

AMENDED IN ASSEMBLY FEBRUARY 3, 2004
AMENDED IN ASSEMBLY SEPTEMBER 29, 2003
AMENDED IN ASSEMBLY SEPTEMBER 9, 2003
AMENDED IN ASSEMBLY SEPTEMBER 4, 2003
AMENDED IN ASSEMBLY AUGUST 18, 2003
AMENDED IN ASSEMBLY JULY 8, 2003
AMENDED IN SENATE APRIL 30, 2003
AMENDED IN SENATE MARCH 26, 2003

SENATE BILL

No. 631

Introduced by Senator McPherson
(Principal coauthor: Assembly Member Matthews)

February 21, 2003

An act to amend Section 13903 of the Government Code, and to amend Sections ~~290.01, 290.4,~~ 1202.45, and 1214 of, to amend, repeal, and add Sections 1202.4 and 2085.5 of, and to add Sections ~~290.45 and~~ *Section* 1202.44 to, the Penal Code, relating to ~~criminal offenders restitution~~, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 631, as amended, McPherson. ~~Criminal offenders~~ *Restitution*.

(1) ~~Existing law provides that campus law enforcement may advise the public of the presence of high-risk sex offenders in its community, as specified. Existing federal law has been interpreted to require~~

~~campus law enforcement to advise the public of the presence of all sex offenders on campus.~~

~~This bill would revise state law to provide that campus law enforcement, or, if the campus has no police department, local law enforcement, may release to members of the campus community information regarding the presence of sex offenders on campus, as specified. This bill would require a member of the campus community to sign a specified statement before an agency would release offender information to him or her upon his or her request and would require the agency to maintain the statement in a file in the agency's office for at least 5 years. This bill would require an agency disseminating printed information pursuant to its provisions to maintain records of the means and dates of dissemination for a minimum of 5 years. This bill would define campus police department and campus community.~~

~~(2) Until January 1, 2004, existing law requires the Department of Justice to continually compile specified information categorized by community of residence and ZIP Code regarding any person required to register as a sex offender for a conviction for the commission or attempted commission of any specified sex offense. Existing law requires the Department of Justice to operate a "900" telephone number for people to inquire whether a named individual is among those specified registrants. Existing law also requires the department to provide a CD-ROM or other electronic medium containing a specified portion of the compiled sex offender information to certain law enforcement agencies. These law enforcement agencies are required to make the CD-ROM or other electronic medium available for public viewing, as specified. Existing law makes unauthorized use of the CD-ROM or "900" telephone number information a misdemeanor, and requires reports be made by the department concerning the CD-ROM and "900" telephone number programs.~~

~~This bill would delete the expiration of these provisions.~~

~~By extending the duties of local law enforcement agencies and the operation of existing crimes, this bill would impose a state-mandated local program.~~

~~This bill would require the Department of Justice, on or before July 1, 2005, to provide via the Internet specified information including the person's work address, vehicle information, and vocational information, regarding any person required to register as a sex offender for a commission or attempted commission of any specified sex offenses, to any person 18 years of age or older who is not a registered~~



~~sex offender. Before being allowed to access the site to view information regarding registered sex offenders, an applicant would be required to acknowledge and agree to comply with certain terms including not to use the information to commit a crime against the registrant, engage in illegal discrimination or harassment, or forward, distribute, or disclose the information viewed, except as authorized by law, all of which would be crimes. This bill would provide that the records of persons requesting to view the Internet Web site are confidential, but that the Department of Justice shall retain those records for one year, to be used for law enforcement investigative purposes only.~~

~~By creating new crimes relating to information disclosed on the Internet Web site, this bill would impose a state-mandated local program.~~

~~(3) This bill would state the intent of the Legislature regarding the provisions of the bill relating to the Internet.~~

~~(4) Under existing law, in every case where a person is convicted of a crime, the court is required to impose a restitution fine, unless it finds compelling and extraordinary reasons for not doing so, and states those reasons on the record. Existing law also provides for restitution for economic losses to victims of crime directly from any defendant convicted of the crime, as specified.~~

Under existing law, a victim restitution order or restitution fine is enforceable as a civil judgment, and continues to be collectible after probation and parole has terminated. Existing law requires a defendant to prepare a disclosure of assets, income and liabilities as of the date of arrest for the crime for which restitution may be ordered, and requires the disclosure be made available to the victim, as specified.

This bill would require a defendant who has an unpaid balance on a restitution order or fine 120 days prior to the time of his or her release from probation or the conclusion of his or her conditional sentence to prepare and file a specified signed financial disclosure statement on a specified form with a court clerk not later than 90 days prior to release from probation or the conclusion of a conditional sentence. Willfully making false material statements on this disclosure would be a misdemeanor, unless punishable as perjury, or otherwise subject to greater penalty. This bill would require that both this disclosure statement and the initial disclosure statement be made available to the victim and to the California Victim Compensation and Government Claims Board.



By making willfully false material statements on this newly required disclosure a crime, this bill would impose a state-mandated local program.

~~(5)~~

(2) Existing law provides that restitution is to be made to the Restitution Fund to the extent that the victim of the crime has received assistance from the Victim Compensation and Government Claims Board. Existing law requires that a victim in a criminal case be notified of sentencing proceedings, of the right to civil recovery, and of the opportunity for compensation from the Restitution Fund. However, existing law does not explicitly address the circumstance in which an order is made for restitution to the Victim Compensation and Government Claims Board.

This bill would require a court clerk to notify the Victim Compensation and Government Claims Board within 90 days of an order requiring a defendant to pay restitution to the board due to the victim receiving compensation from the fund by mailing a copy of the order to the board, and would allow this to be done periodically by bulk mail or electronic mail.

~~(6)~~

(3) Existing law makes the Director of General Services the chairman of the Victim Compensation and Government Claims Board.

This bill would instead make the Secretary of the State and Consumer Services Agency the chair of that board.

~~(7)~~

(4) Under existing law, a restitution fine is deposited into the Restitution Fund for expenditure by the Victim Compensation and Government Claims Board as awards to victims of crime, as specified. Existing law separately defines “victims” for purposes of the provisions authorizing adult restitution fines and orders, and includes in that definition “derivative victims,” as specified.

This bill would delete the language that adds “derivative victims” to the definition of “victims” for purposes of adult restitution fines and orders, and instead add specified persons who have sustained economic loss as the result of a crime, and persons eligible for awards to victims of crime to those deemed “victims” for these purposes.

~~(8)~~

(5) For cases in which a sentence is imposed that includes a period of parole, existing law provides that an additional restitution fine shall be ordered, in the same amount as the primary restitution fine, to be



suspended unless the person's parole is revoked. Existing law does not provide for a similar suspended fine for probationers.

This bill would specify that parole revocation restitution fines are to be deposited in the Restitution Fund in the State Treasury. It would also provide for a probation revocation restitution fine, also in the same amount as the primary restitution fine, to be assessed by the court and to become effective when a person's probation is revoked. This probation revocation restitution fine could not be waived or reduced by the court absent compelling and extraordinary reasons stated on the record, and would be deposited in the Restitution Fund.

~~(9)~~

(6) Existing law provides that a fine or restitution fine may be enforced in the manner of civil judgments generally, specifies that the Victims Compensation and Government Claims Board may collect restitution fine balances after the termination of a term of probation or parole, authorizes disclosure of specified information to the board to assist the board in collecting restitution fines, and exempts restitution fines from the statutes limiting the time permitted for enforcing judgments.

Existing law establishes diversion programs in categories of cases involving drug and other charges that, upon successful completion, lead to the dismissal of criminal charges. For most of these categories, the court is required to impose a diversion restitution fee on the defendant, as specified.

This bill would specify that a diversion restitution fee or a restitution fine imposed upon parole revocation or probation revocation may also be enforced in the manner of civil judgments generally. It would provide that parole revocation restitution fines, probation revocation restitution fines, and diversion restitution fees are also subject to collection by the board after the termination of parole or probation or the completion of diversion, and that the same disclosures authorized to assist the board in collecting restitution fines may be given to the board to assist in collecting these parole and probation revocation restitution fines and diversion restitution fees. This bill would also exempt diversion restitution fees from the time limitations on enforcing judgments.

~~(10)~~

(7) Under existing law, the former State Board of Control has been renamed the California Victim Compensation and Government Claims Board.



This bill would correct obsolete references to the State Board of Control and correct a related cross reference.

(11)

(8) Existing law requires the Director of Corrections, in any case in which a prisoner owes a restitution order or a restitution fine assessed in criminal court, to deduct specified amounts from the wages and trust account deposits of the prisoner unless prohibited by federal law, and to transfer those amounts to the State Board of Control for direct payment to the victim or deposit in the Restitution Fund. Existing law also authorizes the Director of Corrections to collect from a parolee any moneys owing on a restitution order or a restitution fine assessed in adult court unless prohibited by federal law, and requires the director to transfer those amounts to the State Board of Control for direct payment to the victim or deposit in the Restitution Fund.

This bill would make these same provisions applicable to restitution orders and restitution fines assessed in juvenile court for persons under the jurisdiction of the Director of Corrections.

(12)

(9) Some of the existing provisions of law relating to the collection of restitution addressed in this bill became operative by their own terms on January 1, 2000, unless an extension was granted on a county-by-county basis by the Judicial Council, as specified. By those same terms, these extensions could last no longer than January 1, 2002.

This bill would repeal this obsolete language authorizing a delay in the operation of these provisions.

(13)

(10) This bill would incorporate additional changes in Sections 1202.4 and 2085.5 of the Penal Code as proposed by AB 1760, contingent on the prior enactment of that bill.

~~(14) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

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

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs~~



~~so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

~~(15)~~

~~(11) 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.~~

~~(12) Existing provisions of the Government Code continuously appropriate money in the Restitution Fund to the California Victim Compensation and Government Claims Board for expenditure on indemnifying victims of crime, as specified. Because this bill would increase the amount of money deposited into this fund, it would make an appropriation.~~

~~(16)~~

~~(13) This bill would declare that it is to take effect immediately as an urgency statute.~~

~~Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.~~

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

1 ~~SECTION 1. (a) The Legislature finds and declares that the~~
2 ~~posting of information regarding high-risk and serious sex~~
3 ~~offenders via the Internet furthers civil and remedial purposes, and~~
4 ~~is not criminal or punitive in nature.~~

5 ~~(b) It is the intent of the Legislature in enacting Sections 3, 4,~~
6 ~~5, and 6 of this measure to help Californians better protect~~
7 ~~themselves and their children; it is not the intent of the Legislature~~
8 ~~to embarrass or harass persons convicted of sex offenses.~~

9 ~~(c) It is the intent of the Legislature to phase out the existing~~
10 ~~Megan’s Law CD-ROM and “900” telephone number once the~~
11 ~~Megan’s Law Internet Web site has become fully operational and~~
12 ~~includes all of the information required by Section 290.45 of the~~
13 ~~Penal Code.~~

14 ~~SEC. 2.~~

15 ~~SECTION 1. Section 13903 of the Government Code is~~
16 ~~amended to read:~~



1 13903. The Secretary of the State and Consumer Services
2 Agency shall serve as chair of the board.

3 ~~SEC. 3. Section 290.01 of the Penal Code is amended to read:~~

4 ~~290.01. (a) (1) Commencing October 28, 2002, every~~
5 ~~person required to register under Section 290 who is enrolled as a~~
6 ~~student of any university, college, community college, or other~~
7 ~~institution of higher learning, or is, with or without compensation,~~
8 ~~a full-time or part-time employee of that university, college,~~
9 ~~community college, or other institution of higher learning, or is~~
10 ~~carrying on a vocation at the university, college, community~~
11 ~~college, or other institution of higher learning, for more than 14~~
12 ~~days, or for an aggregate period exceeding 30 days in a calendar~~
13 ~~year, shall, in addition to the registration required by Section 290,~~
14 ~~register with the campus police department within five working~~
15 ~~days of commencing enrollment or employment at that university,~~
16 ~~college, community college, or other institution of higher~~
17 ~~learning, on a form as may be required by the Department of~~
18 ~~Justice. The terms “employed or carries on a vocation” include~~
19 ~~employment whether or not financially compensated,~~
20 ~~volunteered, or performed for government or educational benefit.~~
21 ~~The registrant shall also notify the campus police department~~
22 ~~within five working days of ceasing to be enrolled or employed,~~
23 ~~or ceasing to carry on a vocation, at the university, college,~~
24 ~~community college, or other institution of higher learning.~~

25 ~~(2) For purposes of this section, a campus police department is~~
26 ~~a police department of the University of California, California~~
27 ~~State University, or California Community College, established~~
28 ~~pursuant to Section 72330, 89560, or 92600 of the Education~~
29 ~~Code, or is a police department staffed with deputized or appointed~~
30 ~~personnel with peace officer status as provided in Section 830.6 of~~
31 ~~the Penal Code, and is the law enforcement agency with the~~
32 ~~primary responsibility for investigating crimes occurring on the~~
33 ~~college or university campus on which is it located.~~

34 ~~(b) If the university, college, community college, or other~~
35 ~~institution of higher learning has no campus police department, the~~
36 ~~registrant shall instead register pursuant to subdivision (a) with the~~
37 ~~police of the city in which the campus is located or the sheriff of~~
38 ~~the county in which the campus is located if the campus is located~~
39 ~~in an unincorporated area or in a city that has no police department,~~
40 ~~on a form as may be required by the Department of Justice. The~~



1 requirements of subdivisions (a) and (b) are in addition to the
2 requirements of Section 290.

3 (c) A first violation of this section is a misdemeanor punishable
4 by a fine not to exceed one thousand dollars (\$1,000). A second
5 violation of this section is a misdemeanor punishable by
6 imprisonment in a county jail for not more than six months, by a
7 fine not to exceed one thousand dollars (\$1,000), or by both that
8 imprisonment and fine. A third or subsequent violation of this
9 section is a misdemeanor punishable by imprisonment in a county
10 jail for not more than one year, by a fine not exceeding one
11 thousand dollars (\$1,000), or by both that imprisonment and fine.

