

AMENDED IN SENATE DECEMBER 18, 2008

CALIFORNIA LEGISLATURE—2009–10 FIRST EXTRAORDINARY SESSION

ASSEMBLY BILL

No. 8

Introduced by ~~Assembly Member Evans~~ Committee on Budget

December 8, 2008

An act relating to the Budget Act of 2008 to amend Sections 14491, 17550.19, and 21653 of the Business and Professions Code, to amend Section 5305 of the Financial Code, to amend Section 421 of the Military and Veterans Code, to amend Sections 154, 155, 337.4, 368, 422.7, 476a, 484b, 484g, 484h, 487, 487b, 487e, 487f, 487h, 496, 498, 500, 502, 537, 537e, 550, 551, 565, 566, 592, 594.4, 641.3, 2932, 2933.1, 2933.2, 2933.3, 2933.5, 2933.6, 3000, 4019, and 4600 of, to amend, renumber, and add Section 2933.4 of, to add Sections 2933.05 and 3060.95, and to repeal Section 2933 of, the Penal Code, to amend Sections 14591 and 41955 of the Public Resources Code, to amend Sections 10851.5 and 42002.4 of the Vehicle Code, and to amend Sections 10980 and 15656 of the Welfare and Institutions Code, relating to the Department of Corrections and Rehabilitation.

LEGISLATIVE COUNSEL'S DIGEST

AB 8, as amended, ~~Evans Committee on Budget. Budget Act of 2008.~~ Department of Corrections and Rehabilitation.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2008.~~

Existing law establishes certain values for determining if theft or certain other property crimes are punishable as felonies or not. Existing law provides that for many of these crimes, the threshold is \$400, while the thresholds for certain other crimes are \$100, \$200, and \$1,000, as specified.

This bill would increase those thresholds uniformly; for example by increasing the \$400 threshold to \$950.

Because this bill would change the definitions of various crimes, it would impose a state-mandated local program.

Existing law provides for a 6-month reduction in a prisoner's term of confinement for every 6 months of full-time performance by the prisoner in a qualified work, training, or education program, as specified. Existing law provides that for every 6 days served in a specified local detention center following an arrest and prior to the imposition of a prison sentence for a felony conviction, 2 days shall be deducted from his or her period of confinement, as specified.

This bill would instead provide that certain prisoners shall earn one day of credit for every one day served either in the state prison or in a local facility prior to delivery to the state prison. This bill would provide for up to 4 months of additional credit for the successful completion of certain programs offered by the department, as specified. This bill would also expand an existing program for extra time credits for inmates assigned to conservation camps to apply to inmates on the wait list for conservation camps.

Existing law provides that the maximum period of parole for persons who have served at least one year and one day of imprisonment in the state prison is 3 years, unless the person was convicted of certain crimes, or unless the parole authority, for "good cause," waives parole. Existing law also requires a person who has not been convicted of a violent felony to be discharged from parole after one year of continuous parole supervision, and a person who has been convicted of a violent felony who has a parole term of 3 years to be discharged after 2 years of continuous supervision or who has a parole term of 5 years to be discharged after 3 years of continuous supervision, unless the parole authority determines that the person should be retained on parole, as specified.

This bill would instead provide that a person who is not required to register as a sex offender, and who was not sentenced for any offense that is a serious felony or a violent felony, as defined, shall be subject to six months of parole, except as specified. The bill would further provide that a person who is on parole as of the effective date of this bill who is not pending revocation shall be discharged from parole immediately if he or she has already served the time and met the terms specified above, or upon meeting those terms.

Existing law provides for various sanctions to be imposed on persons who violate parole, including reincarceration.

This bill would state the intent of the Legislature that parole violators who present a lower risk to public safety, as defined, shall have community sanctions imposed, as specified. The bill would require the Department of Corrections and Rehabilitation to implement a “parole violation decisionmaking instrument” to provide guidelines for use by parole agents and the Board of Parole Hearings to determine the most appropriate sanctions for parole violators, as specified. The bill would require the department to adopt regulations to implement these provisions. The bill would provide that its provisions do not limit the authority of counties to prosecute parolees who commit new crimes.

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.

This bill would make its provisions contingent on the enactment of other legislation, as specified.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 1, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 1, 2008, pursuant to the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

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

1 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
2 ~~changes relating to the Budget Act of 2008.~~

3 *SECTION 1. Section 14491 of the Business and Professions*
4 *Code is amended to read:*

5 *14491. The violation of any of the provisions of this article is*
6 *a misdemeanor, except that if the violation consists of unlawfully*
7 *using, selling, or secreting in any place supplies of a value*

1 exceeding ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars*
2 *(\$950)*, the violation is a felony.

3 *SEC. 2. Section 17550.19 of the Business and Professions Code*
4 *is amended to read:*

5 17550.19. In addition to any civil penalties provided in this
6 division, violation of this article is punishable as follows:

7 (a) As a misdemeanor by a fine of not more than ten thousand
8 dollars (\$10,000), by imprisonment in a county jail for not more
9 than one year, or by both that fine and imprisonment for each
10 violation.

11 (b) In addition, any violation of Section 17550.14 or subdivision
12 (b) or (c) of Section 17550.15 where money or real or personal
13 property received or obtained by a seller of travel for transportation
14 or travel services from any and all persons aggregates ~~one thousand~~
15 ~~dollars (\$1,000)~~ *two thousand three hundred fifty dollars (\$2,350)*
16 or more in any consecutive 12-month period, or the payment or
17 payments by or on behalf of any one passenger exceeds in the
18 aggregate ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars*
19 *(\$950)* in any 12-month period, is punishable either as a
20 misdemeanor or as a felony by imprisonment in the state prison
21 for 16 months, or two or three years, by a fine of not more than
22 twenty-five thousand dollars (\$25,000), or by both that fine and
23 imprisonment for each violation.

