prospectively and shall not extend the parole period for any person
26 whose eligibility for discharge from parole was fixed as of the
27 effective date of those amendments.

28 SEC. 29. Section 3058.9 of the Penal Code is amended to
29 read:

30 3058.9. (a) Whenever any person confined to state prison is
31 serving a term for the conviction of child abuse pursuant to Section
32 273a, 273ab, 273d, or any sex offense identified in statute as being
33 perpetrated against a minor victim, or as ordered by any court, the
34 Board of Prison Terms, with respect to inmates sentenced pursuant
35 to subdivision (b) of Section 1168 or the Department of
36 Corrections, with respect to inmates sentenced pursuant to Section
37 1170, shall notify the sheriff or chief of police, or both, and the
38 district attorney, having jurisdiction over the community in which
39 the person was convicted and, in addition, the sheriff or chief of
40 police, or both, and the district attorney having jurisdiction over



1 the community in which the person is scheduled to be released on
2 parole or rereleased following a period of confinement pursuant to
3 a parole revocation without a new commitment.

4 (b) (1) The notification shall be made by mail at least 45 days
5 prior to the scheduled release date, except as provided in paragraph
6 (3). In all cases, the notification shall include the name of the
7 person who is scheduled to be released, whether or not the person
8 is required to register with local law enforcement, and the
9 community in which the person will reside. The notification shall
10 specify the office within the Department of Corrections with the
11 authority to make final determination and adjustments regarding
12 parole location decisions.

13 (2) Notwithstanding any other provision of law, the
14 Department of Corrections shall not restore credits nor take any
15 administrative action resulting in an inmate being placed in a
16 greater credit earning category that would result in notification
17 being provided less than 45 days prior to an inmate's scheduled
18 release date.

19 (3) When notification cannot be provided within the 45 days
20 due to the unanticipated release date change of an inmate as a result
21 of an order from the court, an action by the Board of Prison Terms,
22 the granting of an administrative appeal, or a finding of not guilty
23 or dismissal of a disciplinary action, that affects the sentence of the
24 inmate, or due to a modification of the department's decision
25 regarding the community into which the person is scheduled to be
26 released pursuant to paragraph (4), the department shall provide
27 notification as soon as practicable, but in no case less than 24 hours
28 after the final decision is made regarding where the parolee will be
29 released.

30 (4) Those agencies receiving the notice referred to in this
31 subdivision may provide written comment to the board or
32 department regarding the impending release. Agencies that choose
33 to provide written comments shall respond within 30 days prior to
34 the inmate's scheduled release, unless an agency received less than
35 45 days' notice of the impending release, in which case the agency
36 shall respond as soon as practicable prior to the scheduled release.
37 Those comments shall be considered by the board or department,
38 which may, based on those comments, modify its decision
39 regarding the community in which the person is scheduled to be
40 released. The Department of Corrections shall respond in writing



1 not less than 15 days prior to the scheduled release with a final
2 determination as to whether to adjust the parole location and
3 documenting the basis for its decision, unless the department
4 received comments less than 30 days prior to the impending
5 release, in which case the department shall respond as soon as
6 practicable prior to the scheduled release. The comments shall
7 become a part of the inmate's file.

8 (c) If the court orders the immediate release of an inmate, the
9 department shall notify the sheriff or chief of police, or both, and
10 the district attorney, having jurisdiction over the community in
11 which the person was convicted and, in addition, the sheriff or
12 chief of police, or both, and the district attorney, having
13 jurisdiction over the community in which the person is scheduled
14 to be released on parole or released following a period of
15 confinement pursuant to a parole revocation without a new
16 commitment.

17 (d) The notification required by this section shall be made
18 whether or not a request has been made under Section 3058.5.

19 In no case shall notice required by this section to the appropriate
20 agency be later than the day of release on parole. If, after the
21 45-day notice is given to law enforcement and to the district
22 attorney relating to an out-of-county placement, there is change of
23 county placement, notice to the ultimate county of placement shall
24 be made upon the determination of the county of placement.

25 ~~(5)~~

26 (e) The notice required by this section shall satisfy the notice
27 required by Section 3058.6 for any person whose offense is
28 identified in both sections.

29 SEC. 30. Section 4011.1 of the Penal Code is amended to
30 read:

31 4011.1. (a) Notwithstanding Section 29602 of the
32 Government Code and any other provisions of this chapter, a
33 county, city or the Department of the Youth Authority is authorized
34 to make claim for and recovery of the costs of necessary hospital,
35 medical, surgical, dental, or optometric care rendered to any
36 prisoner confined in a county or city jail or any juvenile confined
37 in a detention facility, who would otherwise be entitled to that care
38 under the Medi-Cal Act (Chapter 7 (commencing with Section
39 14000) Part 3, Division 9, Welfare and Institutions Code), and who
40 is eligible for that care on the first day of confinement or detention,



1 to the extent that federal financial participation is available, or
2 under the provisions of any private program or policy for that care,
3 and the county, city or the Department of the Youth Authority shall
4 be liable only for the costs of that care as cannot be recovered
5 pursuant to this section. No person who is eligible for Medi-Cal
6 shall be eligible for benefits under the provisions of this section,
7 and no county or city or the Department of the Youth Authority is
8 authorized to make a claim for any recovery of costs for services
9 for that person, unless federal financial participation is available
10 for all or part of the costs of providing services to that person under
11 the Medi-Cal Act.

12 Notwithstanding any other provision of law, any county or city
13 making a claim pursuant to this section and under the Medi-Cal
14 Act shall reimburse the Health Care Deposit Fund for the state
15 costs of paying those medical claims. Funds allocated to the county
16 from the County Health Services Fund pursuant to Part 4.5
17 (commencing with Section 16700) of Division 9 of the Welfare
18 and Institutions Code may be utilized by the county or city to make
19 that reimbursement.

20 (b) Notwithstanding Section 29602 of the Government Code
21 and any other provisions of this chapter, to the extent that recovery
22 of costs of necessary hospital, medical, surgical, dental, or
23 optometric care are not accomplished under subdivision (a), a
24 county, city, or the Department of the Youth Authority is
25 authorized to make claim for and recover from a prisoner or a
26 person legally responsible for a prisoner's care and maintenance
27 the costs of necessary hospital, medical, surgical, dental, or
28 optometric care rendered to any prisoner confined in a county or
29 city jail, or any juvenile confined in a detention facility, where the
30 prisoner or the person legally responsible for the prisoner's care
31 and maintenance is financially able to pay for the prisoner's care,
32 support, and maintenance. Nothing in this subdivision shall be
33 construed to authorize a city, a county, or the Department of the
34 Youth Authority to make a claim against a spouse of a prisoner.

35 (c) Necessary hospital, medical, dental, or optometric care, as
36 used in this section, does not include care rendered with respect to
37 an injury occurring during confinement in a county or city jail or
38 juvenile detention facility, nor does it include any care or testing
39 mandated by law.



1 (d) Subdivisions (b) and (c) shall apply only where there has
2 been a determination of the present ability of the prisoner or
3 responsible third party to pay all or a portion of the cost of
4 necessary hospital, medical, surgical, dental, or optometric care.
5 The person legally responsible for the prisoner's care shall provide
6 a financial disclosure statement, executed under penalty of
7 perjury, based on his or her past year's income tax return, to the
8 Department of the Youth Authority. The city, county, or
9 Department of the Youth Authority may request that the prisoner
10 appear before a designated hearing officer for an inquiry into the
11 ability of the prisoner or responsible third party to pay all or part
12 of the cost of the care provided.

13 (e) Notice of this request shall be provided to the prisoner or
14 responsible third party, which shall contain the following:

15 (1) A statement of the cost of the care provided to the prisoner.