12 (d) (1) (A) The following information regarding a registered
13 sex offender on campus who is not described in paragraph (1) of
14 subdivision (a) of Section 290.4 may be released to members of the
15 campus community by any campus police department or, if the
16 university, college, community college, or other institution of
17 higher learning has no police department, the police department or
18 sheriff's department with jurisdiction over the campus, and any
19 employees of those agencies, as required by Section 1092(f)(1)(I)
20 of Title 20 of the United States Code:

- 21 (i) The offender's full name.
- 22 (ii) The offender's known aliases.
- 23 (iii) The offender's gender.
- 24 (iv) The offender's race.
- 25 (v) The offender's physical description.
- 26 (vi) The offender's photograph.
- 27 (vii) The offender's date of birth.
- 28 (viii) Crimes resulting in registration under Section 290.
- 29 (ix) The date of last registration or reregistration.

30 (B) The authority provided in this subdivision is in addition to
31 the authority of a peace officer or law enforcement agency to
32 provide information about a registered sex offender pursuant to
33 subdivisions (m) and (n) of Section 290 and subdivision (a) of
34 Section 290.4, and exists notwithstanding subdivision (i) of
35 Section 290, subdivision (c) of Section 290.4, or any other
36 provision of law.

37 (2) Any law enforcement entity and employees of any law
38 enforcement entity listed in paragraph (1) shall be immune from
39 civil or criminal liability for good faith conduct under this
40 subdivision.



1 ~~(3) Nothing in this subdivision shall be construed to authorize~~
2 ~~campus police departments or, if the university, college,~~
3 ~~community college, or other institution has no police department,~~
4 ~~the police department or sheriff's department with jurisdiction~~
5 ~~over the campus, to make disclosures about registrants intended to~~
6 ~~reach persons beyond the campus community.~~

7 ~~(4) (A) Before being provided any information by an agency~~
8 ~~pursuant to this subdivision, a member of the campus community~~
9 ~~who requests that information shall sign a statement, on a form~~
10 ~~provided by the Department of Justice, stating that he or she is not~~
11 ~~a registered sex offender, that he or she understands the purpose of~~
12 ~~the release of information is to allow members of the campus~~
13 ~~community to protect themselves and their children from sex~~
14 ~~offenders, and that he or she understands it is unlawful to use~~
15 ~~information obtained pursuant to this subdivision to commit a~~
16 ~~crime against any registrant or to engage in illegal discrimination~~
17 ~~or harassment of any registrant. The signed statement shall be~~
18 ~~maintained in a file in the agency's office for a minimum of five~~
19 ~~years.~~

20 ~~(B) An agency disseminating printed information pursuant to~~
21 ~~this subdivision shall maintain records of the means and dates of~~
22 ~~dissemination for a minimum of five years.~~

23 ~~(5) For purposes of this subdivision, "campus community"~~
24 ~~means those persons present at, and those persons regularly~~
25 ~~frequenting, any place associated with an institution of higher~~
26 ~~education, including campuses; administrative and educational~~
27 ~~offices; laboratories; satellite facilities owned or utilized by the~~
28 ~~institution for educational instruction, business, or institutional~~
29 ~~events; and public areas contiguous to any campus or facility that~~
30 ~~are regularly frequented by students, employees, or volunteers of~~
31 ~~the campus.~~

32 ~~SEC. 4. Section 290.4 of the Penal Code is amended to read:~~

33 ~~290.4. (a) (1) The Department of Justice shall continually~~
34 ~~compile information as described in paragraph (2) regarding any~~
35 ~~person required to register under Section 290 for a conviction of~~
36 ~~Section 207 or 209 committed with the intent to violate Section~~
37 ~~261, 286, 288, 288a, or 289; Section 220, except assault to commit~~
38 ~~mayhem; Section 243.4, provided that the offense is a felony;~~
39 ~~paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261;~~
40 ~~Section 264.1; Section 266, provided that the offense is a felony;~~



1 ~~Section 266c, provided that the offense is a felony; Section 266j;~~
2 ~~Section 267; Section 269; paragraph (1) of subdivision (b) of~~
3 ~~Section 286, provided that the offense is a felony; paragraph (2)~~
4 ~~of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of~~
5 ~~Section 286; Section 288; paragraph (1) of subdivision (b) of~~
6 ~~Section 288a, provided that the offense is a felony; paragraph (2)~~
7 ~~of subdivision (b), (c), (d), (f), (g), (i), (j), or (k) of Section 288a;~~
8 ~~Section 288.5; subdivision (a), (b), (d), (e), (f), (g), or (h) of~~
9 ~~Section 289, provided that the offense is a felony; subdivision (i)~~
10 ~~or (j) of Section 289; Section 647.6; or the attempted commission~~
11 ~~of any of these offenses; or the statutory predecessor of any of~~
12 ~~these offenses or any offense which, if committed or attempted in~~
13 ~~this state, would have been punishable as one or more of the~~
14 ~~offenses described in this section. This requirement shall not be~~
15 ~~applied to a person whose duty to register has been terminated~~
16 ~~pursuant to paragraph (5) of subdivision (d) of Section 290, or to~~
17 ~~a person who has been relieved of his or her duty to register under~~
18 ~~Section 290.5.~~

19 ~~(2) The information shall be categorized by community of~~
20 ~~residence and ZIP Code. The information shall include the names~~
21 ~~and known aliases of the person, photograph, a physical~~
22 ~~description, gender, race, date of birth, the criminal history, and the~~
23 ~~address, including ZIP Code, in which the person resides, and any~~
24 ~~other information that the Department of Justice deems relevant,~~
25 ~~not including information that would identify the victim.~~

26 ~~(3) The department shall operate a “900” telephone number~~
27 ~~that members of the public may call and inquire whether a named~~
28 ~~individual is listed among those described in this subdivision. The~~
29 ~~caller shall furnish his or her first name, middle initial, and last~~
30 ~~name. The department shall ascertain whether a named person~~
31 ~~reasonably appears to be a person so listed and provide the caller~~
32 ~~with the information described in paragraph (2), except the~~
33 ~~department shall not disclose the name or address of a listed~~
34 ~~person’s employer, or the street address or criminal history of a~~
35 ~~person listed, except to disclose the ZIP Code area in which the~~
36 ~~person resides and to describe the specific crimes for which the~~
37 ~~registrant was required to register. The department shall decide~~
38 ~~whether the named person reasonably appears to be a person listed,~~
39 ~~based upon information from the caller providing information that~~
40 ~~shall include (A) an exact street address, including apartment~~



1 number, social security number, California driver's license or
2 identification number, or birth date along with additional
3 information that may include any of the following: name, hair
4 color, eye color, height, weight, distinctive markings, ethnicity; or
5 (B) any combination of at least six of the above-listed
6 characteristics if an exact birth date or address is not available. If
7 three of the characteristics provided include ethnicity, hair color,
8 and eye color, a seventh identifying characteristic shall be
9 provided. Any information identifying the victim by name, birth
10 date, address, or relation to the registrant shall be excluded by the
11 department.

12 (4) (A) ~~The department shall provide a CD-ROM or other~~
13 ~~electronic medium containing the information described in~~
14 ~~paragraph (2), except the name or address of a listed person's~~
15 ~~employer, or the listed person's street address and criminal history~~
16 ~~other than the specific crimes for which the person was required~~
17 ~~to register, for all persons described in paragraph (1) of subdivision~~
18 ~~(a), and shall update and distribute the CD-ROM or other~~
19 ~~electronic medium to the sheriff's department in each county,~~
20 ~~municipal police departments of cities with a population of more~~
21 ~~than 200,000, and each law enforcement agency listed in~~
22 ~~subparagraph (I) of paragraph (1) of subdivision (n) of Section~~
23 ~~290, except that a school district police department may receive the~~
24 ~~information only upon request. These law enforcement agencies~~
25 ~~may obtain additional copies by purchasing a yearly subscription~~
26 ~~to the CD-ROM or other electronic medium from the Department~~
27 ~~of Justice for a yearly subscription fee. The Department of Justice,~~
28 ~~the sheriffs' departments, and the municipal police departments of~~
29 ~~cities with a population of more than 200,000 shall make, and the~~
30 ~~other law enforcement agencies may make, the CD-ROM or other~~
31 ~~electronic medium available for viewing by the public in~~
32 ~~accordance with the following: The agency may require that a~~
33 ~~person applying to view the CD-ROM or other electronic medium~~
34 ~~express an articulable purpose in order to have access thereto. The~~
35 ~~applicant shall provide identification in the form of a California~~
36 ~~driver's license, California identification card, or military~~
37 ~~identification card and orders with proof of permanent assignment~~
38 ~~or attachment to a military command or vessel in California,~~
39 ~~showing the applicant to be at least 18 years of age. The applicant~~
40 ~~shall sign a statement, on a form provided by the Department of~~



1 ~~Justice, stating that the applicant is not a registered sex offender,~~
2 ~~that he or she understands the purpose of the release of information~~
3 ~~is to allow members of the public to protect themselves and their~~
4 ~~children from sex offenders, and he or she understands it is~~
5 ~~unlawful to use information obtained from the CD-ROM or other~~
6 ~~electronic medium to commit a crime against any registrant or to~~
7 ~~engage in illegal discrimination or harassment of any registrant.~~
8 ~~The signed statement shall be maintained in a file in the designated~~
9 ~~law enforcement agency's office. A person under 18 years of age~~
10 ~~may accompany an applicant who is that person's parent or legal~~
11 ~~guardian for the purpose of viewing the CD-ROM or other~~
12 ~~electronic medium.~~

13 ~~(B) The records of persons requesting to view the CD-ROM or~~
14 ~~other electronic medium are confidential, except that a copy of the~~
15 ~~applications requesting to view the CD-ROM or other electronic~~
16 ~~medium may be disclosed to law enforcement agencies for law~~
17 ~~enforcement purposes.~~

18 ~~(C) Any information identifying the victim by name, birth date,~~
19 ~~address, or relationship to the registrant shall be excluded from the~~
20 ~~CD-ROM or other electronic medium.~~

21 ~~(5) (A) The income from the operation of the "900" telephone~~
22 ~~number shall be deposited in the Sexual Predator Public~~
23 ~~Information Account, which is hereby established within the~~
24 ~~Department of Justice for the purpose of the implementation of this~~
25 ~~section by the Department of Justice, including all actual and~~
26 ~~reasonable costs related to establishing and maintaining the~~
27 ~~information described in subdivision (a) and the CD-ROM or~~
28 ~~other electronic medium described in this subdivision.~~

29 ~~(B) The moneys in the Sexual Predator Public Information~~
30 ~~Account shall consist of income from the operation of the "900"~~
31 ~~telephone number program authorized by this section, proceeds of~~
32 ~~the loan made pursuant to Section 6 of the act adding this section,~~
33 ~~and any other funds made available to the account by the~~
34 ~~Legislature. Moneys in the account shall be available to the~~
35 ~~Department of Justice upon appropriation by the Legislature for~~
36 ~~the purpose specified in subparagraph (A).~~

37 ~~(C) When the "900" telephone number is called, a preamble~~
38 ~~shall be played before charges begin to accrue. The preamble shall~~
39 ~~run at least the length of time required by federal law and shall~~
40 ~~provide the following information:~~



- 1 ~~(i) Notice that the caller's telephone number will be recorded.~~
2 ~~(ii) The charges for use of the "900" telephone number.~~
3 ~~(iii) Notice that the caller is required to identify himself or~~
4 ~~herself to the operator.~~
5 ~~(iv) Notice that the caller is required to be 18 years of age or~~
6 ~~older.~~
7 ~~(v) A warning that it is illegal to use information obtained~~
8 ~~through the "900" telephone number to commit a crime against~~
9 ~~any registrant or to engage in illegal discrimination or harassment~~
10 ~~against any registrant.~~
11 ~~(vi) Notice that the caller is required to have the birth date,~~
12 ~~California driver's license or identification number, social security~~
13 ~~number, address, or other identifying information regarding the~~
14 ~~person about whom information is sought in order to achieve a~~
15 ~~positive identification of that person.~~
16 ~~(vii) A statement that the number is not a crime hotline and that~~
17 ~~any suspected criminal activity should be reported to local~~
18 ~~authorities.~~
19 ~~(viii) A statement that the caller should have a reasonable~~
20 ~~suspicion that a person is at risk.~~
21 ~~(D) The Department of Justice shall expend no more than six~~
22 ~~hundred thousand dollars (\$600,000) per year from any moneys~~
23 ~~appropriated by the Legislature from the account.~~
24 ~~(b) (1) Any person who uses information disclosed pursuant to~~
25 ~~this section to commit a felony shall be punished, in addition and~~
26 ~~consecutive to, any other punishment, by a five-year term of~~
27 ~~imprisonment in the state prison.~~
28 ~~(2) Any person who, without authorization, uses information~~
29 ~~disclosed pursuant to this section to commit a misdemeanor shall~~
30 ~~be subject to, in addition to any other penalty or fine imposed, a~~
31 ~~fine of not less than five hundred dollars (\$500) and not more than~~
32 ~~one thousand dollars (\$1,000).~~
33 ~~(c) The record of the compilation of offender information on~~
34 ~~each CD-ROM or other electronic medium distributed pursuant to~~
35 ~~this section shall be used only for law enforcement purposes and~~
36 ~~the public safety purposes specified in this section and Sections~~
37 ~~290 and 290.45. This record shall not be distributed or removed~~
38 ~~from the custody of the law enforcement agency that is authorized~~
39 ~~to retain it. Information obtained from this record shall be~~
40 ~~disclosed to a member of the public only as provided in this~~



1 ~~section, Section 290, 290.45, or any other statute expressly~~
2 ~~authorizing it.~~

3 ~~Any person who copies, distributes, discloses, or receives this~~
4 ~~record or information from it, except as authorized by law, is guilty~~
5 ~~of a misdemeanor, punishable by imprisonment in a county jail not~~
6 ~~to exceed six months, or by a fine not exceeding one thousand~~
7 ~~dollars (\$1,000), or by both that imprisonment and fine. This~~
8 ~~subdivision shall not apply to a law enforcement officer who~~
9 ~~makes a copy as part of his or her official duties in the course of~~
10 ~~a criminal investigation, court case, or as otherwise authorized by~~
11 ~~subdivision (n) of Section 290. This subdivision shall not prohibit~~
12 ~~copying information by handwriting.~~