24 (c) In addition, any intentional use for any purpose of a false
25 seller of travel registration number, with intent to defraud, by an
26 unregistered seller of travel is punishable as a misdemeanor or
27 felony as provided in this section.

28 (d) Any violation of Section 17550.15 shall be a misdemeanor
29 and shall be punished as provided in this section. Every act in
30 violation of Section 17550.15 may be prosecuted as a separate and
31 distinct violation and consecutive sentences may be imposed for
32 each violation.

33 (e) Sellers of travel shall also comply with Sections 17537,
34 17537.1, and 17537.2 of the Business and Professions Code and
35 all other applicable laws. This section shall not be construed to
36 preclude the applicability of any other provision of the criminal
37 law of this state that applies or may apply to any transaction.

38 *SEC. 3. Section 21653 of the Business and Professions Code*
39 *is amended to read:*

21653. Every junk dealer or secondhand dealer who resells any item acquired in violation of Section 21652 is guilty of a felony, if the value of the item exceeds ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*, and is guilty of a misdemeanor if the value of the item does not exceed ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*.

SEC. 4. Section 5305 of the Financial Code is amended to read:

5305. Any institution-affiliated party who abstracts or willfully misapplies any of the money, funds, or property of the savings association, or willfully misapplies its credit, is guilty of a felony and shall be punished by a fine of not more than one million dollars (\$1,000,000), by imprisonment in the state prison for 2, 3, or 4 years, or by both that fine and imprisonment. However, if the amount abstracted or willfully misapplied does not exceed ~~one hundred dollars (\$100)~~ *two hundred fifty dollars (\$250)*, the offense shall instead be punishable by a fine of not more than one thousand dollars (\$1,000), by imprisonment in the county jail for not more than one year or in the state prison, or by both that fine and imprisonment.

SEC. 5. Section 421 of the Military and Veterans Code is amended to read:

421. Any person who secretes, sells, disposes of, offers for sale, purchases, retains after demand made by a commissioned officer of the National Guard or of the unorganized militia when called into the service of the state or Naval Militia, or in any manner pawns or pledges any arms, uniforms, equipment, or military or naval property of the state or of the United States, or of any organization of the active militia or of the unorganized militia when called into the service of the state is guilty of a felony if said arms, uniforms, equipments, or military or naval property of the state or of the United States is of a value of ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)* or more, otherwise such person is guilty of a misdemeanor.

SEC. 6. Section 154 of the Penal Code is amended to read:

154. (a) Every debtor who fraudulently removes his or her property or effects out of this state, or who fraudulently sells, conveys, assigns or conceals his or her property with intent to defraud, hinder or delay his or her creditors of their rights, claims, or demands, is punishable by imprisonment in the county jail not

1 exceeding one year, or by fine not exceeding one thousand dollars
2 (\$1,000), or by both that fine and imprisonment.

3 (b) Where the property so removed, sold, conveyed, assigned,
4 or concealed consists of a stock in trade, or a part thereof, of a
5 value exceeding ~~one hundred dollars (\$100)~~ *two hundred fifty*
6 *dollars (\$250)*, the offense shall be a felony and punishable as
7 such.

8 *SEC. 7. Section 155 of the Penal Code is amended to read:*

9 155. (a) Every person against whom an action is pending, or
10 against whom a judgment has been rendered for the recovery of
11 any personal property, who fraudulently conceals, sells, or disposes
12 of that property, with intent to hinder, delay, or defraud the person
13 bringing the action or recovering the judgment, or with such intent
14 removes that property beyond the limits of the county in which it
15 may be at the time of the commencement of the action or the
16 rendering of the judgment, is punishable by imprisonment in a
17 county jail not exceeding one year, or by fine not exceeding one
18 thousand dollars (\$1,000), or by both that fine and imprisonment.

19 (b) Where the property so concealed, sold, disposed of, or
20 removed consists of a stock in trade, or a part thereof, of a value
21 exceeding ~~one hundred dollars (\$100)~~ *two hundred fifty dollars*
22 *(\$250)*, the offenses shall be a felony and punishable as such.

23 *SEC. 8. Section 337.4 of the Penal Code is amended to read:*

24 337.4. Any person who in the commission of touting obtains
25 money in excess of ~~four hundred dollars (\$400)~~ *nine hundred fifty*
26 *dollars (\$950)* may, in addition to being prosecuted for the
27 violation of any provision of this chapter, be prosecuted for the
28 violation of Section 487 of this code.

29 *SEC. 9. Section 368 of the Penal Code is amended to read:*

30 368. (a) The Legislature finds and declares that crimes against
31 elders and dependent adults are deserving of special consideration
32 and protection, not unlike the special protections provided for
33 minor children, because elders and dependent adults may be
34 confused, on various medications, mentally or physically impaired,
35 or incompetent, and therefore less able to protect themselves, to
36 understand or report criminal conduct, or to testify in court
37 proceedings on their own behalf.

38 (b) (1) Any person who knows or reasonably should know that
39 a person is an elder or dependent adult and who, under
40 circumstances or conditions likely to produce great bodily harm

1 or death, willfully causes or permits any elder or dependent adult
2 to suffer, or inflicts thereon unjustifiable physical pain or mental
3 suffering, or having the care or custody of any elder or dependent
4 adult, willfully causes or permits the person or health of the elder
5 or dependent adult to be injured, or willfully causes or permits the
6 elder or dependent adult to be placed in a situation in which his or
7 her person or health is endangered, is punishable by imprisonment
8 in a county jail not exceeding one year, or by a fine not to exceed
9 six thousand dollars (\$6,000), or by both that fine and
10 imprisonment, or by imprisonment in the state prison for two,
11 three, or four years.