16 (2) The prisoner's or responsible third party's procedural rights
17 under this section.

18 (3) The time limit within which the prisoner or responsible
19 third party may respond.

20 (4) A warning that if the prisoner or responsible third party fails
21 to appear before, or respond to, the designated officer, the officer
22 may petition the court for an order requiring him or her to make
23 payment of the full cost of the care provided to the prisoner.

24 (f) At the hearing, the prisoner or responsible third party shall
25 be entitled to, but shall not be limited to, all of the following rights:

26 (1) The right to be heard in person.

27 (2) The right to present witnesses and documentary evidence.

28 (3) The right to confront and cross-examine adverse witnesses.

29 (4) The right to have adverse evidence disclosed to him or her.

30 (5) The right to a written statement of the findings of the
31 designated hearing officer.

32 (g) If the hearing officer determines that the prisoner or
33 responsible third party has the present ability to pay all or a part
34 of the cost, the officer shall set the amount to be reimbursed, and
35 shall petition the court to order the prisoner or responsible third
36 party to pay the sum to the city, county, or state, in the manner in
37 which it finds reasonable and compatible to the prisoner's or
38 responsible third party's financial ability. The ~~courts~~ court's order
39 shall be enforceable in the manner provided for money judgments
40 in a civil action under the Code of Civil Procedure.



1 (h) At any time prior to satisfaction of the judgment rendered
2 according to the terms of this section, a prisoner or responsible
3 third party against whom a judgment has been rendered, may
4 petition the rendering court for a modification of the previous
5 judgment on the grounds of a change of circumstance with regard
6 to his or her ability to pay the judgment. The prisoner or
7 responsible third party shall be advised of this right at the time the
8 original judgment is rendered.

9 (i) As used in this section, “Ability to pay” means the overall
10 capacity of the prisoner or responsible third party to reimburse the
11 costs, or a portion of the costs, of the care provided to the prisoner,
12 and shall include, but not be limited to, all of the following:

13 (1) The prisoner’s or responsible third party’s present financial
14 position.

15 (2) The prisoner’s or responsible third party’s discernible
16 future financial position.

17 (3) The likelihood that the prisoner or responsible third party
18 will be able to obtain employment in the future.

19 (4) Any other factor or factors which may bear upon the
20 prisoner’s or responsible third party’s financial position.

21 SEC. 31. Section 4501.1 of the Penal Code is amended to
22 read:

23 4501.1. (a) Every person confined in the state prison who
24 commits a battery by gassing upon the person of any peace officer,
25 as defined in Chapter 4.5 (commencing with Section 830) of Title
26 3 of Part 2, or employee of the state prison is guilty of aggravated
27 battery and shall be punished by imprisonment in a county jail or
28 by imprisonment in the state prison for two, three, or four years.
29 Every state prison inmate convicted of a felony under this section
30 shall serve his or her term of imprisonment ~~as prescribed in Section~~
31 ~~4501.5~~ *consecutively*.

32 (b) For purposes of this section, “gassing” means intentionally
33 placing or throwing, or causing to be placed or thrown, upon the
34 person of another, any human excrement or other bodily fluids or
35 bodily substances or any mixture containing human excrement or
36 other bodily fluids or bodily substances that results in actual
37 contact with the person’s skin or membranes.

38 (c) The warden or other person in charge of the state prison
39 shall use every available means to immediately investigate all
40 reported or suspected violations of subdivision (a), including, but



1 not limited to, the use of forensically acceptable means of
2 preserving and testing the suspected gassing substance to confirm
3 the presence of human excrement or other bodily fluids or bodily
4 substances. If there is probable cause to believe that the inmate has
5 violated subdivision (a), the chief medical officer of the state
6 prison or his or her designee, may, when he or she deems it
7 medically necessary to protect the health of an officer or employee
8 who may have been subject to a violation of this section, order the
9 inmate to receive an examination or test for hepatitis or
10 tuberculosis or both hepatitis and tuberculosis on either a
11 voluntary or involuntary basis immediately after the event, and
12 periodically thereafter as determined to be necessary by the
13 medical officer in order to ensure that further hepatitis or
14 tuberculosis transmission does not occur. These decisions shall be
15 consistent with an occupational exposure as defined by the Center
16 for Disease Control and Prevention. The results of any
17 examination or test shall be provided to the officer or employee
18 who has been subject to a reported or suspected violation of this
19 section. Nothing in this subdivision shall be construed to otherwise
20 supersede the operation of Title 8 (commencing with Section
21 7500). Any person performing tests, transmitting test results, or
22 disclosing information pursuant to this section shall be immune
23 from civil liability for any action taken in accordance with this
24 section.

25 (d) The warden or other person in charge of the state prison
26 shall refer all reports for which there is probable cause to believe
27 that the inmate has violated subdivision (a) to the local district
28 attorney for prosecution.

29 (e) The Department of Corrections shall report to the
30 Legislature, by January 1, 2000, its findings and recommendations
31 on gassing incidents at the state prison and the medical testing
32 authorized by this section. The report shall include, but not be
33 limited to, all of the following:

34 (1) The total number of gassing incidents at each state prison
35 facility up to the date of the report.

36 (2) The disposition of each gassing incident, including the
37 administrative penalties imposed, the number of incidents that are
38 prosecuted, and the results of those prosecutions, including any
39 penalties imposed.



1 (3) A profile of the inmates who commit the aggravated
2 batteries, including the number of inmates who have one or more
3 prior serious or violent felony convictions.

4 (4) Efforts that the department has taken to limit these
5 incidents, including staff training and the use of protective
6 clothing and goggles.

7 (5) The results and costs of the medical testing authorized by
8 this section.

9 (f) Nothing in this section shall preclude prosecution under
10 both this section and any other provision of law.

11 SEC. 32. Section 5058.5 of the Penal Code, as added by
12 Chapter 695 of the Statutes of 1992, is amended and renumbered
13 to read:

14 ~~5058.5.~~

15 5058.6. The Director of the Department of Corrections shall
16 have the authority of a head of a department set forth in subdivision
17 (e) of Section 11181 of the Government Code to issue subpoenas
18 as provided in Article 2 (commencing with Section 11180) of
19 Chapter 2 of Division 3 of Title 2 of the Government Code. The
20 department shall adopt regulations on the policies and guidelines
21 for the issuance of subpoenas.

22 SEC. 33. Section 6126.5 of the Penal Code is amended to
23 read:

24 6126.5. (a) Notwithstanding any other provision of law, the
25 Inspector General during regular business hours or at any other
26 time determined necessary by the Inspector General, shall have
27 access to and authority to examine and reproduce, any and all
28 books, accounts, reports, vouchers, correspondence files,
29 documents, and other records, and to examine the bank accounts,
30 money, or other property, of any entity defined in Section 6126 for
31 any audit or investigation. Any officer or employee of any such
32 agency or entity having these records or property in his or her
33 possession or under his or her control shall permit access to, and
34 examination and reproduction thereof consistent with the
35 provisions of this section, upon the request of the Inspector
36 General or his or her authorized representative.

37 (b) For the purposes of access, examination, and reproduction
38 as provided in subdivision (a), an authorized representative of the
39 Inspector General is an employee or officer of the agency or public
40 entity involved and is subject to any limitations on release of the



1 information as may apply to an employee or officer of the agency
2 or public entity. For the purpose of conducting any audit or
3 investigation, the Inspector General or his or her authorized
4 representative shall have access to the records and property of any
5 public or private entity or person subject to review or regulation
6 by the public agency or public entity being audited or investigated
7 to the same extent that employees or officers of that agency or
8 public entity have access. No provision of law providing for the
9 confidentiality of any records or property shall prevent disclosure
10 pursuant to subdivision (a), unless the provision specifically refers
11 to and precludes access and examination and reproduction
12 pursuant to subdivision (a).