13 ~~Notwithstanding Section 6254.5 of the Government Code,~~
14 ~~disclosure of information pursuant to this section is not a waiver~~
15 ~~of exemptions under Chapter 3.5 (commencing with Section~~
16 ~~6250) of Title 1 of Division 7 of the Government Code and does~~
17 ~~not affect other statutory restrictions on disclosure in other~~
18 ~~situations.~~

19 ~~(d) Unauthorized removal or destruction of the CD-ROM or~~
20 ~~other electronic medium from the offices of any law enforcement~~
21 ~~agency is a misdemeanor, punishable by imprisonment in a county~~
22 ~~jail not to exceed one year, or by a fine not exceeding one thousand~~
23 ~~dollars (\$1,000), or by both that imprisonment and fine.~~

24 ~~(e) (1) A person is authorized to use information disclosed~~
25 ~~pursuant to this section only to protect a person at risk.~~

26 ~~This section shall not affect authorized access to, or use of,~~
27 ~~information pursuant to, among other provisions, Sections 11105~~
28 ~~and 11105.3 of this code, Section 226.55 of the Civil Code,~~
29 ~~Sections 777.5 and 14409.2 of the Financial Code, Sections~~
30 ~~1522.01 and 1596.871 of the Health and Safety Code, and Section~~
31 ~~432.7 of the Labor Code.~~

32 ~~(2) Except as authorized under paragraph (1) or any other~~
33 ~~provision of law, use of any information that is disclosed pursuant~~
34 ~~to this section for purposes of relating to any of the following is~~
35 ~~prohibited:~~

36 ~~(A) Health insurance.~~

37 ~~(B) Insurance.~~

38 ~~(C) Loans.~~

39 ~~(D) Credit.~~

40 ~~(E) Employment.~~



1 ~~(F) Education, scholarships, or fellowships.~~

2 ~~(G) Housing or accommodations.~~

3 ~~(H) Benefits, privileges, or services provided by any business~~
4 ~~establishment.~~

5 ~~(3) (A) Any use of information disclosed pursuant to this~~
6 ~~section for purposes other than those provided by paragraph (1) or~~
7 ~~in violation of paragraph (2) shall make the user liable for the~~
8 ~~actual damages, and any amount that may be determined by a jury~~
9 ~~or a court sitting without a jury, not exceeding three times the~~
10 ~~amount of actual damage, and not less than two hundred fifty~~
11 ~~dollars (\$250), and attorney's fees, exemplary damages, or a civil~~
12 ~~penalty not exceeding twenty five thousand dollars (\$25,000).~~

13 ~~(B) Whenever there is reasonable cause to believe that any~~
14 ~~person or group of persons is engaged in a pattern or practice of~~
15 ~~misuse of the "900" telephone number in violation of paragraph~~
16 ~~(2), the Attorney General, any district attorney, or city attorney, or~~
17 ~~any person aggrieved by the misuse of that number is authorized~~
18 ~~to bring a civil action in the appropriate court requesting~~
19 ~~preventive relief, including an application for a permanent or~~
20 ~~temporary injunction, restraining order, or other order against the~~
21 ~~person or group of persons responsible for the pattern or practice~~
22 ~~of misuse. The foregoing remedies shall be independent of any~~
23 ~~other remedies or procedures that may be available to an aggrieved~~
24 ~~party under other provisions of law, including Part 2 (commencing~~
25 ~~with Section 43) of Division 1 of the Civil Code.~~

26 ~~(f) This section shall not be deemed to authorize the~~
27 ~~publication, distribution, or disclosure of the address of any person~~
28 ~~about whom information can be published, distributed, or~~
29 ~~disclosed pursuant to this section.~~

30 ~~(g) Community notification shall be governed by subdivisions~~
31 ~~(m) and (n) of Section 290.~~

32 ~~(h) The Department of Justice shall submit to the Legislature~~
33 ~~an annual report on the operation of the "900" telephone number~~
34 ~~required by paragraph (3) of subdivision (a) on July 1, 1996, July~~
35 ~~1, 1997, and July 1, 1998. The annual report shall include all of the~~
36 ~~following:~~

37 ~~(1) Number of calls received.~~

38 ~~(2) Amount of income earned per year through operation of the~~
39 ~~"900" telephone number.~~



1 ~~(3) A detailed outline of the amount of money expended and the~~
2 ~~manner in which it was expended for purposes of this section.~~

3 ~~(4) Number of calls that resulted in an affirmative response and~~
4 ~~the number of calls that resulted in a negative response with regard~~
5 ~~to whether a named individual was listed pursuant to subdivision~~
6 ~~(a).~~

7 ~~(5) Number of persons listed pursuant to subdivision (a).~~

8 ~~(6) A summary of the success of the “900” telephone number~~
9 ~~program based upon selected factors.~~

10 ~~(i) Any law enforcement agency and employees of any law~~
11 ~~enforcement agency shall be immune from liability for good faith~~
12 ~~conduct under this section. For the purposes of this section, “law~~
13 ~~enforcement agency” means the Attorney General of California,~~
14 ~~every district attorney, the Department of Corrections, the~~
15 ~~Department of the Youth Authority, and every state or local agency~~
16 ~~expressly authorized by statute to investigate or prosecute law~~
17 ~~violators.~~

18 ~~(j) On or before July 1, 2000, the Department of Justice shall~~
19 ~~make a report to the Legislature concerning the changes to the~~
20 ~~operation of the “900” telephone number program made by the~~
21 ~~amendments to this section by Chapter 908 of the Statutes of 1996.~~
22 ~~The report shall include all of the following:~~

23 ~~(1) Number of calls received by county.~~

24 ~~(2) Number of calls that resulted in an affirmative response and~~
25 ~~the number of calls that resulted in a negative response with regard~~
26 ~~to whether a named individual was listed pursuant to subdivision~~
27 ~~(a).~~

28 ~~(3) Number of persons listed pursuant to subdivision (a).~~

29 ~~(4) Statistical information concerning prosecutions of persons~~
30 ~~for misuse of the “900” telephone number program, including the~~
31 ~~outcomes of those prosecutions.~~

32 ~~(5) A summary of the success of the “900” telephone number~~
33 ~~based upon selected factors.~~

34 ~~(k) The registration and public notification provisions of this~~
35 ~~section are applicable to every person described in these sections,~~
36 ~~without regard to when his or her crimes were committed or his or~~
37 ~~her duty to register pursuant to this section arose, and to every~~
38 ~~offense described in these sections, regardless of when it was~~
39 ~~committed.~~



1 ~~(l) No later than December 31, 1998, the Department of Justice~~
2 ~~shall prepare an informational pamphlet that shall be mailed to any~~
3 ~~member of the public who makes an inquiry using the “900”~~
4 ~~telephone number required by this section and who provides an~~
5 ~~address. The pamphlet shall provide basic information concerning~~
6 ~~appropriate steps parents, guardians, and other responsible adults~~
7 ~~can take to ensure a child is safe from a suspected child molester,~~
8 ~~including, but not limited to, how to identify suspicious activity by~~
9 ~~an adult, common facts and myths about child molesters, and how~~
10 ~~to obtain additional help and information. A notice to callers to the~~
11 ~~“900” telephone number that they will receive the pamphlet, if an~~
12 ~~address is provided, shall be included in the preamble required by~~
13 ~~this section.~~

14 ~~(m) On or before July 1, 2001, and every year thereafter, the~~
15 ~~Department of Justice shall make a report to the Legislature~~
16 ~~concerning the operation of this section.~~

17 ~~(n) Agencies disseminating information to the public pursuant~~
18 ~~to this section shall maintain records of those persons requesting~~
19 ~~to view the CD-ROM or other electronic media for a minimum of~~
20 ~~five years.~~

21 ~~SEC. 5.—Section 290.45 is added to the Penal Code, to read:~~

22 ~~290.45. (a) On or before July 1, 2005, the Department of~~
23 ~~Justice shall provide the following information categorized by~~
24 ~~community of residence and ZIP Code via the Internet with respect~~
25 ~~to all serious sex offenders, as specified in paragraph (1) of~~
26 ~~subdivision (a) of Section 290.4:~~

27 ~~(1) The names and known aliases of the person, a photograph,~~
28 ~~a physical description, gender, race, date of birth, the criminal~~
29 ~~history, and the address, including ZIP Code, in which the person~~
30 ~~resides, and any other information that the Department of Justice~~
31 ~~deems relevant, not including information that would identify the~~
32 ~~victim, as well as the person’s work address, a description and the~~
33 ~~license plate number of the offender’s vehicle or vehicles the~~
34 ~~offender is known to drive, and the offender’s enrollment,~~
35 ~~employment, volunteer, or vocational status with any university,~~
36 ~~college, community college, or other institution of higher~~
37 ~~learning.~~

38 ~~(2) A “yes” or “no” notation indicating whether the person~~
39 ~~has ever committed crimes against children.~~



1 ~~(3) Whether the offender is in compliance with the registration~~
2 ~~requirements of Section 290 or cannot be located, and a notation~~
3 ~~of the date and time the information was last updated.~~

4 ~~(b) (1) Any adult person in this state, other than a person~~
5 ~~required to register under Section 290, may apply to view the~~
6 ~~Internet Web site.~~

7 ~~(2) A qualified applicant shall not be able to view the Internet~~
8 ~~Web site until the applicant first clicks on a box that signifies that~~
9 ~~the applicant acknowledges or agrees to comply with the following~~
10 ~~terms:~~

11 ~~(A) The applicant is not a registered sex offender.~~

12 ~~(B) The applicant understands that the purpose of the release of~~
13 ~~information is to allow members of the public to protect~~
14 ~~themselves and their children from sex offenders.~~

15 ~~(C) The applicant understands that it is unlawful to use~~
16 ~~information obtained from this Internet Web site to commit a crime~~
17 ~~against any registrant, engage in illegal discrimination or~~
18 ~~harassment of any registrant, or copy, forward, or distribute the~~
19 ~~information viewed, except as authorized by law.~~

20 ~~(3) A permanent record of this agreement shall be maintained~~
21 ~~by the Department of Justice.~~

22 ~~(4) A person under 18 years of age may accompany an~~
23 ~~applicant who is that person's parent or legal guardian for the~~
24 ~~purpose of viewing the Internet Web site.~~

25 ~~(e) The records of persons requesting to view the Internet Web~~
26 ~~site are confidential, but the Department of Justice shall retain the~~
27 ~~records for one year, to be used for law enforcement investigative~~
28 ~~purposes only.~~

29 ~~(d) Any information identifying the victim by name, birth date,~~
30 ~~address, or relationship to the registrant shall be excluded from the~~
31 ~~Internet Web site.~~

32 ~~(e) (1) Any person who uses information disclosed pursuant to~~
33 ~~this section to commit a felony is punishable, in addition and~~
34 ~~consecutive to any other punishment imposed, by imprisonment~~
35 ~~in the state prison for a period of five years.~~

36 ~~(2) Any person who, without authorization, uses information~~
37 ~~disclosed pursuant to this section to commit a misdemeanor is~~
38 ~~punishable, in addition to any other penalty or fine imposed, by a~~
39 ~~fine of not less than five hundred dollars (\$500) and not more than~~
40 ~~one thousand dollars (\$1,000).~~



1 ~~(f) (1) The record of the compilation of offender information~~
2 ~~on each Internet Web site disclosed pursuant to this section shall~~
3 ~~be used only for law enforcement purposes and the public safety~~
4 ~~purposes specified in this section and Section 290.~~

5 ~~(2) This record shall not be distributed or removed from the~~
6 ~~custody of the law enforcement agency that is authorized to retain~~
7 ~~it.~~

8 ~~(3) Information obtained from this record shall be disclosed to~~
9 ~~a member of the public only as provided in this section, Section~~
10 ~~290, Section 290.4, or any other statute expressly authorizing it.~~

11 ~~(g) (1) Any person who forwards, distributes, or discloses this~~
12 ~~record or information from it, except as authorized by law, is guilty~~
13 ~~of a misdemeanor, punishable by imprisonment in a county jail for~~
14 ~~a period not to exceed six months, or by a fine not exceeding one~~
15 ~~thousand dollars (\$1,000), or by both that imprisonment and fine.~~

16 ~~(2) This subdivision shall not apply to a law enforcement~~
17 ~~officer who makes a copy as part of his or her official duties in the~~
18 ~~course of a criminal investigation, court case, or as otherwise~~
19 ~~authorized by subdivision (n) of Section 290.~~

20 ~~(3) This subdivision shall not prohibit copying information by~~
21 ~~handwriting.~~

22 ~~(h) Notwithstanding Section 6254.5 of the Government Code,~~
23 ~~disclosure of information pursuant to this section is not a waiver~~
24 ~~of exemptions under Chapter 3.5 (commencing with Section~~
25 ~~6250) of Division 7 of Title 1 of the Government Code and does~~
26 ~~not affect other statutory restrictions on disclosure in other~~
27 ~~situations.~~

28 ~~(i) (1) (A) A person is authorized to use information disclosed~~
29 ~~pursuant to this section only to protect a person at risk.~~

30 ~~(B) This section shall not affect authorized access to, or use of,~~
31 ~~information pursuant to, among other provisions including,~~
32 ~~Sections 11105 and 11105.3 of this code, Sections 8712, 8811, and~~
33 ~~8908 of the Family Code, Sections 777.5 and 14409.2 of the~~
34 ~~Financial Code, Sections 1522.01 and 1596.871 of the Health and~~
35 ~~Safety Code, and Section 432.7 of the Labor Code.~~

36 ~~(2) Except as authorized under paragraph (1) or any other~~
37 ~~provision of law, use of any information that is disclosed pursuant~~
38 ~~to this section for purposes of, or relating to, any of the following~~
39 ~~is prohibited:~~

40 ~~(A) Health insurance.~~



1 ~~(B) Insurance.~~

2 ~~(C) Loans.~~

3 ~~(D) Credit.~~

4 ~~(E) Employment.~~

5 ~~(F) Education, scholarships, or fellowships.~~

6 ~~(G) Housing or accommodations.~~

7 ~~(H) Benefits, privileges, or services provided by any business~~
8 ~~establishment.~~

9 ~~(j) This section shall not be deemed to authorize the~~
10 ~~publication, distribution, or disclosure of the address of any person~~
11 ~~about whom information can be published, distributed, or~~
12 ~~disclosed pursuant to this section.~~

13 ~~(k) (1) Any law enforcement agency or employee of a law~~
14 ~~enforcement agency shall be immune from liability for good faith~~
15 ~~conduct under this section.~~

16 ~~(2) For the purposes of this section, "law enforcement agency"~~
17 ~~means the Office of the Attorney General, every district attorney,~~
18 ~~the Department of Corrections, the Department of the Youth~~
19 ~~Authority, and every other state or local agency expressly~~
20 ~~authorized by statute to investigate or prosecute law violators.~~

21 ~~(l) The public notification provisions of this section are~~
22 ~~applicable to every person described in these sections, without~~
23 ~~regard to when his or her crimes were committed or his or her duty~~
24 ~~to register as a sex offender arose, and to every offense described~~
25 ~~in this section, regardless of when it was committed.~~

26 ~~(m) The Department of Justice shall be authorized to establish~~
27 ~~guidelines for the creation and operation of the system specified~~
28 ~~in this section.~~

29 SEC. 6. Section 1202.4 of the Penal Code is amended to read:

30 1202.4. (a) (1) It is the intent of the Legislature that a victim
31 of crime who incurs any economic loss as a result of the
32 commission of a crime shall receive restitution directly from any
33 defendant convicted of that crime.