12 (2) If in the commission of an offense described in paragraph
13 (1), the victim suffers great bodily injury, as defined in Section
14 12022.7, the defendant shall receive an additional term in the state
15 prison as follows:

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

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

18 (3) If in the commission of an offense described in paragraph
19 (1), the defendant proximately causes the death of the victim, the
20 defendant shall receive an additional term in the state prison as
21 follows:

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

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

24 (c) Any person who knows or reasonably should know that a
25 person is an elder or dependent adult and who, under circumstances
26 or conditions other than those likely to produce great bodily harm
27 or death, willfully causes or permits any elder or dependent adult
28 to suffer, or inflicts thereon unjustifiable physical pain or mental
29 suffering, or having the care or custody of any elder or dependent
30 adult, willfully causes or permits the person or health of the elder
31 or dependent adult to be injured or willfully causes or permits the
32 elder or dependent adult to be placed in a situation in which his or
33 her person or health may be endangered, is guilty of a
34 misdemeanor. A second or subsequent violation of this subdivision
35 is punishable by a fine not to exceed two thousand dollars (\$2,000),
36 or by imprisonment in a county jail not to exceed one year, or by
37 both that fine and imprisonment.

38 (d) Any person who is not a caretaker who violates any provision
39 of law proscribing theft, embezzlement, forgery, or fraud, or who
40 violates Section 530.5 proscribing identity theft, with respect to

1 the property or personal identifying information of an elder or a
2 dependent adult, and who knows or reasonably should know that
3 the victim is an elder or a dependent adult, is punishable by
4 imprisonment in a county jail not exceeding one year, or in the
5 state prison for two, three, or four years, when the moneys, labor,
6 goods, services, or real or personal property taken or obtained is
7 of a value exceeding ~~four hundred dollars (\$400)~~ *nine hundred*
8 *fifty dollars (\$950)*; and by a fine not exceeding one thousand
9 dollars (\$1,000), by imprisonment in a county jail not exceeding
10 one year, or by both that fine and imprisonment, when the moneys,
11 labor, goods, services, or real or personal property taken or obtained
12 is of a value not exceeding ~~four hundred dollars (\$400)~~ *nine*
13 *hundred fifty dollars (\$950)*.

14 (e) Any caretaker of an elder or a dependent adult who violates
15 any provision of law proscribing theft, embezzlement, forgery, or
16 fraud, or who violates Section 530.5 proscribing identity theft,
17 with respect to the property or personal identifying information of
18 that elder or dependent adult, is punishable by imprisonment in a
19 county jail not exceeding one year, or in the state prison for two,
20 three, or four years when the moneys, labor, goods, services, or
21 real or personal property taken or obtained is of a value exceeding
22 ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*, and
23 by a fine not exceeding one thousand dollars (\$1,000), by
24 imprisonment in a county jail not exceeding one year, or by both
25 that fine and imprisonment, when the moneys, labor, goods,
26 services, or real or personal property taken or obtained is of a value
27 not exceeding ~~four hundred dollars (\$400)~~ *nine hundred fifty*
28 *dollars (\$950)*.

29 (f) Any person who commits the false imprisonment of an elder
30 or a dependent adult by the use of violence, menace, fraud, or
31 deceit is punishable by imprisonment in the state prison for two,
32 three, or four years.

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

35 (h) As used in this section, “dependent adult” means any person
36 who is between the ages of 18 and 64, who has physical or mental
37 limitations which restrict his or her ability to carry out normal
38 activities or to protect his or her rights, including, but not limited
39 to, persons who have physical or developmental disabilities or
40 whose physical or mental abilities have diminished because of

age. “Dependent adult” includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

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

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

(k) In any case in which a person is convicted of violating these provisions, the court may require him or her to receive appropriate counseling as a condition of probation. Any defendant ordered to be placed in a counseling program shall be responsible for paying the expense of his or her participation in the counseling program as determined by the court. The court shall take into consideration the ability of the defendant to pay, and no defendant shall be denied probation because of his or her inability to pay.

SEC. 10. Section 422.7 of the Penal Code is amended to read:

422.7. Except in the case of a person punished under Section 422.6, any hate crime that is not made punishable by imprisonment in the state prison shall be punishable by imprisonment in the state prison or in a county jail not to exceed one year, by a fine not to exceed ten thousand dollars (\$10,000), or by both that imprisonment and fine, if the crime is committed against the person or property of another for the purpose of intimidating or interfering with that other person’s free exercise or enjoyment of any right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States under any of the following circumstances, which shall be charged in the accusatory pleading:

(a) The crime against the person of another either includes the present ability to commit a violent injury or causes actual physical injury.

(b) The crime against property causes damage in excess of ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*.

1 (c) The person charged with a crime under this section has been
2 convicted previously of a violation of subdivision (a) or (b) of
3 Section 422.6, or has been convicted previously of a conspiracy
4 to commit a crime described in subdivision (a) or (b) of Section
5 422.6.

6 *SEC. 11. Section 476a of the Penal Code is amended to read:*

7 476a. (a) Any person who for himself or as the agent or
8 representative of another or as an officer of a corporation, willfully,
9 with intent to defraud, makes or draws or utters or delivers any
10 check, or draft or order upon any bank or depository, or person,
11 or firm, or corporation, for the payment of money, knowing at the
12 time of such making, drawing, uttering, or delivering that the maker
13 or drawer or the corporation has not sufficient funds in, or credit
14 with said bank or depository, or person, or firm, or corporation,
15 for the payment of such check, draft, or order and all other checks,
16 drafts, or orders upon such funds then outstanding, in full upon its
17 presentation, although no express representation is made with
18 reference thereto, is punishable by imprisonment in the county jail
19 for not more than one year, or in the state prison.