13 (c) Any officer or person who fails or refuses to permit access,
14 examination, ~~and~~ or reproduction, as required by this section, is
15 guilty of a misdemeanor.

16 (d) The Inspector General may require any employee of those
17 entities specified in Section 6126 to be interviewed on a
18 confidential basis. Any employee requested to be interviewed
19 shall comply and shall have time afforded by the appointing
20 authority for the purpose of an interview with the Inspector
21 General or his or her designee. Any record created by an interview
22 shall be deemed confidential for use by the Inspector General and
23 the Secretary of the Youth and Adult Correctional Agency only. It
24 is not the purpose of these communications to address disciplinary
25 action or grievance procedures that may routinely occur. If it
26 appears that the facts of the case could lead to punitive action, the
27 Inspector General shall be subject to the provisions of the Public
28 Safety Officers Procedural Bill of Rights Act (Section 3300 of the
29 Government Code et seq.) as if the Inspector General were the
30 employer.

31 SEC. 34. Section 6236 of the Penal Code is amended to read:
32 6236. This chapter shall be ~~now~~ known as “Restitution
33 Centers.”

34 SEC. 35. Section 7012 of the Penal Code is amended to read:
35 7012. (a) The Department of Corrections shall submit to the
36 Joint Legislative Prison Committee, the State Public Works Board,
37 the appropriate county board of supervisors, and the local city
38 council at least 30 days prior to the acquisition of real property for
39 prison facilities to be ~~located~~ located in Riverside and Del Norte
40 Counties, an environmental assessment study, which shall include



1 a discussion of impacts and mitigation measures, if necessary, for
2 the following areas:

- 3 (1) Geology.
- 4 (2) Hydrology-groundwater.
- 5 (3) Water quality-surface waters.
- 6 (4) Plant and animal life-endangered and rare species.
- 7 (5) Air quality.
- 8 (6) Noise.
- 9 (7) Light and glare.
- 10 (8) Utilities-gas, electricity, telephone, solid waste, sewage
11 disposal, and drinking water.
- 12 (9) Archaeology.
- 13 (10) Energy.

14 (b) The factors set forth in subdivision (a) shall be assessed
15 only as they relate to the direct impacts caused off the site as a
16 result of the construction, operation, and maintenance of the prison
17 facility upon completion and occupancy.

18 (c) Notwithstanding any other provision of law, other than
19 Section 7003, the approval of the study by the State Public Works
20 Board is the only approval required for compliance with any
21 applicable environmental requirements. The Public State Works
22 Board shall not act on the study until it receives a recommendation
23 from the Joint Legislative Prison Committee. Approval of the
24 study by the State Public Works Board shall be final and binding
25 on all parties.

26 (d) If the committee does not, by a majority vote of the
27 committee membership, take any action on the study within 30
28 days after submittal, that inaction shall be deemed to be a
29 recommendation of concurrence for the purposes of this section.

30 (e) Prior to providing a recommendation to the State Public
31 Works Board, but within the 30-day period specified in
32 subdivision (d), the committee shall hold a public hearing in the
33 community in the vicinity of the proposed site. Notice of the
34 hearing shall be published in a newspaper of general circulation in,
35 or adjacent to, that community. The notice shall be at least
36 one-quarter page in size. The city council and the county board of
37 supervisors shall be invited to participate in the hearing.

38 SEC. 36. Section 11418 of the Penal Code is amended to read:

39 11418. (a) (1) Any person, without lawful authority, who
40 possesses, develops, manufactures, produces, transfers, acquires,



1 or retains any weapon of mass destruction, shall be ~~guilty of a~~
2 ~~felony punishable~~ *punished by imprisonment* in the state prison for
3 3, 6, or 9 years, ~~provided that any person.~~

4 (2) *Any person who commits a violation of paragraph (1) and*
5 *who has been previously convicted of Section 11411, 11412,*
6 *11413, 11460, 12303.1, 12303.2, or 12303.3 shall be punished by*
7 *imprisonment in the state prison for a period of 4, 8, or 12 years.*

8 (b) (1) Any person who uses or directly employs against
9 another person a weapon of mass destruction in a form that may
10 cause widespread, disabling illness, or injury in human beings
11 shall be punished by *imprisonment in the state prison for life in*
12 ~~prison.~~

13 (2) Any person who uses a weapon of mass destruction in a
14 form that may cause widespread damage to and disruption of the
15 water or food supply shall be punished by imprisonment in the
16 state prison for a term of 4, 8, or 12 years, and by a fine of not more
17 than one hundred thousand dollars (\$100,000).

18 (3) Any person who maliciously uses against animals or crops
19 a weapon of mass destruction in a form that may cause widespread
20 and substantial diminution in the value of stock animals or crops
21 shall be punished by ~~a fine of not more than one hundred thousand~~
22 ~~dollars (\$100,000);~~ imprisonment in the state prison for 4, 8, or 12
23 years, ~~or both~~ *and by a fine of not more than one hundred thousand*
24 *dollars (\$100,000).*

25 (c) Any person who uses a weapon of mass destruction in a
26 form that may cause widespread and significant damage to public
27 natural resources, including coastal waterways and beaches,
28 public parkland, surface waters, ground water, and wildlife, shall
29 be punished by imprisonment in the state prison for 3, 4, or 6 years.

30 (d) Any person who uses recombinant technology or any other
31 biological advance to create new pathogens or more virulent forms
32 of existing pathogens for the purposes specified in this section,
33 shall be punished by imprisonment in a county jail for up to one
34 year or in the state prison for 3, 6, or 9 years, or by a fine of not
35 more than two hundred fifty thousand dollars (\$250,000), or by
36 both that fine and imprisonment.

37 (e) Nothing in this section shall be construed to prevent
38 punishment instead pursuant to any other provision of law that
39 imposes a greater or more severe punishment.

40 SEC. 37. Section 11419 of the Penal Code is amended to read:



1 11419. (a) Any person or entity possessing any of the
2 restricted biological agents enumerated in subdivision (b) shall be
3 punished by ~~a fine of not more than two hundred fifty thousand~~
4 ~~dollars (\$250,000), imprisonment in the state prison for 4, 8, or 12~~
5 ~~years, or by both that fine and imprisonment~~ *and by a fine of not*
6 *more than two hundred fifty thousand dollars (\$250,000).*

7 (b) For the purposes of this section, “restricted biological
8 agents” means the following:

9 (1) Viruses: Crimean-Congo hemorrhagic fever virus, eastern
10 equine encephalitis virus, ebola viruses, equine morbilli virus,
11 lassa fever virus, marburg virus, Rift Valley fever virus, South
12 African hemorrhagic fever viruses (Junin, Machupo, Sabia,
13 Flexal, Guanarito), tick-borne encephalitis complex viruses,
14 variola major virus (smallpox virus), Venezuelan equine
15 encephalitis virus, viruses causing hantavirus pulmonary
16 syndrome, yellow fever virus.

17 (2) Bacteria: bacillus anthracis (commonly known as anthrax),
18 brucella abortus, brucella melitensis, brucella suis, burkholderia
19 (pseudomonas) mallei, burkholderia (pseudomonas)
20 pseudomallei, clostridium botulinum, francisella tularensis,
21 yersinia pestis (commonly known as plague).

22 (3) Rickettsiae: coxiella burnetii, rickettsia prowazekii,
23 rickettsia rickettsii.

24 (4) Fungi: coccidioides immitis.