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

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

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



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

4 (b) In every case where a person is convicted of a crime, the
5 court shall impose a separate and additional restitution fine, unless
6 it finds compelling and extraordinary reasons for not doing so, and
7 states those reasons on the record.

8 (1) The restitution fine shall be set at the discretion of the court
9 and commensurate with the seriousness of the offense, but shall
10 not be less than two hundred dollars (\$200), and not more than ten
11 thousand dollars (\$10,000), if the person is convicted of a felony,
12 and shall not be less than one hundred dollars (\$100), and not more
13 than one thousand dollars (\$1,000), if the person is convicted of
14 a misdemeanor.

15 (2) In setting a felony restitution fine, the court may determine
16 the amount of the fine as the product of two hundred dollars (\$200)
17 multiplied by the number of years of imprisonment the defendant
18 is ordered to serve, multiplied by the number of felony counts of
19 which the defendant is convicted.

20 (c) The court shall impose the restitution fine unless it finds
21 compelling and extraordinary reasons for not doing so, and states
22 those reasons on the record. A defendant's inability to pay shall not
23 be considered a compelling and extraordinary reason not to impose
24 a restitution fine. Inability to pay may be considered only in
25 increasing the amount of the restitution fine in excess of the
26 two-hundred-dollar (\$200) or one-hundred-dollar (\$100)
27 minimum.

28 (d) In setting the amount of the fine pursuant to subdivision (b)
29 in excess of the two-hundred-dollar (\$200) or one-hundred-dollar
30 (\$100) minimum, the court shall consider any relevant factors
31 including, but not limited to, the defendant's inability to pay, the
32 seriousness and gravity of the offense and the circumstances of its
33 commission, any economic gain derived by the defendant as a
34 result of the crime, the extent to which any other person suffered
35 any losses as a result of the crime, and the number of victims
36 involved in the crime. Those losses may include pecuniary losses
37 to the victim or his or her dependents as well as intangible losses,
38 such as psychological harm caused by the crime. Consideration of
39 a defendant's inability to pay may include his or her future earning
40 capacity. A defendant shall bear the burden of demonstrating his



1 or her inability to pay. Express findings by the court as to the
2 factors bearing on the amount of the fine shall not be required. A
3 separate hearing for the fine shall not be required.

4 (e) The restitution fine shall not be subject to penalty
5 assessments as provided in Section 1464, and shall be deposited in
6 the Restitution Fund in the State Treasury.

7 (f) In every case in which a victim has suffered economic loss
8 as a result of the defendant's conduct, the court shall require that
9 the defendant make restitution to the victim or victims in an
10 amount established by court order, based on the amount of loss
11 claimed by the victim or victims or any other showing to the court.
12 If the amount of loss cannot be ascertained at the time of
13 sentencing, the restitution order shall include a provision that the
14 amount shall be determined at the direction of the court. The court
15 shall order full restitution unless it finds compelling and
16 extraordinary reasons for not doing so, and states them on the
17 record.

18 (1) The defendant has the right to a hearing before a judge to
19 dispute the determination of the amount of restitution. The court
20 may modify the amount, on its own motion or on the motion of the
21 district attorney, the victim or victims, or the defendant. If a
22 motion is made for modification of a restitution order, the victim
23 shall be notified of that motion at least 10 days prior to the
24 proceeding held to decide the motion.

25 (2) Determination of the amount of restitution ordered
26 pursuant to this subdivision shall not be affected by the
27 indemnification or subrogation rights of any third party.
28 Restitution ordered pursuant to this subdivision shall be ordered
29 to be deposited to the Restitution Fund to the extent that the victim,
30 as defined in subdivision (k), has received assistance from the
31 Victim Compensation Program pursuant to Chapter 5
32 (commencing with Section 13950) of Part 4 of Division 3 of Title
33 2 of the Government Code.

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



1 (A) Full or partial payment for the value of stolen or damaged
2 property. The value of stolen or damaged property shall be the
3 replacement cost of like property, or the actual cost of repairing the
4 property when repair is possible.

5 (B) Medical expenses.

6 (C) Mental health counseling expenses.

7 (D) Wages or profits lost due to injury incurred by the victim,
8 and if the victim is a minor, wages or profits lost by the minor's
9 parent, parents, guardian, or guardians, while caring for the
10 injured minor. Lost wages shall include any commission income
11 as well as any base wages. Commission income shall be
12 established by evidence of commission income during the
13 12-month period prior to the date of the crime for which restitution
14 is being ordered, unless good cause for a shorter time period is
15 shown.

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

25 (F) Noneconomic losses, including, but not limited to,
26 psychological harm, for felony violations of Section 288.

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

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

31 (I) Expenses incurred by an adult victim in relocating away
32 from the defendant, including, but not limited to, deposits for
33 utilities and telephone service, deposits for rental housing,
34 temporary lodging and food expenses, clothing, and personal
35 items. Expenses incurred pursuant to this section shall be verified
36 by law enforcement to be necessary for the personal safety of the
37 victim or by a mental health treatment provider to be necessary for
38 the emotional well-being of the victim.

39 (J) Expenses to install or increase residential security incurred
40 related to a crime, as defined in subdivision (c) of Section 667.5,



1 including, but not limited to, a home security device or system, or
2 replacing or increasing the number of locks.

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

7 (4) (A) If, as a result of the defendant's conduct, the
8 Restitution Fund has provided assistance to or on behalf of a victim
9 or derivative victim pursuant to Chapter 5 (commencing with
10 Section 13950) of Part 4 of Division 3 of Title 2 of the Government
11 Code, the amount of assistance provided shall be presumed to be
12 a direct result of the defendant's criminal conduct and shall be
13 included in the amount of the restitution ordered.

14 (B) The amount of assistance provided by the Restitution Fund
15 shall be established by copies of bills submitted to the California
16 Victim Compensation and Government Claims Board reflecting
17 the amount paid by the board and whether the services for which
18 payment was made were for medical or dental expenses, funeral
19 or burial expenses, mental health counseling, wage or support
20 losses, or rehabilitation. Certified copies of these bills provided by
21 the board and redacted to protect the privacy and safety of the
22 victim or any legal privilege, together with a statement made under
23 penalty of perjury by the custodian of records that those bills were
24 submitted to and were paid by the board, shall be sufficient to meet
25 this requirement.

26 (C) If the defendant offers evidence to rebut the presumption
27 established by this paragraph, the court may release additional
28 information contained in the records of the board to the defendant
29 only after reviewing that information in camera and finding that
30 the information is necessary for the defendant to dispute the
31 amount of the restitution order.

32 (5) Except as provided in paragraph (6), in any case in which
33 an order may be entered pursuant to this subdivision, the defendant
34 shall prepare and file a disclosure identifying all assets, income,
35 and liabilities in which the defendant held or controlled a present
36 or future interest as of the date of the defendant's arrest for the
37 crime for which restitution may be ordered. The financial
38 disclosure statements shall be made available to the victim and the
39 board pursuant to Section 1214. The disclosure shall be signed by
40 the defendant upon a form approved or adopted by the Judicial



1 Council for the purpose of facilitating the disclosure. Any
2 defendant who willfully states as true any material matter that he
3 or she knows to be false on the disclosure required by this
4 subdivision is guilty of a misdemeanor, unless this conduct is
5 punishable as perjury or another provision of law provides for a
6 greater penalty.

7 (6) A defendant who fails to file the financial disclosure
8 required in paragraph (5), but who has filed a financial affidavit or
9 financial information pursuant to subdivision (c) of Section 987,
10 shall be deemed to have waived the confidentiality of that affidavit
11 or financial information as to a victim in whose favor the order of
12 restitution is entered pursuant to subdivision (f). The affidavit or
13 information shall serve in lieu of the financial disclosure required
14 in paragraph (5), and paragraphs (7) to (10), inclusive, shall not
15 apply.

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

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

25 (A) Any report submitted pursuant to subparagraph (C) of
26 paragraph (2) of subdivision (b) of Section 1203 or subdivision (g)
27 of Section 1203.

28 (B) Any stipulation submitted pursuant to paragraph (4) of
29 subdivision (b) of Section 1203.

30 (C) Any report by the probation officer, or any information
31 submitted by the defendant applying for a conditional sentence
32 pursuant to subdivision (d) of Section 1203.

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

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

38 (B) A factor indicating that the interests of justice would not be
39 served by admitting the defendant to probation under Section
40 1203.



1 (C) A factor indicating that the interests of justice would not be
2 served by conditionally sentencing the defendant under Section
3 1203.

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

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

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

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

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

20 (11) If a defendant has any remaining unpaid balance on a
21 restitution order or fine 120 days prior to his or her scheduled
22 release from probation or 120 days prior to his or her completion
23 of a conditional sentence, the defendant shall prepare and file a
24 new and updated financial disclosure identifying all assets,
25 income, and liabilities in which the defendant holds or controls or
26 has held or controlled a present or future interest during the
27 defendant's period of probation or conditional sentence. The
28 financial disclosure shall be made available to the victim and the
29 board pursuant to Section 1214. The disclosure shall be signed and
30 prepared by the defendant on the same form as described in
31 paragraph (5). Any defendant who willfully states as true any
32 material matter that he or she knows to be false on the disclosure
33 required by this subdivision is guilty of a misdemeanor, unless this
34 conduct is punishable as perjury or another provision of law
35 provides for a greater penalty. The financial disclosure required by
36 this paragraph shall be filed with the clerk of the court no later than
37 90 days prior to the defendant's scheduled release from probation
38 or completion of the defendant's conditional sentence.

39 (g) The court shall order full restitution unless it finds
40 compelling and extraordinary reasons for not doing so, and states



1 those reasons on the record. A defendant's inability to pay shall not
2 be considered a compelling and extraordinary reason not to impose
3 a restitution order, nor shall inability to pay be a consideration in
4 determining the amount of a restitution order.

5 (h) The district attorney may request an order of examination
6 pursuant to the procedures specified in Article 2 (commencing
7 with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part
8 2 of the Code of Civil Procedure, in order to determine the
9 defendant's financial assets for purposes of collecting on the
10 restitution order.

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

13 (j) The making of a restitution order pursuant to subdivision (f)
14 shall not affect the right of a victim to recovery from the
15 Restitution Fund as otherwise provided by law, except to the extent
16 that restitution is actually collected pursuant to the order.
17 Restitution collected pursuant to this subdivision shall be credited
18 to any other judgments for the same losses obtained against the
19 defendant arising out of the crime for which the defendant was
20 convicted.

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

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

24 (2) Any corporation, business trust, estate, trust, partnership,
25 association, joint venture, government, governmental
26 subdivision, agency, or instrumentality, or any other legal or
27 commercial entity when that entity is a direct victim of a crime.

28 (3) Any person who has sustained economic loss as the result
29 of a crime and who satisfies any of the following conditions:

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

32 (B) At the time of the crime was living in the household of the
33 victim.

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

38 (D) Is another family member of the victim, including, but not
39 limited to, the victim's fiance or fiancée, and who witnessed the
40 crime.



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

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

5 (l) At its discretion, the board of supervisors of any county may
6 impose a fee to cover the actual administrative cost of collecting
7 the restitution fine, not to exceed 10 percent of the amount ordered
8 to be paid, to be added to the restitution fine and included in the
9 order of the court, the proceeds of which shall be deposited in the
10 general fund of the county.

11 (m) In every case in which the defendant is granted probation,
12 the court shall make the payment of restitution fines and orders
13 imposed pursuant to this section a condition of probation. Any
14 portion of a restitution order that remains unsatisfied after a
15 defendant is no longer on probation shall continue to be
16 enforceable by a victim pursuant to Section 1214 until the
17 obligation is satisfied.

18 (n) If the court finds and states on the record compelling and
19 extraordinary reasons why a restitution fine or full restitution order
20 should not be required, the court shall order, as a condition of
21 probation, that the defendant perform specified community
22 service, unless it finds and states on the record compelling and
23 extraordinary reasons not to require community service in addition
24 to the finding that restitution should not be required. Upon
25 revocation of probation, the court shall impose restitution pursuant
26 to this section.

27 (o) The provisions of Section 13963 of the Government Code
28 shall apply to restitution imposed pursuant to this section.

29 (p) The court clerk shall notify the California Victim
30 Compensation and Government Claims Board within 90 days of
31 an order of restitution being imposed if the defendant is ordered
32 to pay restitution to the board due to the victim receiving
33 compensation from the Restitution Fund. Notification shall be
34 accomplished by mailing a copy of the court order to the board,
35 which may be done periodically by bulk mail or electronic mail.

36 SEC. 6.1. Section 1202.4 of the Penal Code is amended to
37 read:

38 1202.4. (a) (1) It is the intent of the Legislature that a victim
39 of crime who incurs any economic loss as a result of the



1 commission of a crime shall receive restitution directly from any
2 defendant convicted of that crime.

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

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

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

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

13 (b) In every case where a person is convicted of a crime, the
14 court shall impose a separate and additional restitution fine, unless
15 it finds compelling and extraordinary reasons for not doing so, and
16 states those reasons on the record.