20 (b) However, if the total amount of all such checks, drafts, or
21 orders that the defendant is charged with and convicted of making,
22 drawing, or uttering does not exceed ~~two hundred dollars (\$200)~~
23 *five hundred dollars (\$500)*, the offense is punishable only by
24 imprisonment in the county jail for not more than one year, except
25 that this subdivision shall not be applicable if the defendant has
26 previously been convicted of a violation of Section 470, 475, or
27 476, or of this section, or of the crime of petty theft in a case in
28 which defendant's offense was a violation also of Section 470,
29 475, or 476 or of this section or if the defendant has previously
30 been convicted of any offense under the laws of any other state or
31 of the United States which, if committed in this state, would have
32 been punishable as a violation of Section 470, 475 or 476 or of
33 this section or if he has been so convicted of the crime of petty
34 theft in a case in which, if defendant's offense had been committed
35 in this state, it would have been a violation also of Section 470,
36 475, or 476, or of this section.

37 (c) Where such check, draft, or order is protested, on the ground
38 of insufficiency of funds or credit, the notice of protest thereof
39 shall be admissible as proof of presentation, nonpayment and
40 protest and shall be presumptive evidence of knowledge of

1 insufficiency of funds or credit with such bank or depository, or
2 person, or firm, or corporation.

3 (d) In any prosecution under this section involving two or more
4 checks, drafts, or orders, it shall constitute prima facie evidence
5 of the identity of the drawer of a check, draft, or order if:

6 (1) At the time of the acceptance of such check, draft or order
7 from the drawer by the payee there is obtained from the drawer
8 the following information: name and residence of the drawer,
9 business or mailing address, either a valid driver's license number
10 or Department of Motor Vehicles identification card number, and
11 the drawer's home or work phone number or place of employment.
12 Such information may be recorded on the check, draft, or order
13 itself or may be retained on file by the payee and referred to on
14 the check, draft, or order by identifying number or other similar
15 means; and

16 (2) The person receiving the check, draft, or order witnesses
17 the drawer's signature or endorsement, and, as evidence of that,
18 initials the check, draft, or order at the time of receipt.

19 (e) The word "credit" as used herein shall be construed to mean
20 an arrangement or understanding with the bank or depository or
21 person or firm or corporation for the payment of such check, draft
22 or order.

23 (f) If any of the preceding paragraphs, or parts thereof, shall be
24 found unconstitutional or invalid, the remainder of this section
25 shall not thereby be invalidated, but shall remain in full force and
26 effect.

27 (g) A sheriff's department, police department, or other law
28 enforcement agency may collect a fee from the defendant for
29 investigation, collection, and processing of checks referred to their
30 agency for investigation of alleged violations of this section or
31 Section 476.

32 The amount of the fee shall not exceed twenty-five dollars (\$25)
33 for each bad check in addition to the amount of any bank charges
34 incurred by the victim as a result of the alleged offense. If the
35 sheriff's department, police department, or other law enforcement
36 agency collects any fee for bank charges incurred by the victim
37 pursuant to this section, that fee shall be paid to the victim for any
38 bank fees the victim may have been assessed. In no event shall
39 reimbursement of the bank charge to the victim pursuant to this
40 section exceed ten dollars (\$10) per check.

1 *SEC. 12. Section 484b of the Penal Code is amended to read:*

2 484b. Any person who receives money for the purpose of
3 obtaining or paying for services, labor, materials or equipment and
4 willfully fails to apply such money for such purpose by either
5 willfully failing to complete the improvements for which funds
6 were provided or willfully failing to pay for services, labor,
7 materials or equipment provided incident to such construction,
8 and wrongfully diverts the funds to a use other than that for which
9 the funds were received, shall be guilty of a public offense and
10 shall be punishable by a fine not exceeding ten thousand dollars
11 (\$10,000), or by imprisonment in the state prison, or in the county
12 jail not exceeding one year, or by both such fine and such
13 imprisonment if the amount diverted is in excess of ~~one thousand~~
14 ~~dollars (\$1,000)~~ *two thousand three hundred fifty dollars (\$2,350)*.
15 If the amount diverted is less than ~~one thousand dollars (\$1,000)~~
16 *two thousand three hundred fifty dollars (\$2,350)*, the person shall
17 be guilty of a misdemeanor.

18 *SEC. 13. Section 484g of the Penal Code is amended to read:*

19 484g. Every person who, with the intent to defraud, (a) uses,
20 for the purpose of obtaining money, goods, services, or anything
21 else of value, an access card or access card account information
22 that has been altered, obtained, or retained in violation of Section
23 484e or 484f, or an access card which he or she knows is forged,
24 expired, or revoked, or (b) obtains money, goods, services, or
25 anything else of value by representing without the consent of the
26 cardholder that he or she is the holder of an access card and the
27 card has not in fact been issued, is guilty of theft. If the value of
28 all money, goods, services, and other things of value obtained in
29 violation of this section exceeds ~~four hundred dollars (\$400)~~ *nine*
30 *hundred fifty dollars (\$950)* in any consecutive six-month period,
31 then the same shall constitute grand theft.

32 *SEC. 14. Section 484h of the Penal Code is amended to read:*

33 484h. Every retailer or other person who, with intent to defraud:
34 (a) Furnishes money, goods, services or anything else of value
35 upon presentation of an access card obtained or retained in violation
36 of Section 484e or an access card which he or she knows is a
37 counterfeit access card or is forged, expired, or revoked, and who
38 receives any payment therefor, is guilty of theft. If the payment
39 received by the retailer or other person for all money, goods,
40 services, and other things of value furnished in violation of this

section exceeds ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)* in any consecutive six-month period, then the same shall constitute grand theft.

(b) Presents for payment a sales slip or other evidence of an access card transaction, and receives payment therefor, without furnishing in the transaction money, goods, services, or anything else of value that is equal in value to the amount of the sales slip or other evidence of an access card transaction, is guilty of theft. If the difference between the value of all money, goods, services, and anything else of value actually furnished and the payment or payments received by the retailer or other person therefor upon presentation of a sales slip or other evidence of an access card transaction exceeds ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)* in any consecutive six-month period, then the same shall constitute grand theft.