25 (5) Toxins: abrin, aflatoxins, botulinum toxins, clostridium
26 perfringens epsilon toxin, conotoxins, diacetoxyscirpenol, ricin,
27 saxitoxin, shigatoxin, staphylococcal enterotoxins, tetrodotoxin,
28 T-2 toxin.

29 (c) (1) This section shall not apply to any physician,
30 veterinarian, pharmacist, or licensed medical practitioner
31 authorized to dispense a prescription under Section 11026 of the
32 Health and Safety Code, or universities, research institutions, or
33 pharmaceutical corporations, or any person possessing the agents
34 pursuant to a lawful prescription issued by a person defined in
35 Section 11026 of the Health and Safety Code, if the person
36 possesses vaccine strains of the viral agents Junin virus strain #1,
37 Rift Valley fever virus strain MP-12, Venezuelan equine
38 encephalitis virus strain TC-83 and yellow fever virus strain 17-D;
39 any vaccine strain described in Section 78.1 of Subpart A of Part
40 78 of Subchapter C of Chapter 1 of Title 9 of the Code of Federal



1 Regulations, or any successor provisions, and any toxin for
2 medical use, inactivated for use as vaccines, or toxin preparation
3 for biomedical research use at a median lethal dose for vertebrates
4 of more than 100 ng/kg, as well as any national standard toxin
5 required for biologic potency testing as described in Part 113
6 (commencing with Section 113.1) of Subchapter E of Chapter 1 of
7 Title 9 of the Code of Federal Regulations, or any successor
8 provisions.

9 (2) For the purposes of this section, no person shall be deemed
10 to be in possession of an agent if the person is naturally exposed
11 to, or innocently infected or contaminated with, the agent.

12 (d) Any peace officer who encounters any of the restricted
13 agents mentioned above shall immediately notify and consult with
14 a local public health officer to ensure proper consideration of any
15 public health risk.

16 (e) Nothing in this section shall be construed to prevent
17 punishment instead pursuant to any other provision of law that
18 imposes a greater or more severe punishment.

19 SEC. 38. Section 12021 of the Penal Code is amended to read:

20 12021. (a) (1) Any person who has been convicted of a
21 felony under the laws of the United States, of the State of
22 California, or any other state, government, or country, or of an
23 offense enumerated in subdivision (a), (b), or (d) of Section
24 12001.6, or who is addicted to the use of any narcotic drug, who
25 owns or has in his or her possession or under his or her custody or
26 control any firearm is guilty of a felony.

27 (2) Any person who has two or more convictions for violating
28 paragraph (2) of subdivision (a) of Section 417 and who owns or
29 has in his or her possession or under his or her custody or control
30 any firearm is guilty of a felony.

31 (b) Notwithstanding subdivision (a), any person who has been
32 convicted of a felony or of an offense enumerated in Section
33 12001.6, when that conviction results from certification by the
34 juvenile court for prosecution as an adult in an adult court under
35 Section 707 of the Welfare and Institutions Code, who owns or has
36 in his or her possession or under his or her custody or control any
37 firearm is guilty of a felony.

38 (c) (1) Except as provided in subdivision (a) or paragraph (2)
39 of this subdivision, any person who has been convicted of a
40 misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140,



1 subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28,
2 240, 241, 242, 243, 244.5, 245, 245.5, 246, 246.3, 247, 273.5,
3 273.6, 417, 417.1, 417.2, 417.6, 422, 626.9, 646.9, 12023, or
4 12024, subdivision (b) or (d) of Section 12034, Section 12040,
5 subdivision (b) of Section 12072, subdivision (a) of former
6 Section 12100, Section 12220, 12320, or 12590, or Section 8100,
7 8101, or 8103 of the Welfare and Institutions Code, any
8 firearm-related offense pursuant to Sections 871.5 and 1001.5 of
9 the Welfare and Institutions Code, or of the conduct punished in
10 paragraph (3) of subdivision (g) of Section 12072, and who, within
11 10 years of the conviction, owns, or has in his or her possession or
12 under his or her custody or control, any firearm is guilty of a public
13 offense, which shall be punishable by imprisonment in a county
14 jail not exceeding one year or in the state prison, by a fine not
15 exceeding one thousand dollars (\$1,000), or by both that
16 imprisonment and fine. The court, on forms prescribed by the
17 Department of Justice, shall notify the department of persons
18 subject to this subdivision. However, the prohibition in this
19 paragraph may be reduced, eliminated, or conditioned as provided
20 in paragraph (2) or (3).

21 (2) Any person employed as a peace officer described in
22 Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose
23 employment or livelihood is dependent on the ability to legally
24 possess a firearm, who is subject to the prohibition imposed by this
25 subdivision because of a conviction under Section 273.5, 273.6, or
26 646.9, may petition the court only once for relief from this
27 prohibition. The petition shall be filed with the court in which the
28 petitioner was sentenced. If possible, the matter shall be heard
29 before the same judge that sentenced the petitioner. Upon filing the
30 petition, the clerk of the court shall set the hearing date and shall
31 notify the petitioner and the prosecuting attorney of the date of the
32 hearing. Upon making each of the following findings, the court
33 may reduce or eliminate the prohibition, impose conditions on
34 reduction or elimination of the prohibition, or otherwise grant
35 relief from the prohibition as the court deems appropriate:

36 (A) Finds by a preponderance of the evidence that the
37 petitioner is likely to use a firearm in a safe and lawful manner.

38 (B) Finds that the petitioner is not within a prohibited class as
39 specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1,
40 and the court is not presented with any credible evidence that the



1 petitioner is a person described in Section 8100 or 8103 of the
2 Welfare and Institutions Code.

3 (C) Finds that the petitioner does not have a previous
4 conviction under this subdivision no matter when the prior
5 conviction occurred.

6 In making its decision, the court shall consider the petitioner's
7 continued employment, the interest of justice, any relevant
8 evidence, and the totality of the circumstances. The court shall
9 require, as a condition of granting relief from the prohibition under
10 this section, that the petitioner agree to participate in counseling
11 as deemed appropriate by the court. Relief from the prohibition
12 shall not relieve any other person or entity from any liability that
13 might otherwise be imposed. It is the intent of the Legislature that
14 courts exercise broad discretion in fashioning appropriate relief
15 under this paragraph in cases in which relief is warranted.
16 However, nothing in this paragraph shall be construed to require
17 courts to grant relief to any particular petitioner. It is the intent of
18 the Legislature to permit persons who were convicted of an offense
19 specified in Section 273.5, 273.6, or 646.9 to seek relief from the
20 prohibition imposed by this subdivision.

21 (3) Any person who is subject to the prohibition imposed by
22 this subdivision because of a conviction of an offense prior to that
23 offense being added to paragraph (1), may petition the court only
24 once for relief from this prohibition. The petition shall be filed
25 with the court in which the petitioner was sentenced. If possible,
26 the matter shall be heard before the same judge that sentenced the
27 petitioner. Upon filing the petition, the clerk of the court shall set
28 the hearing date and notify the petitioner and the prosecuting
29 attorney of the date of the hearing. Upon making each of the
30 following findings, the court may reduce or eliminate the
31 prohibition, impose conditions on reduction or elimination of the
32 prohibition, or otherwise grant relief from the prohibition as the
33 court deems appropriate:

34 (A) Finds by a preponderance of the evidence that the
35 petitioner is likely to use a firearm in a safe and lawful manner.

36 (B) Finds that the petitioner is not within a prohibited class as
37 specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1,
38 and the court is not presented with any credible evidence that the
39 petitioner is a person described in Section 8100 or 8103 of the
40 Welfare and Institutions Code.



1 (C) Finds that the petitioner does not have a previous
2 conviction under this subdivision, no matter when the prior
3 conviction occurred.