17 (1) The restitution fine shall be set at the discretion of the court
18 and commensurate with the seriousness of the offense, but shall
19 not be less than three hundred dollars (\$300), and not more than
20 ten thousand dollars (\$10,000), if the person is convicted of a
21 felony, and shall not be less than two hundred dollars (\$200), and
22 not more than one thousand dollars (\$1,000), if the person is
23 convicted of a misdemeanor.

24 (2) In setting a felony restitution fine, the court may determine
25 the amount of the fine as the product of three hundred dollars
26 (\$300) multiplied by the number of years of imprisonment the
27 defendant is ordered to serve, multiplied by the number of felony
28 counts of which the defendant is convicted.

29 (c) The court shall impose the restitution fine unless it finds
30 compelling and extraordinary reasons for not doing so, and states
31 those reasons on the record. A defendant's inability to pay shall not
32 be considered a compelling and extraordinary reason not to impose
33 a restitution fine. Inability to pay may be considered only in
34 increasing the amount of the restitution fine in excess of the
35 three-hundred-dollar (\$300) or two-hundred-dollar (\$200)
36 minimum.

37 (d) In setting the amount of the fine pursuant to subdivision (b)
38 in excess of the three-hundred-dollar (\$300) or
39 two-hundred-dollar (\$200) minimum, the court shall consider any
40 relevant factors including, but not limited to, the defendant's



1 inability to pay, the seriousness and gravity of the offense and the
2 circumstances of its commission, any economic gain derived by
3 the defendant as a result of the crime, the extent to which any other
4 person suffered any losses as a result of the crime, and the number
5 of victims involved in the crime. Those losses may include
6 pecuniary losses to the victim or his or her dependents as well as
7 intangible losses, such as psychological harm caused by the crime.
8 Consideration of a defendant's inability to pay may include his or
9 her future earning capacity. A defendant shall bear the burden of
10 demonstrating his or her inability to pay. Express findings by the
11 court as to the factors bearing on the amount of the fine shall not
12 be required. A separate hearing for the fine shall not be required.

13 (e) The restitution fine shall not be subject to penalty
14 assessments as provided in Section 1464, and shall be deposited in
15 the Restitution Fund in the State Treasury.

16 (f) In every case in which a victim has suffered economic loss
17 as a result of the defendant's conduct, the court shall require that
18 the defendant make restitution to the victim or victims in an
19 amount established by court order, based on the amount of loss
20 claimed by the victim or victims or any other showing to the court.
21 If the amount of loss cannot be ascertained at the time of
22 sentencing, the restitution order shall include a provision that the
23 amount shall be determined at the direction of the court. The court
24 shall order full restitution unless it finds compelling and
25 extraordinary reasons for not doing so, and states them on the
26 record.

27 (1) The defendant has the right to a hearing before a judge to
28 dispute the determination of the amount of restitution. The court
29 may modify the amount, on its own motion or on the motion of the
30 district attorney, the victim or victims, or the defendant. If a
31 motion is made for modification of a restitution order, the victim
32 shall be notified of that motion at least 10 days prior to the
33 proceeding held to decide the motion.

34 (2) Determination of the amount of restitution ordered
35 pursuant to this subdivision shall not be affected by the
36 indemnification or subrogation rights of any third party.
37 Restitution ordered pursuant to this subdivision shall be ordered
38 to be deposited to the Restitution Fund to the extent that the victim,
39 as defined in subdivision (k), has received assistance from the
40 Victim Compensation Program pursuant to Chapter 5



1 (commencing with Section 13950) of Part 4 of Division 3 of Title
2 of the Government Code.

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

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

14 (B) Medical expenses.

15 (C) Mental health counseling expenses.

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

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

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

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

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



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

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

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

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

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

36 (C) If the defendant offers evidence to rebut the presumption
37 established by this paragraph, the court may release additional
38 information contained in the records of the board to the defendant
39 only after reviewing that information in camera and finding that



1 the information is necessary for the defendant to dispute the
2 amount of the restitution order.

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

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

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

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

36 (A) Any report submitted pursuant to subparagraph (C) of
37 paragraph (2) of subdivision (b) of Section 1203 or subdivision (g)
38 of Section 1203.

39 (B) Any stipulation submitted pursuant to paragraph (4) of
40 subdivision (b) of Section 1203.



1 (C) Any report by the probation officer, or any information
2 submitted by the defendant applying for a conditional sentence
3 pursuant to subdivision (d) of Section 1203.

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

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

9 (B) A factor indicating that the interests of justice would not be
10 served by admitting the defendant to probation under Section
11 1203.

12 (C) A factor indicating that the interests of justice would not be
13 served by conditionally sentencing the defendant under Section
14 1203.

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

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

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

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

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

31 (11) If a defendant has any remaining unpaid balance on a
32 restitution order or fine 120 days prior to his or her scheduled
33 release from probation or 120 days prior to his or her completion
34 of a conditional sentence, the defendant shall prepare and file a
35 new and updated financial disclosure identifying all assets,
36 income, and liabilities in which the defendant holds or controls or
37 has held or controlled a present or future interest during the
38 defendant's period of probation or conditional sentence. The
39 financial disclosure shall be made available to the victim and the
40 board pursuant to Section 1214. The disclosure shall be signed and



1 prepared by the defendant on the same form as described in
2 paragraph (5). Any defendant who willfully states as true any
3 material matter that he or she knows to be false on the disclosure
4 required by this subdivision is guilty of a misdemeanor, unless this
5 conduct is punishable as perjury or another provision of law
6 provides for a greater penalty. The financial disclosure required by
7 this paragraph shall be filed with the clerk of the court no later than
8 90 days prior to the defendant's scheduled release from probation
9 or completion of the defendant's conditional sentence.

10 (g) The court shall order full restitution unless it finds
11 compelling and extraordinary reasons for not doing so, and states
12 those reasons on the record. A defendant's inability to pay shall not
13 be considered a compelling and extraordinary reason not to impose
14 a restitution order, nor shall inability to pay be a consideration in
15 determining the amount of a restitution order.

16 (h) The district attorney may request an order of examination
17 pursuant to the procedures specified in Article 2 (commencing
18 with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part
19 2 of the Code of Civil Procedure, in order to determine the
20 defendant's financial assets for purposes of collecting on the
21 restitution order.

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

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

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

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

35 (2) Any corporation, business trust, estate, trust, partnership,
36 association, joint venture, government, governmental
37 subdivision, agency, or instrumentality, or any other legal or
38 commercial entity when that entity is a direct victim of a crime.

39 (3) Any person who has sustained economic loss as the result
40 of a crime and who satisfies any of the following conditions:



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

3 (B) At the time of the crime was living in the household of the
4 victim.

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

9 (D) Is another family member of the victim, including, but not
10 limited to, the victim's fiance or fiancée, and who witnessed the
11 crime.

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

13 (4) Any person who is eligible to receive assistance from the
14 Restitution Fund pursuant to Chapter 5 (commencing with Section
15 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

16 (l) At its discretion, the board of supervisors of any county may
17 impose a fee to cover the actual administrative cost of collecting
18 the restitution fine, not to exceed 10 percent of the amount ordered
19 to be paid, to be added to the restitution fine and included in the
20 order of the court, the proceeds of which shall be deposited in the
21 general fund of the county.

22 (m) In every case in which the defendant is granted probation,
23 the court shall make the payment of restitution fines and orders
24 imposed pursuant to this section a condition of probation. Any
25 portion of a restitution order that remains unsatisfied after a
26 defendant is no longer on probation shall continue to be
27 enforceable by a victim pursuant to Section 1214 until the
28 obligation is satisfied.

29 (n) If the court finds and states on the record compelling and
30 extraordinary reasons why a restitution fine or full restitution order
31 should not be required, the court shall order, as a condition of
32 probation, that the defendant perform specified community
33 service, unless it finds and states on the record compelling and
34 extraordinary reasons not to require community service in addition
35 to the finding that restitution should not be required. Upon
36 revocation of probation, the court shall impose restitution pursuant
37 to this section.

38 (o) The provisions of Section 13963 of the Government Code
39 shall apply to restitution imposed pursuant to this section.



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

8 (q) This section shall remain in effect only until January 1,
9 2007, and as of that date is repealed, unless a later enacted statute,
10 that is enacted before January 1, 2007, deletes or extends that date.

11 SEC. 6.2. Section 1202.4 is added to the Penal Code, to read:

12 1202.4. (a) (1) It is the intent of the Legislature that a victim
13 of crime who incurs any economic loss as a result of the
14 commission of a crime shall receive restitution directly from any
15 defendant convicted of that crime.

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

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

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

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

26 (b) In every case where a person is convicted of a crime, the
27 court shall impose a separate and additional restitution fine, unless
28 it finds compelling and extraordinary reasons for not doing so, and
29 states those reasons on the record.

30 (1) The restitution fine shall be set at the discretion of the court
31 and commensurate with the seriousness of the offense, but shall
32 not be less than two hundred dollars (\$200), and not more than ten
33 thousand dollars (\$10,000), if the person is convicted of a felony,
34 and shall not be less than one hundred dollars (\$100), and not more
35 than one thousand dollars (\$1,000), if the person is convicted of
36 a misdemeanor.

37 (2) In setting a felony restitution fine, the court may determine
38 the amount of the fine as the product of two hundred dollars (\$200)
39 multiplied by the number of years of imprisonment the defendant



1 is ordered to serve, multiplied by the number of felony counts of
2 which the defendant is convicted.

3 (c) The court shall impose the restitution fine unless it finds
4 compelling and extraordinary reasons for not doing so, and states
5 those reasons on the record. A defendant's inability to pay shall not
6 be considered a compelling and extraordinary reason not to impose
7 a restitution fine. Inability to pay may be considered only in
8 increasing the amount of the restitution fine in excess of the
9 two-hundred-dollar (\$200) or one-hundred-dollar (\$100)
10 minimum.

11 (d) In setting the amount of the fine pursuant to subdivision (b)
12 in excess of the two-hundred-dollar (\$200) or one-hundred-dollar
13 (\$100) minimum, the court shall consider any relevant factors
14 including, but not limited to, the defendant's inability to pay, the
15 seriousness and gravity of the offense and the circumstances of its
16 commission, any economic gain derived by the defendant as a
17 result of the crime, the extent to which any other person suffered
18 any losses as a result of the crime, and the number of victims
19 involved in the crime. Those losses may include pecuniary losses
20 to the victim or his or her dependents as well as intangible losses,
21 such as psychological harm caused by the crime. Consideration of
22 a defendant's inability to pay may include his or her future earning
23 capacity. A defendant shall bear the burden of demonstrating his
24 or her inability to pay. Express findings by the court as to the
25 factors bearing on the amount of the fine shall not be required. A
26 separate hearing for the fine shall not be required.

27 (e) The restitution fine shall not be subject to penalty
28 assessments as provided in Section 1464, and shall be deposited in
29 the Restitution Fund in the State Treasury.

30 (f) In every case in which a victim has suffered economic loss
31 as a result of the defendant's conduct, the court shall require that
32 the defendant make restitution to the victim or victims in an
33 amount established by court order, based on the amount of loss
34 claimed by the victim or victims or any other showing to the court.
35 If the amount of loss cannot be ascertained at the time of
36 sentencing, the restitution order shall include a provision that the
37 amount shall be determined at the direction of the court. The court
38 shall order full restitution unless it finds compelling and
39 extraordinary reasons for not doing so, and states them on the
40 record.



1 (1) The defendant has the right to a hearing before a judge to
2 dispute the determination of the amount of restitution. The court
3 may modify the amount, on its own motion or on the motion of the
4 district attorney, the victim or victims, or the defendant. If a
5 motion is made for modification of a restitution order, the victim
6 shall be notified of that motion at least 10 days prior to the
7 proceeding held to decide the motion.

8 (2) Determination of the amount of restitution ordered
9 pursuant to this subdivision shall not be affected by the
10 indemnification or subrogation rights of any third party.
11 Restitution ordered pursuant to this subdivision shall be ordered
12 to be deposited to the Restitution Fund to the extent that the victim,
13 as defined in subdivision (k), has received assistance from the
14 Victim Compensation Program pursuant to Chapter 5
15 (commencing with Section 13950) of Part 4 of Division 3 of Title
16 2 of the Government Code.

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

24 (A) Full or partial payment for the value of stolen or damaged
25 property. The value of stolen or damaged property shall be the
26 replacement cost of like property, or the actual cost of repairing the
27 property when repair is possible.

28 (B) Medical expenses.

29 (C) Mental health counseling expenses.

30 (D) Wages or profits lost due to injury incurred by the victim,
31 and if the victim is a minor, wages or profits lost by the minor's
32 parent, parents, guardian, or guardians, while caring for the
33 injured minor. Lost wages shall include any commission income
34 as well as any base wages. Commission income shall be
35 established by evidence of commission income during the
36 12-month period prior to the date of the crime for which restitution
37 is being ordered, unless good cause for a shorter time period is
38 shown.

39 (E) Wages or profits lost by the victim, and if the victim is a
40 minor, wages or profits lost by the minor's parent, parents,



1 guardian, or guardians, due to time spent as a witness or in assisting
2 the police or prosecution. Lost wages shall include any
3 commission income as well as any base wages. Commission
4 income shall be established by evidence of commission income
5 during the 12-month period prior to the date of the crime for which
6 restitution is being ordered, unless good cause for a shorter time
7 period is shown.

8 (F) Noneconomic losses, including, but not limited to,
9 psychological harm, for felony violations of Section 288.

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

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

14 (I) Expenses incurred by an adult victim in relocating away
15 from the defendant, including, but not limited to, deposits for
16 utilities and telephone service, deposits for rental housing,
17 temporary lodging and food expenses, clothing, and personal
18 items. Expenses incurred pursuant to this section shall be verified
19 by law enforcement to be necessary for the personal safety of the
20 victim or by a mental health treatment provider to be necessary for
21 the emotional well-being of the victim.

22 (J) Expenses to install or increase residential security incurred
23 related to a crime, as defined in subdivision (c) of Section 667.5,
24 including, but not limited to, a home security device or system, or
25 replacing or increasing the number of locks.