SEC. 15. Section 487 of the Penal Code is amended to read:

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

(a) When the money, labor, or real or personal property taken is of a value exceeding ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*, except as provided in subdivision (b).

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

(1) (A) When domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops are taken of a value exceeding ~~one hundred dollars (\$100)~~ *two hundred fifty dollars (\$250)*.

(B) For the purposes of establishing that the value of avocados or citrus fruit under this paragraph exceeds ~~one hundred dollars (\$100)~~ *two hundred fifty dollars (\$250)*, that value may be shown by the presentation of credible evidence which establishes that on the day of the theft avocados or citrus fruit of the same variety and weight exceeded ~~one hundred dollars (\$100)~~ *two hundred fifty dollars (\$250)* in wholesale value.

(2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or other aquacultural products are taken from a commercial or research operation which is producing that product, of a value exceeding ~~one hundred dollars (\$100)~~ *two hundred fifty dollars (\$250)*.

(3) Where the money, labor, or real or personal property is taken by a servant, agent, or employee from his or her principal or employer and aggregates ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)* or more in any 12 consecutive month period.

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

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

(1) An automobile, horse, mare, gelding, any bovine animal, any caprine animal, mule, jack, jenny, sheep, lamb, hog, sow, boar, gilt, barrow, or pig.

(2) A firearm.

(e) This section shall become operative on January 1, 1997.

SEC. 16. Section 487b of the Penal Code is amended to read:

487b. Every person who converts real estate of the value of ~~one hundred dollars (\$100)~~ *two hundred fifty dollars (\$250)* or more into personal property by severance from the realty of another, and with felonious intent to do so, steals, takes, and carries away such property is guilty of grand theft and is punishable by imprisonment in the state prison.

SEC. 17. Section 487e of the Penal Code is amended to read:

487e. Every person who feloniously steals, takes, or carries away a dog of another which is of a value exceeding ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)* is guilty of grand theft.

SEC. 18. Section 487f of the Penal Code is amended to read:

487f. Every person who feloniously steals, takes, or carries away a dog of another which is of a value not exceeding ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)* is guilty of petty theft.

SEC. 19. Section 487h of the Penal Code is amended to read:

487h. (a) Every person who steals, takes, or carries away cargo of another, when the cargo taken is of a value exceeding ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*, except as provided in Sections 487, 487a, and 487d, is guilty of grand theft.

(b) For the purposes of this section, “cargo” means any goods, wares, products, or manufactured merchandise that has been loaded into a trailer, railcar, or cargo container, awaiting or in transit.

(c) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 20. Section 496 of the Penal Code is amended to read:

496. (a) Every person who buys or receives any property that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, or who conceals, sells, withholds, or aids in concealing, selling, or withholding any property from the owner, knowing the property to be so stolen or obtained, shall be punished by imprisonment in a state prison, or in a county jail for not more than one year. However, if the district attorney or the grand jury determines that this action would be in the interests of justice, the district attorney or the grand jury, as the case may be, may, if the value of the property does not exceed ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*, specify in the accusatory pleading that the offense shall be a misdemeanor, punishable only by imprisonment in a county jail not exceeding one year.

A principal in the actual theft of the property may be convicted pursuant to this section. However, no person may be convicted both pursuant to this section and of the theft of the same property.

(b) Every swap meet vendor, as defined in Section 21661 of the Business and Professions Code, and every person whose principal business is dealing in, or collecting, merchandise or personal property, and every agent, employee, or representative of that person, who buys or receives any property of a value in excess of ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)* that has been stolen or obtained in any manner constituting theft or extortion, under circumstances that should cause the person, agent, employee, or representative to make reasonable inquiry to ascertain that the person from whom the property was bought or received had the legal right to sell or deliver it, without making a reasonable inquiry, shall be punished by imprisonment in a state prison, or in a county jail for not more than one year.

Every swap meet vendor, as defined in Section 21661 of the Business and Professions Code, and every person whose principal business is dealing in, or collecting, merchandise or personal property, and every agent, employee, or representative of that person, who buys or receives any property of a value of ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)* or less that has been stolen or obtained in any manner constituting theft or extortion, under circumstances that should cause the person, agent, employee, or representative to make reasonable inquiry to

1 ascertain that the person from whom the property was bought or
2 received had the legal right to sell or deliver it, without making a
3 reasonable inquiry, shall be guilty of a misdemeanor.

4 (c) Any person who has been injured by a violation of
5 subdivision (a) or (b) may bring an action for three times the
6 amount of actual damages, if any, sustained by the plaintiff, costs
7 of suit, and reasonable attorney's fees.

8 (d) Notwithstanding Section 664, any attempt to commit any
9 act prohibited by this section, except an offense specified in the
10 accusatory pleading as a misdemeanor, is punishable by
11 imprisonment in the state prison, or in a county jail for not more
12 than one year.

13 *SEC. 21. Section 498 of the Penal Code is amended to read:*

14 498. (a) The following definitions govern the construction of
15 this section:

16 (1) "Person" means any individual, or any partnership, firm,
17 association, corporation, limited liability company, or other legal
18 entity.

19 (2) "Utility" means any electrical, gas, or water corporation as
20 those terms are defined in the Public Utilities Code, and electrical,
21 gas, or water systems operated by any political subdivision.

22 (3) "Customer" means the person in whose name utility service
23 is provided.

24 (4) "Utility service" means the provision of electricity, gas,
25 water, or any other service provided by the utility for compensation.

26 (5) "Divert" means to change the intended course or path of
27 electricity, gas, or water without the authorization or consent of
28 the utility.

29 (6) "Tamper" means to rearrange, injure, alter, interfere with,
30 or otherwise prevent from performing a normal or customary
31 function.