4 In making its decision, the court may consider the interest of
5 justice, any relevant evidence, and the totality of the
6 circumstances. It is the intent of the Legislature that courts exercise
7 broad discretion in fashioning appropriate relief under this
8 paragraph in cases in which relief is warranted. However, nothing
9 in this paragraph shall be construed to require courts to grant relief
10 to any particular petitioner.

11 (4) Law enforcement officials who enforce the prohibition
12 specified in this subdivision against a person who has been granted
13 relief pursuant to paragraph (2) or (3), shall be immune from any
14 liability for false arrest arising from the enforcement of this
15 subdivision unless the person has in his or her possession a
16 certified copy of the court order that granted the person relief from
17 the prohibition. This immunity from liability shall not relieve any
18 person or entity from any other liability that might otherwise be
19 imposed.

20 (d) Any person who, as an express condition of probation, is
21 prohibited or restricted from owning, possessing, controlling,
22 receiving, or purchasing a firearm and who owns, or has in his or
23 her possession or under his or her custody or control, any firearm
24 but who is not subject to subdivision (a) or (c) is guilty of a public
25 offense, which shall be punishable by imprisonment in a county
26 jail not exceeding one year or in the state prison, by a fine not
27 exceeding one thousand dollars (\$1,000), or by both that
28 imprisonment and fine. The court, on forms provided by the
29 Department of Justice, shall notify the department of persons
30 subject to this subdivision. The notice shall include a copy of the
31 order of probation and a copy of any minute order or abstract
32 reflecting the order and conditions of probation.

33 (e) Any person who (1) is alleged to have committed an offense
34 listed in subdivision (b) of Section 707 of the Welfare and
35 Institutions Code, an offense described in subdivision (b) of
36 Section 1203.073, or any offense enumerated in paragraph (1) of
37 subdivision (c), and (2) is subsequently adjudged a ward of the
38 juvenile court within the meaning of Section 602 of the Welfare
39 and Institutions Code because the person committed an offense
40 listed in subdivision (b) of Section 707 of the Welfare and



1 Institutions Code, an offense described in subdivision (b) of
2 Section 1203.073, or any offense enumerated in paragraph (1) of
3 subdivision (c) shall not own, or have in his or her possession or
4 under his or her custody or control, any firearm until the age of 30
5 years. A violation of this subdivision shall be punishable by
6 imprisonment in a county jail not exceeding one year or in the state
7 prison, by a fine not exceeding one thousand dollars (\$1,000), or
8 by both that imprisonment and fine. The juvenile court, on forms
9 prescribed by the Department of Justice, shall notify the
10 department of persons subject to this subdivision.
11 Notwithstanding any other law, the forms required to be submitted
12 to the department pursuant to this subdivision may be used to
13 determine eligibility to acquire a firearm.

14 (f) Subdivision (a) shall not apply to a person who has been
15 convicted of a felony under the laws of the United States unless
16 either of the following criteria is satisfied:

17 (1) Conviction of a like offense under California law can only
18 result in imposition of felony punishment.

19 (2) The defendant was sentenced to a federal correctional
20 facility for more than 30 days, or received a fine of more than one
21 thousand dollars (\$1,000), or received both punishments.

22 (g) (1) Every person who purchases or receives, or attempts to
23 purchase or receive, a firearm knowing that he or she is subject to
24 a protective order as defined in Section 6218 of the Family Code,
25 Section 136.2, or a temporary restraining order or injunction
26 issued pursuant to Section 527.6 or 527.8 of the Code of Civil
27 Procedure, is guilty of a public offense, which shall be punishable
28 by imprisonment in a county jail not exceeding one year or in the
29 state prison, by a fine not exceeding one thousand dollars (\$1,000),
30 or by both that imprisonment and fine. This subdivision does not
31 apply unless the copy of the restraining order personally served on
32 the person against whom the restraining order is issued contains a
33 notice in bold print stating (1) that the person is prohibited from
34 purchasing or receiving or attempting to purchase or receive a
35 firearm and (2) specifying the penalties for violating this
36 subdivision, or a court has provided actual verbal notice of the
37 firearm prohibition and penalty as provided in Section 6304 of the
38 Family Code.

39 (2) Every person who owns or possesses a firearm knowing that
40 he or she is prohibited from owning or possessing *or attempting*



1 *to own or possess* a firearm by the provisions of a protective order
2 as defined in Section 6218 of the Family Code, Section 136.2 of
3 the Penal Code, or a temporary restraining order or injunction
4 issued pursuant to Section 527.6 or 527.8 of the Code of Civil
5 Procedure, is guilty of a public offense, which shall be punishable
6 by imprisonment in a county jail not exceeding one year, by a fine
7 not exceeding one thousand dollars (\$1,000), or by both that
8 imprisonment and fine. This subdivision does not apply unless a
9 copy of the restraining order personally served on the person
10 against whom the restraining order is issued contains a notice in
11 bold print stating (1) that the person is prohibited from owning or
12 possessing or attempting to own or possess a firearm and (2)
13 specifying the penalties for violating this subdivision, or a court
14 has provided actual verbal notice of the firearm prohibition and
15 penalty as provided in Section 6304 of the Family Code.

16 (3) Judicial Council shall provide notice on all protective
17 orders that the respondent is prohibited from owning, possessing,
18 purchasing, or receiving a firearm while the protective order is in
19 effect and that the firearm shall be relinquished to the local law
20 enforcement agency for that jurisdiction or sold to a licensed gun
21 dealer, and that proof of surrender or sale shall be filed within a
22 specified time of receipt of the order. The order shall also state on
23 its face the expiration date for relinquishment.

24 (4) If probation is granted upon conviction of a violation of this
25 subdivision, the court shall impose probation consistent with the
26 provisions of Section 1203.097.

27 (h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is
28 justifiable where all of the following conditions are met:

29 (A) The person found the firearm or took the firearm from a
30 person who was committing a crime against him or her.

31 (B) The person possessed the firearm no longer than was
32 necessary to deliver or transport the firearm to a law enforcement
33 agency for that agency's disposition according to law.

34 (C) If the firearm was transported to a law enforcement agency,
35 it was transported in accordance with paragraph (18) of
36 subdivision (a) of Section 12026.2.

37 (D) If the firearm is being transported to a law enforcement
38 agency, the person transporting the firearm has given prior notice
39 to the law enforcement agency that he or she is transporting the



1 firearm to the law enforcement agency for disposition according
2 to law.

3 (2) Upon the trial for violating subdivision (a), (b), (c), (d), or
4 (e), the trier of fact shall determine whether the defendant was
5 acting within the provisions of the exemption created by this
6 subdivision.

7 (3) The defendant has the burden of proving by a
8 preponderance of the evidence that he or she comes within the
9 provisions of the exemption created by this subdivision.

10 SEC. 39. Section 12022.53 of the Penal Code is amended to
11 read:

12 12022.53. (a) This section applies to the following felonies:

13 (1) Section 187 (murder).

14 (2) Section 203 or 205 (mayhem).

15 (3) Section 207, 209, or 209.5 (kidnapping).

16 (4) Section 211 (robbery).

17 (5) Section 215 (carjacking).

18 (6) Section 220 (assault with intent to commit a specified
19 felony).

20 (7) Subdivision (d) of Section 245 (assault with a firearm on a
21 peace officer or firefighter).

22 (8) Section 261 or 262 (rape).

23 (9) Section 264.1 (rape or sexual penetration in concert).

24 (10) Section 286 (sodomy).

25 (11) Section 288 or 288.5 (lewd act on a child).

26 (12) Section 288a (oral copulation).

27 (13) Section 289 ~~(sexual)~~ (*sexual* penetration).

28 (14) Section 4500 (assault by *a* life prisoner).

29 (15) Section 4501 (assault by *a* prisoner).