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

30 (4) (A) If, as a result of the defendant's conduct, the
31 Restitution Fund has provided assistance to or on behalf of a victim
32 or derivative victim pursuant to Chapter 5 (commencing with
33 Section 13950) of Part 4 of Division 3 of Title 2 of the Government
34 Code, the amount of assistance provided shall be presumed to be
35 a direct result of the defendant's criminal conduct and shall be
36 included in the amount of the restitution ordered.

37 (B) The amount of assistance provided by the Restitution Fund
38 shall be established by copies of bills submitted to the California
39 Victim Compensation and Government Claims Board reflecting
40 the amount paid by the board and whether the services for which



1 payment was made were for medical or dental expenses, funeral
2 or burial expenses, mental health counseling, wage or support
3 losses, or rehabilitation. Certified copies of these bills provided by
4 the board and redacted to protect the privacy and safety of the
5 victim or any legal privilege, together with a statement made under
6 penalty of perjury by the custodian of records that those bills were
7 submitted to and were paid by the board, shall be sufficient to meet
8 this requirement.

9 (C) If the defendant offers evidence to rebut the presumption
10 established by this paragraph, the court may release additional
11 information contained in the records of the board to the defendant
12 only after reviewing that information in camera and finding that
13 the information is necessary for the defendant to dispute the
14 amount of the restitution order.

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

30 (6) A defendant who fails to file the financial disclosure
31 required in paragraph (5), but who has filed a financial affidavit or
32 financial information pursuant to subdivision (c) of Section 987,
33 shall be deemed to have waived the confidentiality of that affidavit
34 or financial information as to a victim in whose favor the order of
35 restitution is entered pursuant to subdivision (f). The affidavit or
36 information shall serve in lieu of the financial disclosure required
37 in paragraph (5), and paragraphs (7) to (10), inclusive, shall not
38 apply.

39 (7) Except as provided in paragraph (6), the defendant shall file
40 the disclosure with the clerk of the court no later than the date set



1 for the defendant’s sentencing, unless otherwise directed by the
2 court. The disclosure may be inspected or copied as provided by
3 subdivision (b), (c), or (d) of Section 1203.05.

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

8 (A) Any report submitted pursuant to subparagraph (C) of
9 paragraph (2) of subdivision (b) of Section 1203 or subdivision (g)
10 of Section 1203.

11 (B) Any stipulation submitted pursuant to paragraph (4) of
12 subdivision (b) of Section 1203.

13 (C) Any report by the probation officer, or any information
14 submitted by the defendant applying for a conditional sentence
15 pursuant to subdivision (d) of Section 1203.

16 (9) The court may consider a defendant’s unreasonable failure
17 to make a complete disclosure pursuant to paragraph (5) as any of
18 the following:

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

21 (B) A factor indicating that the interests of justice would not be
22 served by admitting the defendant to probation under Section
23 1203.

24 (C) A factor indicating that the interests of justice would not be
25 served by conditionally sentencing the defendant under Section
26 1203.

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

30 (10) A defendant’s failure or refusal to make the required
31 disclosure pursuant to paragraph (5) shall not delay entry of an
32 order of restitution or pronouncement of sentence. In appropriate
33 cases, the court may do any of the following:

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

36 (B) If sentencing the defendant under Section 1170, provide
37 that the victim shall receive a copy of the portion of the probation
38 report filed pursuant to Section 1203.10 concerning the
39 defendant’s employment, occupation, finances, and liabilities.



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

4 (11) If a defendant has any remaining unpaid balance on a
5 restitution order or fine 120 days prior to his or her scheduled
6 release from probation or 120 days prior to his or her completion
7 of a conditional sentence, the defendant shall prepare and file a
8 new and updated financial disclosure identifying all assets,
9 income, and liabilities in which the defendant holds or controls or
10 has held or controlled a present or future interest during the
11 defendant’s period of probation or conditional sentence. The
12 financial disclosure shall be made available to the victim and the
13 board pursuant to Section 1214. The disclosure shall be signed and
14 prepared by the defendant on the same form as described in
15 paragraph (5). Any defendant who willfully states as true any
16 material matter that he or she knows to be false on the disclosure
17 required by this subdivision is guilty of a misdemeanor, unless this
18 conduct is punishable as perjury or another provision of law
19 provides for a greater penalty. The financial disclosure required by
20 this paragraph shall be filed with the clerk of the court no later than
21 90 days prior to the defendant’s scheduled release from probation
22 or completion of the defendant’s conditional sentence.

23 (g) The court shall order full restitution unless it finds
24 compelling and extraordinary reasons for not doing so, and states
25 those reasons on the record. A defendant’s inability to pay shall not
26 be considered a compelling and extraordinary reason not to impose
27 a restitution order, nor shall inability to pay be a consideration in
28 determining the amount of a restitution order.

29 (h) The district attorney may request an order of examination
30 pursuant to the procedures specified in Article 2 (commencing
31 with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part
32 2 of the Code of Civil Procedure, in order to determine the
33 defendant’s financial assets for purposes of collecting on the
34 restitution order.

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

37 (j) The making of a restitution order pursuant to subdivision (f)
38 shall not affect the right of a victim to recovery from the
39 Restitution Fund as otherwise provided by law, except to the extent
40 that restitution is actually collected pursuant to the order.



1 Restitution collected pursuant to this subdivision shall be credited
2 to any other judgments for the same losses obtained against the
3 defendant arising out of the crime for which the defendant was
4 convicted.

5 (k) For purposes of this section, “victim” shall include all of
6 the following:

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

8 (2) Any corporation, business trust, estate, trust, partnership,
9 association, joint venture, government, governmental
10 subdivision, agency, or instrumentality, or any other legal or
11 commercial entity when that entity is a direct victim of a crime.

12 (3) Any person who has sustained economic loss as the result
13 of a crime and who satisfies any of the following conditions:

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

16 (B) At the time of the crime was living in the household of the
17 victim.

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

22 (D) Is another family member of the victim, including, but not
23 limited to, the victim’s fiance or fiancée, and who witnessed the
24 crime.

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

26 (4) Any person who is eligible to receive assistance from the
27 Restitution Fund pursuant to Chapter 5 (commencing with Section
28 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

29 (l) At its discretion, the board of supervisors of any county may
30 impose a fee to cover the actual administrative cost of collecting
31 the restitution fine, not to exceed 10 percent of the amount ordered
32 to be paid, to be added to the restitution fine and included in the
33 order of the court, the proceeds of which shall be deposited in the
34 general fund of the county.

35 (m) In every case in which the defendant is granted probation,
36 the court shall make the payment of restitution fines and orders
37 imposed pursuant to this section a condition of probation. Any
38 portion of a restitution order that remains unsatisfied after a
39 defendant is no longer on probation shall continue to be



1 enforceable by a victim pursuant to Section 1214 until the
2 obligation is satisfied.

3 (n) If the court finds and states on the record compelling and
4 extraordinary reasons why a restitution fine or full restitution order
5 should not be required, the court shall order, as a condition of
6 probation, that the defendant perform specified community
7 service, unless it finds and states on the record compelling and
8 extraordinary reasons not to require community service in addition
9 to the finding that restitution should not be required. Upon
10 revocation of probation, the court shall impose restitution pursuant
11 to this section.

12 (o) The provisions of Section 13963 of the Government Code
13 shall apply to restitution imposed pursuant to this section.

14 (p) The court clerk shall notify the California Victim
15 Compensation and Government Claims Board within 90 days of
16 an order of restitution being imposed if the defendant is ordered
17 to pay restitution to the board due to the victim receiving
18 compensation from the Restitution Fund. Notification shall be
19 accomplished by mailing a copy of the court order to the board,
20 which may be done periodically by bulk mail or electronic mail.

21 (q) This section shall become operative on January 1, 2007.

22 SEC. 7. Section 1202.44 is added to the Penal Code, to read:

23 1202.44. In every case in which a person is convicted of a
24 crime and a conditional sentence or a sentence that includes a
25 period of probation is imposed, the court shall, at the time of
26 imposing the restitution fine pursuant to subdivision (b) of Section
27 1202.4, assess an additional probation revocation restitution fine
28 in the same amount as that imposed pursuant to subdivision (b) of
29 Section 1202.4. This additional probation revocation restitution
30 fine shall become effective upon the revocation of probation or of
31 a conditional sentence, and shall not be waived or reduced by the
32 court, absent compelling and extraordinary reasons stated on
33 record. Probation revocation restitution fines shall be deposited in
34 the Restitution Fund in the State Treasury.

35 SEC. 8. Section 1202.45 of the Penal Code is amended to
36 read:

37 1202.45. In every case where a person is convicted of a crime
38 and whose sentence includes a period of parole, the court shall at
39 the time of imposing the restitution fine pursuant to subdivision (b)
40 of Section 1202.4, assess an additional parole revocation



1 restitution fine in the same amount as that imposed pursuant to
2 subdivision (b) of Section 1202.4. This additional parole
3 revocation restitution fine shall be suspended unless the person's
4 parole is revoked. Parole revocation restitution fine moneys shall
5 be deposited in the Restitution Fund in the State Treasury.

6 SEC. 9. Section 1214 of the Penal Code is amended to read:

7 1214. (a) If the judgment is for a fine, including a restitution
8 fine ordered pursuant to Section 1202.4, 1202.44, or 1202.45, or
9 Section 1203.04 as operative on or before August 2, 1995, or
10 Section 13967 of the Government Code, as operative on or before
11 September 28, 1994, with or without imprisonment, or a diversion
12 restitution fee ordered pursuant to Section 1001.90, the judgment
13 may be enforced in the manner provided for the enforcement of
14 money judgments generally. Any portion of a restitution fine or
15 restitution fee that remains unsatisfied after a defendant is no
16 longer on probation or parole or has completed diversion is
17 enforceable by the Victim Compensation and Government Claims
18 Board pursuant to this section. Notwithstanding any other
19 provision of law prohibiting disclosure, the state, as defined in
20 Section 900.6 of the Government Code, a local public entity, as
21 defined in Section 900.4 of the Government Code, or any other
22 entity, may provide the Victim Compensation and Government
23 Claims Board any and all information to assist in the collection of
24 unpaid portions of a restitution fine for terminated probation or
25 parole cases, or of a restitution fee for completed diversion cases.
26 For purposes of the preceding sentence, "state, as defined in
27 Section 900.6 of the Government Code," and "any other entity"
28 shall not include the Franchise Tax Board.

29 (b) In any case in which a defendant is ordered to pay
30 restitution, the order to pay restitution (1) is deemed a money
31 judgment if the defendant was informed of his or her right to have
32 a judicial determination of the amount and was provided with a
33 hearing, waived a hearing, or stipulated to the amount of the
34 restitution ordered, and (2) shall be fully enforceable by a victim
35 as if the restitution order were a civil judgment, and enforceable
36 in the same manner as is provided for the enforcement of any other
37 money judgment. Upon the victim's request, the court shall
38 provide the victim in whose favor the order of restitution is entered
39 with a certified copy of that order and a copy of the defendant's
40 disclosure pursuant to paragraph (4) of subdivision (f) of Section



1 1202.4, affidavit or information pursuant to paragraph (5) of
2 subdivision (f) of Section 1202.4, or report pursuant to paragraph
3 (7) of subdivision (f) of Section 1202.4. The court also shall
4 provide this information to the district attorney upon request in
5 connection with an investigation or prosecution involving perjury
6 or the veracity of the information contained within the defendant's
7 financial disclosure. In addition, upon request, the court shall
8 provide the Victim Compensation and Government Claims Board
9 with a certified copy of any order imposing a restitution fine or
10 order and a copy of the defendant's disclosure pursuant to
11 paragraph (4) of subdivision (f) of Section 1202.4, affidavit or
12 information pursuant to paragraph (5) of subdivision (f) of Section
13 1202.4, or report pursuant to paragraph (7) of subdivision (f) of
14 Section 1202.4. A victim shall have access to all resources
15 available under the law to enforce the restitution order, including,
16 but not limited to, access to the defendant's financial records, use
17 of wage garnishment and lien procedures, information regarding
18 the defendant's assets, and the ability to apply for restitution from
19 any fund established for the purpose of compensating victims in
20 civil cases. Any portion of a restitution order that remains
21 unsatisfied after a defendant is no longer on probation or parole is
22 enforceable by the victim pursuant to this section. Victims and the
23 Victim Compensation and Government Claims Board shall inform
24 the court whenever an order to pay restitution is satisfied.

25 (c) Except as provided in subdivision (d), and notwithstanding
26 the amount in controversy limitation of Section 85 of the Code of
27 Civil Procedure, a restitution order or restitution fine that was
28 imposed pursuant to Section 1202.4 in any of the following cases
29 may be enforced in the same manner as a money judgment in a
30 limited civil case:

31 (1) In a misdemeanor case.

32 (2) In a case involving violation of a city or town ordinance.

33 (3) In a noncapital criminal case where the court has received
34 a plea of guilty or nolo contendere.

35 (d) Chapter 3 (commencing with Section 683.010) of Division
36 1 of Title 9 of Part 2 of the Code of Civil Procedure shall not apply
37 to a judgment for any fine or restitution ordered pursuant to
38 Section 1202.4 or Section 1203.04 as operative on or before
39 August 2, 1995, or Section 13967 of the Government Code, as



1 operative on or before September 28, 1994, or to a diversion
2 restitution fee ordered pursuant to Section 1001.90.

3 SEC. 10. Section 2085.5 of the Penal Code is amended to
4 read:

5 2085.5. (a) In any case in which a prisoner owes a restitution
6 fine imposed pursuant to subdivision (a) of Section 13967 of the
7 Government Code, as operative prior to September 28, 1994,
8 subdivision (b) of Section 730.6 of the Welfare and Institutions
9 Code, or subdivision (b) of Section 1202.4, the Director of
10 Corrections shall deduct a minimum of 20 percent or the balance
11 owing on the fine amount, whichever is less, up to a maximum of
12 50 percent from the wages and trust account deposits of a prisoner,
13 unless prohibited by federal law, and shall transfer that amount to
14 the California Victim Compensation and Government Claims
15 Board for deposit in the Restitution Fund in the State Treasury.
16 Any amount so deducted shall be credited against the amount
17 owing on the fine. The sentencing court shall be provided a record
18 of the payments.