32 (7) "Reconnection" means the reconnection of utility service
33 by a customer or other person after service has been lawfully
34 disconnected by the utility.

35 (b) Any person who, with intent to obtain for himself or herself
36 utility services without paying the full lawful charge therefor, or
37 with intent to enable another person to do so, or with intent to
38 deprive any utility of any part of the full lawful charge for utility
39 services it provides, commits, authorizes, solicits, aids, or abets
40 any of the following shall be guilty of a misdemeanor:

1 (1) Diverts or causes to be diverted utility services, by any means
2 whatsoever.

3 (2) Prevents any utility meter, or other device used in
4 determining the charge for utility services, from accurately
5 performing its measuring function by tampering or by any other
6 means.

7 (3) Tampers with any property owned by or used by the utility
8 to provide utility services.

9 (4) Makes or causes to be made any connection with or
10 reconnection with property owned or used by the utility to provide
11 utility services without the authorization or consent of the utility.

12 (5) Uses or receives the direct benefit of all or a portion of utility
13 services with knowledge or reason to believe that the diversion,
14 tampering, or unauthorized connection existed at the time of that
15 use, or that the use or receipt was otherwise without the
16 authorization or consent of the utility.

17 (c) In any prosecution under this section, the presence of any
18 of the following objects, circumstances, or conditions on premises
19 controlled by the customer or by the person using or receiving the
20 direct benefit of all or a portion of utility services obtained in
21 violation of this section shall permit an inference that the customer
22 or person intended to and did violate this section:

23 (1) Any instrument, apparatus, or device primarily designed to
24 be used to obtain utility services without paying the full lawful
25 charge therefor.

26 (2) Any meter that has been altered, tampered with, or bypassed
27 so as to cause no measurement or inaccurate measurement of utility
28 services.

29 (d) If the value of all utility services obtained in violation of
30 this section totals more than ~~four hundred dollars (\$400)~~ *nine*
31 *hundred fifty dollars (\$950)* or if the defendant has previously been
32 convicted of an offense under this section or any former section
33 which would be an offense under this section, or of an offense
34 under the laws of another state or of the United States which would
35 have been an offense under this section if committed in this state,
36 then the violation is punishable by imprisonment in the county jail
37 for not more than one year, or in the state prison.

38 (e) This section shall not be construed to preclude the
39 applicability of any other provision of the criminal law of this
40 state.

1 *SEC. 22. Section 500 of the Penal Code is amended to read:*

2 500. (a) Any person who receives money for the actual or
3 purported purpose of transmitting the same or its equivalent to
4 foreign countries as specified in Section 1800.5 of the Financial
5 Code who fails to do at least one of the following acts unless
6 otherwise instructed by the customer is guilty of a misdemeanor
7 or felony as set forth in subdivision (b):

8 (1) Forward the money as represented to the customer within
9 10 days of receipt of the funds.

10 (2) Give instructions within 10 days of receipt of the customer's
11 funds, committing equivalent funds to the person designated by
12 the customer.

13 (3) Refund to the customer any money not forwarded as
14 represented within 10 days of the customer's written request for
15 a refund pursuant to subdivision (a) of Section 1810.5 of the
16 Financial Code.

17 (b) (1) If the total value of the funds received from the customer
18 is less than ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars*
19 (*\$950*), the offense set forth in subdivision (a) is punishable by
20 imprisonment in the county jail not exceeding one year or by a
21 fine not exceeding one thousand dollars (\$1,000), or by both
22 imprisonment and fine.

23 (2) If the total value of the money received from the customer
24 is ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*
25 or more, or if the total value of all moneys received by the person
26 from different customers is ~~four hundred dollars (\$400)~~ *nine*
27 *hundred fifty dollars (\$950)*, or more and the receipts were part of
28 a common scheme or plan, the offense set forth in subdivision (a)
29 is punishable by imprisonment in the state prison for 16 months,
30 2, or 3 years, by a fine not exceeding ten thousand dollars
31 (\$10,000), or by both imprisonment and fine.

32 *SEC. 23. Section 502 of the Penal Code is amended to read:*

33 502. (a) It is the intent of the Legislature in enacting this
34 section to expand the degree of protection afforded to individuals,
35 businesses, and governmental agencies from tampering,
36 interference, damage, and unauthorized access to lawfully created
37 computer data and computer systems. The Legislature finds and
38 declares that the proliferation of computer technology has resulted
39 in a concomitant proliferation of computer crime and other forms

1 of unauthorized access to computers, computer systems, and
2 computer data.

3 The Legislature further finds and declares that protection of the
4 integrity of all types and forms of lawfully created computers,
5 computer systems, and computer data is vital to the protection of
6 the privacy of individuals as well as to the well-being of financial
7 institutions, business concerns, governmental agencies, and others
8 within this state that lawfully utilize those computers, computer
9 systems, and data.

10 (b) For the purposes of this section, the following terms have
11 the following meanings:

12 (1) "Access" means to gain entry to, instruct, or communicate
13 with the logical, arithmetical, or memory function resources of a
14 computer, computer system, or computer network.

15 (2) "Computer network" means any system that provides
16 communications between one or more computer systems and
17 input/output devices including, but not limited to, display terminals
18 and printers connected by telecommunication facilities.

19 (3) "Computer program or software" means a set of instructions
20 or statements, and related data, that when executed in actual or
21 modified form, cause a computer, computer system, or computer
22 network to perform specified functions.

23 (4) "Computer services" includes, but is not limited to, computer
24 time, data processing, or storage functions, or other uses of a
25 computer, computer system, or computer network.

26 (5) "Computer system" means a device or collection of devices,
27 including support devices and excluding calculators that are not
28 programmable and capable of being used in conjunction with
29 external files, one or more of which contain computer programs,
30 electronic instructions, input data, and output data, that performs
31 functions including, but not limited to, logic, arithmetic, data
32 storage and retrieval, communication, and control.