30 (16) Section 4503 (holding a hostage by *a* prisoner).

31 (17) Any felony punishable by death or imprisonment in the
32 state prison for life.

33 (18) Any attempt to commit a crime listed in this subdivision
34 other than an assault.

35 (b) Notwithstanding any other provision of law, any person
36 who is convicted of a felony specified in subdivision (a), and who
37 in the commission of that felony personally used a firearm, shall
38 be punished by a term of imprisonment of 10 years in the state
39 prison, which shall be imposed in addition and consecutive to the



1 punishment prescribed for that felony. The firearm need not be
2 operable or loaded for this enhancement to apply.

3 (c) Notwithstanding any other provision of law, any person
4 who is convicted of a felony specified in subdivision (a), and who
5 in the commission of that felony intentionally and personally
6 discharged a firearm, shall be punished by a term of imprisonment
7 of 20 years in the state prison, which shall be imposed in addition
8 and consecutive to the punishment prescribed for that felony.

9 (d) Notwithstanding any other provision of law, any person
10 who is convicted of a felony specified in subdivision (a), Section
11 246, or subdivision (c) or (d) of Section 12034, and who in the
12 commission of that felony intentionally and personally discharged
13 a firearm and proximately caused great bodily injury, as defined
14 in Section 12022.7, or death, to any person other than an
15 accomplice, shall be punished by a term of imprisonment of 25
16 years to life in the state prison, which shall be imposed in addition
17 and consecutive to the punishment prescribed for that felony.

18 (e) (1) The enhancements specified in this section shall apply
19 to any ~~person~~ person charged as a principal in the commission of
20 an offense that includes an allegation pursuant to this section when
21 a violation of both this section and subdivision (b) of Section
22 186.22 are pled and proved.

23 (2) An enhancement for participation in a criminal street gang
24 pursuant to Chapter 11 (commencing with Section 186.20) of Title
25 7 of Part 1, shall not be imposed on a person in addition to an
26 enhancement imposed pursuant to this subdivision, unless the
27 person personally used or personally discharged a firearm in the
28 commission of the offense.

29 (f) Only one additional term of imprisonment under this
30 section shall be imposed per person for each crime. If more than
31 one enhancement per person is found true under this section, the
32 court shall impose upon that person the enhancement that provides
33 the longest term of imprisonment. An enhancement involving a
34 firearm specified in Section 12021.5, 12022, 12022.3, 12022.4,
35 12022.5, or 12022.55 shall not be imposed on a person in addition
36 to an enhancement imposed pursuant to this section. An
37 enhancement for great bodily injury as defined in Section 12022.7,
38 12022.8, or 12022.9 shall not be imposed on a person in addition
39 to an enhancement imposed pursuant to subdivision (d).



1 (g) Notwithstanding any other provision of law, probation shall
2 not be granted to, nor shall the execution or imposition of sentence
3 be suspended for, any person found to come within the provisions
4 of this section.

5 (h) Notwithstanding Section 1385 or any other provision of
6 law, the court shall not strike an allegation under this section or a
7 finding bringing a person within the provisions of this section.

8 (i) The total amount of credits awarded pursuant to Article 2.5
9 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3
10 or pursuant to Section 4019 or any other provision of law shall not
11 exceed 15 percent of the total term of imprisonment imposed on
12 a defendant upon whom a sentence is imposed pursuant to this
13 section.

14 (j) For the penalties in this section to apply, the existence of any
15 fact required under subdivision (b), (c), or (d) shall be alleged in
16 the information or indictment and either admitted by the defendant
17 in open court or found to be true by the trier of fact. When an
18 enhancement specified in this section has been admitted or found
19 to be true, the court shall impose punishment pursuant to this
20 section rather than imposing punishment authorized under any
21 other provision of law, unless another provision of law provides
22 for a greater penalty or a longer term of imprisonment.

23 (k) When a person is found to have used or discharged a firearm
24 in the commission of an offense that includes an allegation
25 pursuant to this section and the firearm is owned by that person,
26 a coparticipant, or a coconspirator, the court shall order that the
27 firearm be deemed a nuisance and disposed of in the manner
28 provided in Section 12028.

29 (l) The enhancements specified in this section shall not apply
30 to the lawful use or discharge of a firearm by a public officer, as
31 provided in Section 196, or by any person in lawful self-defense,
32 lawful defense of another, or lawful defense of property, as
33 provided in Sections 197, 198, and 198.5.

34 SEC. 40. Section 12094 of the Penal Code is amended to read:

35 12094. (a) Any person with knowledge of any change,
36 alteration, removal, or obliteration described herein, who buys,
37 receives, disposes of, sells, offers for sale, or has in his or her
38 possession any pistol, revolver, or other firearm which has had the
39 name of the maker, model, or the manufacturer's number or other
40 mark of identification including any distinguishing number or



1 mark assigned by the Department of Justice changed, altered,
2 removed, or obliterated is guilty of a misdemeanor.

3 (b) Subdivision (a) does not apply to any of the following:

4 (1) The acquisition or possession of a firearm described in
5 subdivision (a) by any member of the military forces of ~~the~~ this
6 state or of the United States, while on duty and acting within the
7 scope and course of his or her employment.

8 (2) The acquisition or possession of a firearm described in
9 subdivision (a) by any peace officer described in Chapter 4.5
10 (commencing with Section 830) of Title 3 of Part 2, while on duty
11 and acting within the scope and course of his or her employment.

12 (3) The acquisition or possession of a firearm described in
13 subdivision (a) by any employee of a forensic laboratory, while on
14 duty and acting within the scope and course of his or her
15 employment.

16 (4) The possession and disposition of a firearm described in
17 subdivision (a) by a person who meets, all of the following:

18 (A) He or she is not prohibited from possessing firearms or
19 ammunition pursuant to Section 12021 or 12021.1 or paragraph
20 (1) of subdivision (b) of Section 12316 of this code, or Section
21 8100 or 8103 of the Welfare and Institutions Code.

22 (B) The person possessed the firearm no longer than was
23 necessary to deliver the same to a law enforcement agency for that
24 agency's disposition according to law.

25 (C) If the person is transporting the firearm, he or she is
26 transporting the firearm to a law enforcement agency in order to
27 deliver the firearm to the law enforcement agency for the agency's
28 disposition according to law.

29 (D) If the person is transporting the firearm to a law
30 enforcement agency, he or she has given prior notice to the law
31 enforcement agency that he or she is transporting the firearm to
32 that law enforcement agency for that agency's disposition
33 according to law.

34 (E) The firearm is transported in a locked container as defined
35 in subdivision (d) of Section 12026.2.

36 SEC. 41. Section 12288 of the Penal Code is amended to read:

37 12288. Any individual may arrange in advance to relinquish
38 an assault weapon to a police or sheriff's department. The assault
39 weapon shall be transported in accordance *with* Section 12026.1.



1 SEC. 42. Section 13519.4 of the Penal Code is amended to
2 read:

3 13519.4. (a) On or before August 1, 1993, the commission
4 shall develop and disseminate guidelines and training for all law
5 enforcement officers in California as described in subdivision (a)
6 of Section 13510 and who adhere to the standards approved by the
7 commission, on the racial and cultural differences among the
8 residents of this state. The course or courses of instruction and the
9 guidelines shall stress understanding and respect for racial and
10 cultural differences, and development of effective, noncombative
11 methods of carrying out law enforcement duties in a racially and
12 culturally diverse environment.

13 (b) The course of basic training for law enforcement officers
14 shall, no later than August 1, 1993, include adequate instruction on
15 racial and cultural diversity in order to foster mutual respect and
16 cooperation between law enforcement and members of all racial
17 and cultural groups. In developing the training, the commission
18 shall consult with appropriate groups and individuals having an
19 interest and expertise in the field of cultural awareness and
20 diversity.