19 (b) In any case in which a prisoner owes a restitution order
20 imposed pursuant to subdivision (c) of Section 13967 of the
21 Government Code, as operative prior to September 28, 1994,
22 subdivision (h) of Section 730.6 of the Welfare and Institutions
23 Code, or subdivision (f) of Section 1202.4, the Director of
24 Corrections shall deduct a minimum of 20 percent or the balance
25 owing on the order amount, whichever is less, up to a maximum
26 of 50 percent from the wages and trust account deposits of a
27 prisoner, unless prohibited by federal law. If the restitution is owed
28 to a person who has filed an application with the Victim
29 Compensation Program, the director shall transfer that amount to
30 the California Victim Compensation and Government Claims
31 Board for direct payment to the victim, or payment shall be made
32 to the Restitution Fund to the extent that the victim has received
33 assistance pursuant to that program. No deductions shall be made
34 on behalf of victims who have not filed an application with the
35 Victim Compensation Program. The sentencing court shall be
36 provided a record of the payments made to victims and of the
37 payments deposited to the Restitution Fund pursuant to this
38 subdivision.

39 (c) The director shall deduct and retain from the wages and trust
40 account deposits of a prisoner, unless prohibited by federal law, an



1 administrative fee that totals 10 percent of any amount transferred
2 to the California Victim Compensation and Government Claims
3 Board pursuant to subdivision (a) or (b). The director shall deduct
4 and retain from any prisoner settlement or trial award, an
5 administrative fee that totals 5 percent of any amount paid from the
6 settlement or award to satisfy an outstanding restitution order or
7 fine pursuant to subdivision (j), unless prohibited by federal law.
8 The director shall deposit the administrative fee moneys in a
9 special deposit account for reimbursing administrative and
10 support costs of the restitution program of the Department of
11 Corrections. The director, at his or her discretion, may retain any
12 excess funds in the special deposit account for future
13 reimbursement of the department's administrative and support
14 costs for the restitution program or may transfer all or part of the
15 excess funds for deposit in the Restitution Fund.

16 (d) In any case in which a parolee owes a restitution fine
17 imposed pursuant to subdivision (a) of Section 13967 of the
18 Government Code, as operative prior to September 28, 1994,
19 subdivision (b) of Section 730.6 of the Welfare and Institutions
20 Code, or subdivision (b) of Section 1202.4, the Director of
21 Corrections may collect from the parolee any moneys owing on the
22 restitution fine amount, unless prohibited by federal law. The
23 director shall transfer that amount to the California Victim
24 Compensation and Government Claims Board for deposit in the
25 Restitution Fund in the State Treasury. Any amount so deducted
26 shall be credited against the amount owing on the fine. The
27 sentencing court shall be provided a record of the payments.

28 (e) In any case in which a parolee owes a direct order of
29 restitution, imposed pursuant to subdivision (c) of Section 13967
30 of the Government Code, as operative prior to September 28,
31 1994, subdivision (h) of Section 730.6 of the Welfare and
32 Institutions Code, or paragraph (3) of subdivision (a) of Section
33 1202.4, the Director of Corrections may collect from the parolee
34 any moneys owing, unless prohibited by federal law. If the
35 restitution is owed to a person who has filed an application with
36 the Victim Compensation Program, the director shall transfer that
37 amount to the California Victim Compensation and Government
38 Claims Board for direct payment to the victim, or payment shall
39 be made to the Restitution Fund to the extent that the victim has
40 received assistance pursuant to that program. No deductions shall



1 be made on behalf of victims who have not filed an application
2 with the Victim Compensation Program. The sentencing court
3 shall be provided a record of the payments made by the offender
4 pursuant to this subdivision.

5 (f) The director may deduct and retain from any moneys
6 collected from parolees an administrative fee that totals 10 percent
7 of any amount transferred to the California Victim Compensation
8 and Government Claims Board pursuant to subdivision (d) or (e),
9 unless prohibited by federal law. The director shall deduct and
10 retain from any settlement or trial award of a parolee an
11 administrative fee that totals 5 percent of any amount paid from the
12 settlement or award to satisfy an outstanding restitution order or
13 fine pursuant to subdivision (j), unless prohibited by federal law.
14 The director shall deposit the administrative fee moneys in a
15 special deposit account for reimbursing administrative and
16 support costs of the restitution program of the Department of
17 Corrections. The director, at his or her discretion, may retain any
18 excess funds in the special deposit account for future
19 reimbursement of the department's administrative and support
20 costs for the restitution program or may transfer all or part of the
21 excess funds for deposit in the Restitution Fund.

22 (g) When a prisoner has both a restitution fine and a restitution
23 order from the sentencing court, the Department of Corrections
24 shall collect the restitution order first pursuant to subdivision (b).

25 (h) When a parolee has both a restitution fine and order from
26 the sentencing court, the Department of Corrections may collect
27 the restitution order first, pursuant to subdivision (e).

28 (i) If an inmate is housed at an institution that requires food to
29 be purchased from the institution canteen for unsupervised
30 overnight visits, and if the money for the purchase of this food is
31 received from funds other than the inmate's wages, that money
32 shall be exempt from restitution deductions. This exemption shall
33 apply to the actual amount spent on food for the visit up to a
34 maximum of fifty dollars (\$50) for visits that include the inmate
35 and one visitor, seventy dollars (\$70) for visits that include the
36 inmate and two or three visitors, and eighty dollars (\$80) for visits
37 that include the inmate and four or more visitors.

38 (j) Any compensatory or punitive damages awarded by trial or
39 settlement to any inmate or parolee in connection with a civil
40 action brought against any federal, state, or local jail, prison, or



1 correctional facility, or any official or agent thereof, shall be paid
2 directly, after payment of reasonable attorney's fees and litigation
3 costs approved by the court, to satisfy any outstanding restitution
4 orders or restitution fines against that person. The balance of any
5 award shall be forwarded to the payee after full payment of all
6 outstanding restitution orders and restitution fines, subject to
7 subdivisions (c) and (f). The Department of Corrections shall
8 make all reasonable efforts to notify the victims of the crime for
9 which that person was convicted concerning the pending payment
10 of any compensatory or punitive damages.

11 (k) (1) Amounts transferred to the California Victim
12 Compensation and Government Claims Board for payment of
13 direct orders of restitution shall be paid to the victim within 60
14 days from the date the restitution revenues are received by the
15 California Victim Compensation and Government Claims Board.
16 If the restitution payment to a victim is less than fifty dollars (\$50),
17 then payment need not be forwarded to that victim until the
18 payment reaches fifty dollars (\$50) or until 180 days from the date
19 the first payment is received, whichever occurs sooner.

20 (2) In any case in which a victim cannot be located, the
21 restitution revenues received by the California Victim
22 Compensation and Government Claims Board on behalf of the
23 victim shall be held in trust in the Restitution Fund until the end
24 of the state fiscal year subsequent to the state fiscal year in which
25 the funds were deposited or until the time that the victim has
26 provided current address information, whichever occurs sooner.
27 Amounts remaining in trust at the end of the specified period of
28 time shall revert to the Restitution Fund.

29 (3) Any victim failing to provide a current address within the
30 period of time specified in paragraph (2) may provide
31 documentation to the Department of Corrections, which in turn
32 shall verify that moneys were in fact collected on behalf of the
33 victim. Upon receipt of that verified information from the
34 Department of Corrections, the California Victim Compensation
35 and Government Claims Board shall transmit the restitution
36 revenues to the victim in accordance with the provisions of
37 subdivision (b).

38 SEC. 10.1. Section 2085.5 of the Penal Code is amended to
39 read:



1 2085.5. (a) In any case in which a prisoner owes a restitution
2 fine imposed pursuant to subdivision (a) of Section 13967 of the
3 Government Code, as operative prior to September 28, 1994,
4 subdivision (b) of Section 730.6 of the Welfare and Institutions
5 Code, or subdivision (b) of Section 1202.4, the Director of
6 Corrections shall deduct a minimum of 20 percent or the balance
7 owing on the fine amount, whichever is less, up to a maximum of
8 30 percent from the wages and trust account deposits of a prisoner,
9 unless prohibited by federal law, and shall transfer that amount to
10 the California Victim Compensation and Government Claims
11 Board for deposit in the Restitution Fund in the State Treasury.
12 Any amount so deducted shall be credited against the amount
13 owing on the fine. The sentencing court shall be provided a record
14 of the payments.

15 (b) In any case in which a prisoner owes a restitution order
16 imposed pursuant to subdivision (c) of Section 13967 of the
17 Government Code, as operative prior to September 28, 1994,
18 subdivision (h) of Section 730.6 of the Welfare and Institutions
19 Code, or subdivision (f) of Section 1202.4, the Director of
20 Corrections shall deduct a minimum of 20 percent or the balance
21 owing on the order amount, whichever is less, up to a maximum
22 of 30 percent from the wages and trust account deposits of a
23 prisoner, unless prohibited by federal law. If the restitution is owed
24 to a person who has filed an application with the Victim
25 Compensation Program, the director shall transfer that amount to
26 the California Victim Compensation and Government Claims
27 Board for direct payment to the victim, or payment shall be made
28 to the Restitution Fund to the extent that the victim has received
29 assistance pursuant to that program. No deductions shall be made
30 on behalf of victims who have not filed an application with the
31 Victim Compensation Program. The sentencing court shall be
32 provided a record of the payments made to victims and of the
33 payments deposited to the Restitution Fund pursuant to this
34 subdivision.

35 (c) The director shall deduct and retain from the wages and trust
36 account deposits of a prisoner, unless prohibited by federal law, an
37 administrative fee that totals up to 10 percent of any amount
38 transferred to the California Victim Compensation and
39 Government Claims Board pursuant to subdivision (a) or (b). The
40 director shall deduct and retain from any prisoner settlement or



1 trial award, an administrative fee that totals 5 percent of any
2 amount paid from the settlement or award to satisfy an outstanding
3 restitution order or fine pursuant to subdivision (j), unless
4 prohibited by federal law. The director shall deposit the
5 administrative fee moneys in a special deposit account for
6 reimbursing administrative and support costs of the restitution
7 program of the Department of Corrections.

8 (d) In any case in which a parolee owes a restitution fine
9 imposed pursuant to subdivision (a) of Section 13967 of the
10 Government Code, as operative prior to September 28, 1994,
11 subdivision (b) of Section 730.6 of the Welfare and Institutions
12 Code, or subdivision (b) of Section 1202.4, the Director of
13 Corrections may collect from the parolee any moneys owing on the
14 restitution fine amount, unless prohibited by federal law. The
15 director shall transfer that amount to the California Victim
16 Compensation and Government Claims Board for deposit in the
17 Restitution Fund in the State Treasury. Any amount so deducted
18 shall be credited against the amount owing on the fine. The
19 sentencing court shall be provided a record of the payments.

20 (e) In any case in which a parolee owes a direct order of
21 restitution, imposed pursuant to subdivision (c) of Section 13967
22 of the Government Code, as operative prior to September 28,
23 1994, subdivision (h) of Section 730.6 of the Welfare and
24 Institutions Code, or paragraph (3) of subdivision (a) of Section
25 1202.4, the Director of Corrections may collect from the parolee
26 any moneys owing, unless prohibited by federal law. If the
27 restitution is owed to a person who has filed an application with
28 the Victim Compensation Program, the director shall transfer that
29 amount to the California Victim Compensation and Government
30 Claims Board for direct payment to the victim, or payment shall
31 be made to the Restitution Fund to the extent that the victim has
32 received assistance pursuant to that program. No deductions shall
33 be made on behalf of victims who have not filed an application
34 with the Victim Compensation Program. The sentencing court
35 shall be provided a record of the payments made by the offender
36 pursuant to this subdivision.

37 (f) The director may deduct and retain from any moneys
38 collected from parolees an administrative fee that totals up to 10
39 percent of any amount transferred to the California Victim
40 Compensation and Government Claims Board pursuant to



1 subdivision (d) or (e), unless prohibited by federal law. The
2 director shall deduct and retain from any settlement or trial award
3 of a parolee an administrative fee that totals 5 percent of any
4 amount paid from the settlement or award to satisfy an outstanding
5 restitution order or fine pursuant to subdivision (j), unless
6 prohibited by federal law. The director shall deposit the
7 administrative fee moneys in a special deposit account for
8 reimbursing administrative and support costs of the restitution
9 program of the Department of Corrections.

10 (g) When a prisoner has both a restitution fine and a restitution
11 order from the sentencing court, the Department of Corrections
12 shall collect the restitution order first pursuant to subdivision (b).

13 (h) When a parolee has both a restitution fine and order from
14 the sentencing court, the Department of Corrections may collect
15 the restitution order first, pursuant to subdivision (e).

16 (i) If an inmate is housed at an institution that requires food to
17 be purchased from the institution canteen for unsupervised
18 overnight visits, and if the money for the purchase of this food is
19 received from funds other than the inmate's wages, that money
20 shall be exempt from restitution deductions. This exemption shall
21 apply to the actual amount spent on food for the visit up to a
22 maximum of fifty dollars (\$50) for visits that include the inmate
23 and one visitor, seventy dollars (\$70) for visits that include the
24 inmate and two or three visitors, and eighty dollars (\$80) for visits
25 that include the inmate and four or more visitors.

26 (j) Any compensatory or punitive damages awarded by trial or
27 settlement to any inmate or parolee in connection with a civil
28 action brought against any federal, state, or local jail, prison, or
29 correctional facility, or any official or agent thereof, shall be paid
30 directly, after payment of reasonable attorney's fees and litigation
31 costs approved by the court, to satisfy any outstanding restitution
32 orders or restitution fines against that person. The balance of any
33 award shall be forwarded to the payee after full payment of all
34 outstanding restitution orders and restitution fines, subject to
35 subdivisions (c) and (f). The Department of Corrections shall
36 make all reasonable efforts to notify the victims of the crime for
37 which that person was convicted concerning the pending payment
38 of any compensatory or punitive damages.

39 (k) (1) Amounts transferred to the California Victim
40 Compensation and Government Claims Board for payment of



1 direct orders of restitution shall be paid to the victim within 60
2 days from the date the restitution revenues are received by the
3 California Victim Compensation and Government Claims Board.
4 If the restitution payment to a victim is less than fifty dollars (\$50),
5 then payment need not be forwarded to that victim until the
6 payment reaches fifty dollars (\$50) or until 180 days from the date
7 the first payment is received, whichever occurs sooner.