33 (6) "Data" means a representation of information, knowledge,
34 facts, concepts, computer software, computer programs or
35 instructions. Data may be in any form, in storage media, or as
36 stored in the memory of the computer or in transit or presented on
37 a display device.

38 (7) "Supporting documentation" includes, but is not limited to,
39 all information, in any form, pertaining to the design, construction,
40 classification, implementation, use, or modification of a computer,

1 computer system, computer network, computer program, or
2 computer software, which information is not generally available
3 to the public and is necessary for the operation of a computer,
4 computer system, computer network, computer program, or
5 computer software.

6 (8) “Injury” means any alteration, deletion, damage, or
7 destruction of a computer system, computer network, computer
8 program, or data caused by the access, or the denial of access to
9 legitimate users of a computer system, network, or program.

10 (9) “Victim expenditure” means any expenditure reasonably
11 and necessarily incurred by the owner or lessee to verify that a
12 computer system, computer network, computer program, or data
13 was or was not altered, deleted, damaged, or destroyed by the
14 access.

15 (10) “Computer contaminant” means any set of computer
16 instructions that are designed to modify, damage, destroy, record,
17 or transmit information within a computer, computer system, or
18 computer network without the intent or permission of the owner
19 of the information. They include, but are not limited to, a group
20 of computer instructions commonly called viruses or worms, that
21 are self-replicating or self-propagating and are designed to
22 contaminate other computer programs or computer data, consume
23 computer resources, modify, destroy, record, or transmit data, or
24 in some other fashion usurp the normal operation of the computer,
25 computer system, or computer network.

26 (11) “Internet domain name” means a globally unique,
27 hierarchical reference to an Internet host or service, assigned
28 through centralized Internet naming authorities, comprising a series
29 of character strings separated by periods, with the rightmost
30 character string specifying the top of the hierarchy.

31 (c) Except as provided in subdivision (h), any person who
32 commits any of the following acts is guilty of a public offense:

33 (1) Knowingly accesses and without permission alters, damages,
34 deletes, destroys, or otherwise uses any data, computer, computer
35 system, or computer network in order to either (A) devise or
36 execute any scheme or artifice to defraud, deceive, or extort, or
37 (B) wrongfully control or obtain money, property, or data.

38 (2) Knowingly accesses and without permission takes, copies,
39 or makes use of any data from a computer, computer system, or
40 computer network, or takes or copies any supporting

1 documentation, whether existing or residing internal or external
2 to a computer, computer system, or computer network.

3 (3) Knowingly and without permission uses or causes to be used
4 computer services.

5 (4) Knowingly accesses and without permission adds, alters,
6 damages, deletes, or destroys any data, computer software, or
7 computer programs which reside or exist internal or external to a
8 computer, computer system, or computer network.

9 (5) Knowingly and without permission disrupts or causes the
10 disruption of computer services or denies or causes the denial of
11 computer services to an authorized user of a computer, computer
12 system, or computer network.

13 (6) Knowingly and without permission provides or assists in
14 providing a means of accessing a computer, computer system, or
15 computer network in violation of this section.

16 (7) Knowingly and without permission accesses or causes to be
17 accessed any computer, computer system, or computer network.

18 (8) Knowingly introduces any computer contaminant into any
19 computer, computer system, or computer network.

20 (9) Knowingly and without permission uses the Internet domain
21 name of another individual, corporation, or entity in connection
22 with the sending of one or more electronic mail messages, and
23 thereby damages or causes damage to a computer, computer
24 system, or computer network.

25 (d) (1) Any person who violates any of the provisions of
26 paragraph (1), (2), (4), or (5) of subdivision (c) is punishable by
27 a fine not exceeding ten thousand dollars (\$10,000), or by
28 imprisonment in the state prison for 16 months, or two or three
29 years, or by both that fine and imprisonment, or by a fine not
30 exceeding five thousand dollars (\$5,000), or by imprisonment in
31 a county jail not exceeding one year, or by both that fine and
32 imprisonment.

33 (2) Any person who violates paragraph (3) of subdivision (c)
34 is punishable as follows:

35 (A) For the first violation that does not result in injury, and
36 where the value of the computer services used does not exceed
37 ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*, by
38 a fine not exceeding five thousand dollars (\$5,000), or by
39 imprisonment in a county jail not exceeding one year, or by both
40 that fine and imprisonment.

(B) For any violation that results in a victim expenditure in an amount greater than five thousand dollars (\$5,000) or in an injury, or if the value of the computer services used exceeds ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*, or for any second or subsequent violation, by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(3) Any person who violates paragraph (6) or (7) of subdivision (c) is punishable as follows:

(A) For a first violation that does not result in injury, an infraction punishable by a fine not exceeding one thousand dollars (\$1,000).

(B) For any violation that results in a victim expenditure in an amount not greater than five thousand dollars (\$5,000), or for a second or subsequent violation, by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(C) For any violation that results in a victim expenditure in an amount greater than five thousand dollars (\$5,000), by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(4) Any person who violates paragraph (8) of subdivision (c) is punishable as follows:

(A) For a first violation that does not result in injury, a misdemeanor punishable by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(B) For any violation that results in injury, or for a second or subsequent violation, by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in a county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment.

(5) Any person who violates paragraph (9) of subdivision (c) is punishable as follows:

1 (A) For a first violation that does not result in injury, an
2 infraction punishable by a fine not one thousand dollars.

3 (B) For any violation that results in injury, or for a second or
4 subsequent violation, by a fine not exceeding five thousand dollars
5 (\$5,000), or by imprisonment in a county jail not exceeding one
6 year, or by both that fine and imprisonment.