21 (c) For the purposes of this section, “culturally diverse” and
22 “cultural diversity” include, but are not limited to, gender and
23 sexual orientation issues. The Legislature finds and declares as
24 follows:

25 (1) Racial profiling is a practice that presents a great danger to
26 the fundamental ~~principals~~ *principles* of a democratic society. It is
27 abhorrent and cannot be tolerated.

28 (2) Motorists who have been stopped by the police for no
29 reason other than the color of their skin or their apparent
30 nationality or ethnicity are the victims of discriminatory practices.

31 (3) It is the intent of the Legislature in enacting the changes to
32 Section 13519.4 of the Penal Code made by the act that added this
33 subdivision that more than additional training is required to
34 address the pernicious practice of racial profiling and that
35 enactment of this bill is in no way dispositive of the issue of how
36 the state should deal with racial profiling.

37 (4) The working men and women in California law
38 enforcement risk their lives every day. The people of California
39 greatly appreciate the hard work and dedication of law
40 enforcement officers in protecting public safety. The good name



1 of these officers should not be tarnished by the actions of those few
2 who commit discriminatory practices.

3 (d) “Racial profiling,” for purposes of this section, is the
4 practice of detaining a suspect based on a broad set of criteria
5 which casts suspicion on an entire class of people without any
6 individualized suspicion of the particular person being stopped.

7 (e) A law enforcement officer shall not engage in racial
8 profiling.

9 (f) Every law enforcement officer in this state shall participate
10 in expanded training as prescribed and certified by the
11 Commission on Peace Officers Standards and Training. Training
12 shall begin being offered no later than January 1, 2002. The
13 curriculum shall be created by the commission in collaboration
14 with a five-person panel, appointed no later than March 1, 2001,
15 as follows: the Governor shall appoint three members and one
16 member each shall be appointed by the Senate Committee on Rules
17 and the Speaker of the Assembly. Each appointee shall be
18 appointed from among prominent members of the following
19 organizations:

- 20 (1) State Conference of the NAACP.
- 21 (2) Brotherhood Crusade.
- 22 (3) Mexican American Legal Defense and Education Fund.
- 23 (4) The League of United Latin American Citizens.
- 24 (5) American Civil Liberties Union.
- 25 (6) Anti-Defamation League.
- 26 (7) California NOW.
- 27 (8) Asian Pacific Bar of California.
- 28 (9) The Urban League.

29 (g) Members of the panel shall not be compensated, except for
30 reasonable per diem expenses related to their work for panel
31 purposes.

32 (h) The curriculum shall utilize the Tools for Tolerance for Law
33 Enforcement Professionals framework and shall include and
34 examine the patterns, practices, and protocols that make up racial
35 profiling. This training shall prescribe patterns, practices, and
36 protocols that prevent racial profiling. In developing the training,
37 the commission shall consult with appropriate groups and
38 individuals having an interest and expertise in the field of racial
39 profiling. The course of instruction shall include, but not be



1 limited to, adequate consideration of each of the following
2 subjects:

3 (1) Identification of key indices and perspectives that make up
4 cultural differences among residents in a local community.

5 (2) Negative impact of biases, prejudices, and stereotyping on
6 effective law enforcement, including examination of how
7 historical perceptions of discriminatory enforcement practices
8 have harmed police-community relations.

9 (3) The history and the role of the civil rights movement and
10 struggles and their impact on law enforcement.

11 (4) Specific obligations of officers in preventing, reporting,
12 and responding to discriminatory or biased practices by fellow
13 officers.

14 (5) Perspectives of diverse, local constituency groups and
15 experts on particular cultural and police-community relations
16 issues in a local area.

17 (i) Once the initial basic training is completed, each law
18 enforcement officer in California as described in subdivision (a)
19 of Section 13510 who adheres to the standards approved by the
20 commission shall be required to complete a refresher course every
21 five years thereafter, or on a more frequent basis if deemed
22 necessary, in order to keep current with changing racial and
23 cultural trends.

24 (j) The Legislative Analyst shall conduct a study of the data
25 being voluntarily collected by those jurisdictions that have
26 instituted a program of data collection with regard to racial
27 profiling, including, but not limited to, the California Highway
28 Patrol, the City of San Jose, and the City of San Diego, both to
29 ascertain the incidence of racial profiling and whether data
30 collection serves to address and prevent such practices, as well as
31 to assess the value and efficacy of the training herein prescribed
32 with respect to preventing local profiling. The Legislative Analyst
33 may prescribe the manner in which the data is to be submitted and
34 may request that police agencies collecting such data submit it in
35 the requested manner. The Legislative Analyst shall provide to the
36 Legislature a report and recommendations with regard to racial
37 profiling by July 1, 2002.

38 SEC. 43. The heading of Title 10.5 (commencing with
39 Section 14150) of Part 4 of the Penal Code is amended and
40 renumbered to read:



1 TITLE ~~10.5.~~ 10.6. COMMUNITY CONFLICT
2 RESOLUTION PROGRAMS
3

4 SEC. 44. Section 19705 of the Revenue and Taxation Code is
5 amended to read:

6 19705. (a) Any person who does any of the following shall
7 be guilty of a felony and, upon conviction, shall be fined not more
8 than fifty thousand dollars (\$50,000) or imprisoned ~~not more than~~
9 ~~three years in the state prison~~, or both, together with the costs of
10 investigation and prosecution:

11 (1) Willfully makes and subscribes any return, statement, or
12 other document, that contains or is verified by a written declaration
13 that it is made under penalty of perjury, and he or she does not
14 believe to be true and correct as to every material matter.

15 (2) Willfully aids or assists in, or procures, counsels, or advises
16 the preparation or presentation under, or in connection with any
17 matter arising under, the Personal Income Tax Law or the Bank
18 and Corporation Tax Law, of a return, affidavit, claim, or other
19 document, that is fraudulent or is false as to any material matter,
20 whether or not that falsity or fraud is with the knowledge or
21 consent of the person authorized or required to present that return,
22 affidavit, claim, or document.

23 (3) Simulates or falsely or fraudulently executes or signs any
24 bond, permit, entry, or other document required by the provisions
25 of the Personal Income Tax Law or the Bank and Corporation Tax
26 Law, or by any regulation pursuant to that law, or procures the
27 same to be falsely or fraudulently executed or advises, aids in, or
28 connives at that execution.

29 (4) Removes, deposits, or conceals, or is concerned in
30 removing, depositing, or concealing, any goods or commodities
31 for or in respect whereof any tax is or shall be imposed, or any
32 property upon which levy is authorized by Chapter 5
33 (commencing with Section 19201); or Chapter 8 (commencing
34 with Section 688.010) of Division 1 of, and Chapter 5
35 (commencing with Section 706.010) of Division 2 of, Title 9 of the
36 Code of Civil Procedure, with intent to evade or defeat the
37 assessment or collection of any tax, additions to tax, penalty, or
38 interest imposed by Part 10 (commencing with Section 17001),
39 Part 11 (commencing with Section 23001), or this part.



1 (5) In connection with any settlement under Section 19442, or
2 offer of that settlement, or in connection with any closing
3 agreement under Section 19441 or offer to enter into that
4 agreement, or compromise under Section 19443, or offer of that
5 compromise, willfully does any of the following:

6 (A) Conceals from any officer or employee of this state any
7 property belonging to the estate of a taxpayer or other person liable
8 in respect of the tax.

9 (B) Receives, withholds, destroys, mutilates, or falsifies any
10 book, document, or record, or makes any false statement, relating
11 to the estate or financial condition of the taxpayer or other person
12 liable in respect of the tax.