8 (2) In any case in which a victim cannot be located, the
9 restitution revenues received by the California Victim
10 Compensation and Government Claims Board on behalf of the
11 victim shall be held in trust in the Restitution Fund until the end
12 of the state fiscal year subsequent to the state fiscal year in which
13 the funds were deposited or until the time that the victim has
14 provided current address information, whichever occurs sooner.
15 Amounts remaining in trust at the end of the specified period of
16 time shall revert to the Restitution Fund.

17 (3) Any victim failing to provide a current address within the
18 period of time specified in paragraph (2) may provide
19 documentation to the Department of Corrections, which in turn
20 shall verify that moneys were in fact collected on behalf of the
21 victim. Upon receipt of that verified information from the
22 Department of Corrections, the California Victim Compensation
23 and Government Claims Board shall transmit the restitution
24 revenues to the victim in accordance with the provisions of
25 subdivision (b).

26 (l) This section shall become inoperative on July 1, 2008, and,
27 as of January 1, 2009, is repealed, unless a later enacted statute,
28 that becomes operative on or before January 1, 2009, deletes or
29 extends the dates on which it becomes inoperative and is repealed.

30 SEC. 10.2. Section 2085.5 is added to the Penal Code, to read:

31 2085.5. (a) In any case in which a prisoner owes a restitution
32 fine imposed pursuant to subdivision (a) of Section 13967 of the
33 Government Code, as operative prior to September 28, 1994,
34 subdivision (b) of Section 730.6 of the Welfare and Institutions
35 Code, or subdivision (b) of Section 1202.4, the Director of
36 Corrections shall deduct a minimum of 20 percent or the balance
37 owing on the fine amount, whichever is less, up to a maximum of
38 30 percent from the wages and trust account deposits of a prisoner,
39 unless prohibited by federal law, and shall transfer that amount to
40 the California Victim Compensation and Government Claims



1 Board for deposit in the Restitution Fund in the State Treasury.
2 Any amount so deducted shall be credited against the amount
3 owing on the fine. The sentencing court shall be provided a record
4 of the payments.

5 (b) In any case in which a prisoner owes a restitution order
6 imposed pursuant to subdivision (c) of Section 13967 of the
7 Government Code, as operative prior to September 28, 1994, or
8 subdivision (h) of Section 730.6 of the Welfare and Institutions
9 Code, or subdivision (f) of Section 1202.4, the Director of
10 Corrections shall deduct a minimum of 20 percent or the balance
11 owing on the order amount, whichever is less, up to a maximum
12 of 30 percent from the wages and trust account deposits of a
13 prisoner, unless prohibited by federal law. If the restitution is owed
14 to a person who has filed an application with the Victim
15 Compensation Program, the director shall transfer that amount to
16 the California Victim Compensation and Government Claims
17 Board for direct payment to the victim, or payment shall be made
18 to the Restitution Fund to the extent that the victim has received
19 assistance pursuant to that program. No deductions shall be made
20 on behalf of victims who have not filed an application with the
21 Victim Compensation Program. The sentencing court shall be
22 provided a record of the payments made to victims and of the
23 payments deposited to the Restitution Fund pursuant to this
24 subdivision.

25 (c) The director shall deduct and retain from the wages and trust
26 account deposits of a prisoner, unless prohibited by federal law, an
27 administrative fee that totals 5 percent of any amount transferred
28 to the California Victim Compensation and Government Claims
29 Board pursuant to subdivision (a) or (b). The director shall deduct
30 and retain from any prisoner settlement or trial award, an
31 administrative fee that totals 5 percent of any amount paid from the
32 settlement or award to satisfy an outstanding restitution order or
33 fine pursuant to subdivision (j), unless prohibited by federal law.
34 The director shall deposit the administrative fee moneys in a
35 special deposit account for reimbursing administrative and
36 support costs of the restitution program of the Department of
37 Corrections.

38 (d) In any case in which a parolee owes a restitution fine
39 imposed pursuant to subdivision (a) of Section 13967 of the
40 Government Code, as operative prior to September 28, 1994, or



1 subdivision (b) of Section 730.6 of the Welfare and Institutions
2 Code, or subdivision (b) of Section 1202.4, the Director of
3 Corrections may collect from the parolee any moneys owing on the
4 restitution fine amount, unless prohibited by federal law. The
5 director shall transfer that amount to the California Victim
6 Compensation and Government Claims Board for deposit in the
7 Restitution Fund in the State Treasury. Any amount so deducted
8 shall be credited against the amount owing on the fine. The
9 sentencing court shall be provided a record of the payments.

10 (e) In any case in which a parolee owes a direct order of
11 restitution, imposed pursuant to subdivision (c) of Section 13967
12 of the Government Code, as operative prior to September 28,
13 1994, subdivision (h) of Section 730.6 of the Welfare and
14 Institutions Code, or paragraph (3) of subdivision (a) of Section
15 1202.4, the Director of Corrections may collect from the parolee
16 any moneys owing, unless prohibited by federal law. If the
17 restitution is owed to a person who has filed an application with
18 the Victim Compensation Program, the director shall transfer that
19 amount to the California Victim Compensation and Government
20 Claims Board for direct payment to the victim, or payment shall
21 be made to the Restitution Fund to the extent that the victim has
22 received assistance pursuant to that program. No deductions shall
23 be made on behalf of victims who have not filed an application
24 with the Victim Compensation Program. The sentencing court
25 shall be provided a record of the payments made by the offender
26 pursuant to this subdivision.

27 (f) The director may deduct and retain from any moneys
28 collected from parolees an administrative fee that totals 10 percent
29 of any amount transferred to the California Victim Compensation
30 and Government Claims Board pursuant to subdivision (d) or (e),
31 unless prohibited by federal law. The director shall deduct and
32 retain from any settlement or trial award of a parolee an
33 administrative fee that totals 5 percent of any amount paid from the
34 settlement or award to satisfy an outstanding restitution order or
35 fine pursuant to subdivision (j), unless prohibited by federal law.
36 The director shall deposit the administrative fee moneys in a
37 special deposit account for reimbursing administrative and
38 support costs of the restitution program of the Department of
39 Corrections.



1 (g) When a prisoner has both a restitution fine and a restitution
2 order from the sentencing court, the Department of Corrections
3 shall collect the restitution order first, pursuant to subdivision (b).

4 (h) When a parolee has both a restitution fine and order from
5 the sentencing court, the Department of Corrections may collect
6 the restitution order first, pursuant to subdivision (e).

7 (i) If an inmate is housed at an institution that requires food to
8 be purchased from the institution canteen for unsupervised
9 overnight visits, and if the money for the purchase of this food is
10 received from funds other than the inmate's wages, that money
11 shall be exempt from restitution deductions. This exemption shall
12 apply to the actual amount spent on food for the visit up to a
13 maximum of fifty dollars (\$50) for visits that include the inmate
14 and one visitor, seventy dollars (\$70) for visits that include the
15 inmate and two or three visitors, and eighty dollars (\$80) for visits
16 that include the inmate and four or more visitors.

17 (j) Any compensatory or punitive damages awarded by trial or
18 settlement to any inmate or parolee in connection with a civil
19 action brought against any federal, state, or local jail, prison, or
20 correctional facility, or any official or agent thereof, shall be paid
21 directly, after payment of reasonable attorney's fees and litigation
22 costs approved by the court, to satisfy any outstanding restitution
23 orders or restitution fines against that person. The balance of any
24 award shall be forwarded to the payee after full payment of all
25 outstanding restitution orders and restitution fines, subject to
26 subdivisions (c) and (f). The Department of Corrections shall
27 make all reasonable efforts to notify the victims of the crime for
28 which that person was convicted concerning the pending payment
29 of any compensatory or punitive damages.

30 (k) (1) Amounts transferred to the California Victim
31 Compensation and Government Claims Board for payment of
32 direct orders of restitution shall be paid to the victim within 60
33 days from the date the restitution revenues are received by the
34 California Victim Compensation and Government Claims Board.
35 If the restitution payment to a victim is less than fifty dollars (\$50),
36 then payment need not be forwarded to that victim until the
37 payment reaches fifty dollars (\$50) or until 180 days from the date
38 the first payment is received, whichever occurs sooner.

39 (2) In any case in which a victim cannot be located, the
40 restitution revenues received by the California Victim



1 Compensation and Government Claims Board on behalf of the
2 victim shall be held in trust in the Restitution Fund until the end
3 of the state fiscal year subsequent to the state fiscal year in which
4 the funds were deposited or until the time that the victim has
5 provided current address information, whichever occurs sooner.
6 Amounts remaining in trust at the end of the specified period of
7 time shall revert to the Restitution Fund.

8 (3) Any victim failing to provide a current address within the
9 period of time specified in paragraph (2) may provide
10 documentation to the Department of Corrections, which in turn
11 shall verify that moneys were in fact collected on behalf of the
12 victim. Upon receipt of that verified information from the
13 Department of Corrections, the California Victim Compensation
14 and Government Claims Board shall transmit the restitution
15 revenues to the victim in accordance with the provisions of
16 subdivision (b).

17 (l) This section shall become operative on July 1, 2008.

18 SEC. 11. Section 6.1 of this bill incorporates amendments to
19 Section 1202.4 of the Penal Code proposed by both this bill and
20 AB 1760. It shall only become operative if (1) both bills are
21 enacted and become effective on or before January 1, 2004, (2)
22 each bill amends Section 1202.4 of the Penal Code, and (3) this bill
23 is enacted after AB 1760, in which case Section 1202.4 of the Penal
24 Code as amended by Section 8 of AB 1760; shall remain operative
25 only until the operative date of this bill, at which time Section 6.1
26 of this bill shall become operative, and Section 6 of this bill shall
27 not become operative.

28 SEC. 11.1. Section 6.2 of this bill incorporates changes in
29 Section 1202.4 of the Penal Code proposed by both Section 9 of
30 AB 1760 and this bill, to become operative on January 1, 2007. It
31 shall only become operative if (1) both bills are enacted and
32 become effective on or before January 1, 2004, (2) this bill
33 amends, and AB 1760 amends, repeals, and adds Section 1202.4
34 of the Penal Code, and (3) this bill is enacted after AB 1760, in
35 which case Section 1202.4 of the Penal Code as amended by
36 Section 8 of AB 1760; shall remain operative only until the
37 operative date of this bill, at which time Section 6.1 of this bill shall
38 become operative until January 1, 2007, at which time Section 6.2
39 of this bill shall become operative, Section 6 of this bill shall not



1 become operative, and Section 1202.4 as added by Section 9 and
2 *Section 9.1* of AB 1760 shall not become operative.

3 SEC. 12. Section 10.1 of this bill incorporates amendments to
4 Section 2085.5 of the Penal Code proposed by both this bill and
5 AB 1760. It shall only become operative if (1) both bills are
6 enacted and become effective on or before January 1, 2004, (2)
7 each bill amends Section 2085.5 of the Penal Code, and (3) this bill
8 is enacted after AB 1760, in which case Section 2085.5 of the Penal
9 Code as amended by Section 10 of AB 1760; shall remain
10 operative only until the operative date of this bill, at which time
11 Section 10.1 of this bill shall become operative, and Section 10 of
12 this bill shall not become operative.

13 SEC. 12.1. Section 10.2 of this bill incorporates changes in
14 Section 2085.5 of the Penal Code proposed by both Section 11 of
15 AB 1760 and this bill, to become operative on July 1, 2008. It shall
16 only become operative if (1) both bills are enacted and become
17 effective on or before January 1, 2004, (2) this bill amends, and AB
18 1760 amends, repeals, and adds Section 2085.5 of the Penal Code,
19 and (3) this bill is enacted after AB 1760, in which case Section
20 2085.5 of the Penal Code as amended by Section 10 of AB 1760;
21 shall remain operative only until the operative date of this bill, at
22 which time Section 10.1 of this bill shall become operative until
23 July 1, 2008, at which time Section 10.2 of this bill shall become
24 operative, Section 10 of this bill shall not become operative, and
25 Section 2085.5, as added by Section 11 and Section 11.1 of AB
26 1760 shall not become operative.

27 ~~SEC. 13. No reimbursement is required by this act pursuant~~
28 ~~to Section 6 of Article XIII B of the California Constitution for~~
29 ~~certain costs that may be incurred by a local agency or school~~
30 ~~district because in that regard this act creates a new crime or~~
31 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
32 ~~for a crime or infraction, within the meaning of Section 17556 of~~
33 ~~the Government Code, or changes the definition of a crime within~~
34 ~~the meaning of Section 6 of Article XIII B of the California~~
35 ~~Constitution.~~

36 ~~However, notwithstanding Section 17610 of the Government~~
37 ~~Code, if the Commission on State Mandates determines that this~~
38 ~~act contains other costs mandated by the state, reimbursement to~~
39 ~~local agencies and school districts for those costs shall be made~~
40 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~



1 ~~4 of Title 2 of the Government Code. If the statewide cost of the~~
 2 ~~claim for reimbursement does not exceed one million dollars~~
 3 ~~(\$1,000,000), reimbursement shall be made from the State~~
 4 ~~Mandates Claims Fund.~~

5 *SEC. 13. No reimbursement is required by this act pursuant*
 6 *to Section 6 of Article XIII B of the California Constitution*
 7 *because the only costs that may be incurred by a local agency or*
 8 *school district will be incurred because this act creates a new crime*
 9 *or infraction, eliminates a crime or infraction, or changes the*
 10 *penalty for a crime or infraction, within the meaning of Section*
 11 *17556 of the Government Code, or changes the definition of a*
 12 *crime within the meaning of Section 6 of Article XIII B of the*
 13 *California Constitution.*

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

18 In order to effectuate the collection of revenue for the
 19 Restitution Fund and to pay claims submitted by victims of crime
 20 to end their financial hardship as soon as possible, ~~and in order to~~
 21 ~~ensure that California is in full compliance with the Jacob~~
 22 ~~Wetterling Crimes Against Children and Sexually Violent~~
 23 ~~Offender Registration Act and the Higher Education Act of 1965,~~
 24 ~~as amended by the Campus Sex Crimes Prevention Act,~~ it is
 25 necessary for this act to take immediate effect.