13 (b) In the case of a corporation, the fifty thousand dollars
14 (\$50,000) limitation specified in subdivision (a) shall be increased
15 to two hundred thousand dollars (\$200,000).

16 (c) The fact that an individual's name is signed to a return,
17 statement, or other document filed, including a return, statement,
18 or other document filed using electronic technology pursuant to
19 Section 18621.5, shall be prima facie evidence for all purposes that
20 the return, statement, or other document was actually signed by
21 him or her.

22 (d) For purposes of this section, "person" means the taxpayer,
23 any member of the taxpayer's family, any corporation, agent,
24 fiduciary, or representative of, or any other individual or entity
25 acting on behalf of, the taxpayer, or any other corporation or entity
26 owned or controlled by the taxpayer, directly or indirectly, or
27 which owns or controls the taxpayer, directly or indirectly.

28 (e) The changes made to this section by the act adding this
29 subdivision apply to offers made on or after January 1, 1999.

30 SEC. 45. Section 22658.1 of the Vehicle Code is amended to
31 read:

32 22658.1. (a) Any towing company that, in removing a
33 vehicle, cuts, removes, otherwise damages, or leaves open a fence
34 without the prior approval of the property owner or the person in
35 charge of the property shall then and there do either of the
36 following:

37 ~~(a)~~

38 (1) Locate and notify the owner or person in charge of the
39 property of the damage or open condition of the fence, the name



1 and address of the towing company, and the license, registration,
2 or identification number of the vehicle being removed.

3 (2) Leave in a conspicuous place on the property the name and
4 address of the towing company, and the license, registration, or
5 identification number of the vehicle being removed, and shall
6 without unnecessary delay, notify the police department of the city
7 in which the property is located, or if the property is located in
8 unincorporated territory, either the sheriff or the local
9 headquarters of the Department of the California Highway Patrol,
10 of that information and the location of the damaged or opened
11 fence.

12 (b) Any person failing to comply with all the requirements of
13 this section is guilty of an infraction.

14 SEC. 46. Section 355.1 of the Welfare and Institutions Code
15 is amended to read:

16 355.1. (a) Where the court finds, based upon competent
17 professional evidence, that an injury, injuries, or detrimental
18 condition sustained by a minor is of a nature as would ordinarily
19 not be sustained except as the result of the unreasonable or
20 neglectful acts or omissions of either parent, the guardian, or other
21 person who has the care or custody of the minor, that finding shall
22 be prima facie evidence that the minor is a person described by
23 subdivision (a), (b), or (d) of Section 300.

24 (b) Proof that either parent, the guardian, or other person who
25 has the care or custody of a minor who is the subject of a petition
26 filed under Section 300 has physically abused, neglected, or
27 cruelly treated another minor shall be admissible in evidence.

28 (c) The presumption created by subdivision (a) constitutes a
29 presumption affecting the burden of producing evidence.

30 (d) Where the court finds that either a parent, a guardian, or any
31 other person who resides with, or has the care or custody of, a
32 minor who is currently the subject of the petition filed under
33 Section 300 (1) has been previously convicted of sexual abuse as
34 defined in Section 11165.1 of the Penal Code, (2) has been
35 previously convicted of an act in another ~~state~~ *jurisdiction* that
36 would constitute sexual abuse as defined in Section 11165.1 of the
37 Penal Code if committed in this state, (3) has been found in a prior
38 dependency hearing or similar proceeding in the corresponding
39 court of another ~~state~~ *jurisdiction* to have committed an act of
40 sexual abuse, or (4) is required, as the result of a felony conviction,



1 to register as a sex offender pursuant to Section 290 of the Penal
2 Code, that finding shall be prima facie evidence in any proceeding
3 that the subject minor is a person described by subdivision (a), (b),
4 (c), or (d) of Section 300 and is at substantial risk of abuse or
5 neglect. The prima facie evidence constitutes a presumption
6 affecting the burden of producing evidence.

7 (e) Where the court believes that a child has suffered criminal
8 abuse or neglect, the court may direct a representative of the child
9 protective agency to take action pursuant to subdivision (i) of
10 Section 11166 of the Penal Code.

11 (f) Testimony by a parent, guardian, or other person who has
12 the care or custody of the minor made the subject of a proceeding
13 under Section 300 shall not be admissible as evidence in any other
14 action or proceeding.

15 SEC. 47. Section 602 of the Welfare and Institutions Code is
16 amended to read:

17 602. (a) Except as provided in subdivision (b), any person
18 who is under the age of 18 years when he or she violates any law
19 of this state or of the United States or any ordinance of any city or
20 county of this state defining crime other than an ordinance
21 establishing a curfew based solely on age, is within the jurisdiction
22 of the juvenile court, which may adjudge such person to be a ward
23 of the court.

24 (b) Any person who is alleged, when he or she was 14 years of
25 age or older, to have committed one of the following offenses shall
26 be prosecuted under the general law in a court of criminal
27 jurisdiction:

28 (1) Murder, as described in Section 187 of the Penal Code, if
29 one of the circumstances enumerated in subdivision (a) of Section
30 190.2 of the Penal Code is alleged by the prosecutor, and the
31 prosecutor alleges that the minor personally killed the victim.

32 (2) The following sex offenses, if the prosecutor alleges that the
33 minor personally committed the offense, and if the prosecutor
34 alleges one of the circumstances enumerated in the One Strike law,
35 subdivisions (d) or (e) of Section 667.61 of the Penal Code,
36 applies:

37 (A) Rape, as described in paragraph (2) of subdivision (a) of
38 Section 261 of the Penal Code.

39 (B) Spousal rape, as described in paragraph (1) of subdivision
40 (a) of Section 262 of the Penal Code.



1 (C) Forcible sex offenses in concert with another, as described
2 in Section 264.1 of the Penal Code.

3 (D) Forcible lewd and lascivious acts on a child under the age
4 of 14 years, as described in subdivision (b) of Section 288 of the
5 Penal Code.

6 (E) Forcible *sexual* penetration ~~by foreign object~~, as described
7 in subdivision (a) of Section 289 of the Penal Code.

8 (F) Sodomy or oral copulation in violation of Section 286 or
9 288a of the Penal Code, by force, violence, duress, menace, or fear
10 of immediate and unlawful bodily injury on the victim or another
11 person.

12 (G) Lewd and lascivious acts on a child under the age of 14
13 years, as defined in subdivision (a) of Section 288, unless the
14 defendant qualifies for probation under subdivision (c) of Section
15 1203.066 of the Penal Code.

16 SEC. 48. The heading of Article 18.5 (commencing with
17 Section 743) of Chapter 2 of Part 1 of Division 2 of the Welfare
18 and Institutions Code is amended and renumbered to read:

19

20 Article ~~18.5~~. 18.6. Repeat Offender Prevention Project

21

22 SEC. 49. No reimbursement is required by this act pursuant
23 to Section 6 of Article XIII B of the California Constitution
24 because the only costs that may be incurred by a local agency or
25 school district will be incurred because this act creates a new crime
26 or infraction, eliminates a crime or infraction, or changes the
27 penalty for a crime or infraction, within the meaning of Section
28 17556 of the Government Code, or changes the definition of a
29 crime within the meaning of Section 6 of Article XIII B of the
30 California Constitution.

31 SEC. 50. This act is an urgency statute necessary for the
32 immediate preservation of the public peace, health, or safety
33 within the meaning of Article IV of the Constitution and shall go
34 into immediate effect. The facts constituting the necessity are:

35 In order to correct and conform certain criminal law statutes at
36 the earliest possible time so as to avoid confusion regarding these
37 provisions, it is necessary for this act to take immediate effect.

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