7 (e) (1) In addition to any other civil remedy available, the owner
8 or lessee of the computer, computer system, computer network,
9 computer program, or data who suffers damage or loss by reason
10 of a violation of any of the provisions of subdivision (c) may bring
11 a civil action against the violator for compensatory damages and
12 injunctive relief or other equitable relief. Compensatory damages
13 shall include any expenditure reasonably and necessarily incurred
14 by the owner or lessee to verify that a computer system, computer
15 network, computer program, or data was or was not altered,
16 damaged, or deleted by the access. For the purposes of actions
17 authorized by this subdivision, the conduct of an unemancipated
18 minor shall be imputed to the parent or legal guardian having
19 control or custody of the minor, pursuant to the provisions of
20 Section 1714.1 of the Civil Code.

21 (2) In any action brought pursuant to this subdivision the court
22 may award reasonable attorney's fees.

23 (3) A community college, state university, or academic
24 institution accredited in this state is required to include
25 computer-related crimes as a specific violation of college or
26 university student conduct policies and regulations that may subject
27 a student to disciplinary sanctions up to and including dismissal
28 from the academic institution. This paragraph shall not apply to
29 the University of California unless the Board of Regents adopts a
30 resolution to that effect.

31 (4) In any action brought pursuant to this subdivision for a
32 willful violation of the provisions of subdivision (c), where it is
33 proved by clear and convincing evidence that a defendant has been
34 guilty of oppression, fraud, or malice as defined in subdivision (c)
35 of Section 3294 of the Civil Code, the court may additionally award
36 punitive or exemplary damages.

37 (5) No action may be brought pursuant to this subdivision unless
38 it is initiated within three years of the date of the act complained
39 of, or the date of the discovery of the damage, whichever is later.

(f) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state which applies or may apply to any transaction, nor shall it make illegal any employee labor relations activities that are within the scope and protection of state or federal labor laws.

(g) Any computer, computer system, computer network, or any software or data, owned by the defendant, that is used during the commission of any public offense described in subdivision (c) or any computer, owned by the defendant, which is used as a repository for the storage of software or data illegally obtained in violation of subdivision (c) shall be subject to forfeiture, as specified in Section 502.01.

(h) (1) Subdivision (c) does not apply to punish any acts which are committed by a person within the scope of his or her lawful employment. For purposes of this section, a person acts within the scope of his or her employment when he or she performs acts which are reasonably necessary to the performance of his or her work assignment.

(2) Paragraph (3) of subdivision (c) does not apply to penalize any acts committed by a person acting outside of his or her lawful employment, provided that the employee's activities do not cause an injury, as defined in paragraph (8) of subdivision (b), to the employer or another, or provided that the value of supplies or computer services, as defined in paragraph (4) of subdivision (b), which are used does not exceed an accumulated total of ~~one hundred dollars (\$100)~~ *two hundred fifty dollars (\$250)*.

(i) No activity exempted from prosecution under paragraph (2) of subdivision (h) which incidentally violates paragraph (2), (4), or (7) of subdivision (c) shall be prosecuted under those paragraphs.

(j) For purposes of bringing a civil or a criminal action under this section, a person who causes, by any means, the access of a computer, computer system, or computer network in one jurisdiction from another jurisdiction is deemed to have personally accessed the computer, computer system, or computer network in each jurisdiction.

(k) In determining the terms and conditions applicable to a person convicted of a violation of this section the court shall consider the following:

(1) The court shall consider prohibitions on access to and use of computers.

(2) Except as otherwise required by law, the court shall consider alternate sentencing, including community service, if the defendant shows remorse and recognition of the wrongdoing, and an inclination not to repeat the offense.

SEC. 24. Section 537 of the Penal Code is amended to read:

537. (a) Any person who obtains any food, fuel, services, or accommodations at a hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, marina, marine facility, autocamp, ski area, or public or private campground, without paying therefor, with intent to defraud the proprietor or manager thereof, or who obtains credit at an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, marina, marine facility, autocamp, or public or private campground by the use of any false pretense, or who, after obtaining credit, food, fuel, services, or accommodations, at an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, marina, marine facility, autocamp, or public or private campground, absconds, or surreptitiously, or by force, menace, or threats, removes any part of his or her baggage therefrom with the intent not to pay for his or her food or accommodations is guilty of a public offense punishable as follows:

(1) If the value of the credit, food, fuel, services, or accommodations is ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)* or less, by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment in the county jail for a term not exceeding six months, or both.

(2) If the value of the credit, food, fuel, services, or accommodations is greater than ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*, by imprisonment in the county jail for a term of not more than one year, or in the state prison.

(b) Any person who uses or attempts to use ski area facilities for which payment is required without paying as required, or who resells a ski lift ticket to another when the resale is not authorized by the proprietor, is guilty of an infraction.

(c) Evidence that a person left the premises of such an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, marina, marine facility, autocamp, ski area, or public or private campground, without paying or offering to pay for such food, fuel, services, use of facilities, or accommodation, or that the person, without authorization from the

1 proprietor, resold his or her ski lift ticket to another person after
2 making use of such facilities, shall be prima facie evidence of the
3 following:

4 (1) That the person obtained such food, fuel, services, use of
5 facilities or accommodations with intent to defraud the proprietor
6 or manager.

7 (2) That, if, after obtaining the credit, food, fuel, services, or
8 accommodations, the person absconded, or surreptitiously, or by
9 force, menace, or threats, removed part of his or her baggage
10 therefrom, the person did so with the intent not to pay for the credit,
11 food, fuel, services, or accommodations.

12 *SEC. 25. Section 537e of the Penal Code is amended to read:*

13 537e. (a) Any person who knowingly buys, sells, receives,
14 disposes of, conceals, or has in his or her possession any personal
15 property from which the manufacturer's serial number,
16 identification number, electronic serial number, or any other
17 distinguishing number or identification mark has been removed,
18 defaced, covered, altered, or destroyed, is guilty of a public offense,
19 punishable as follows:

20 (1) If the value of the property does not exceed ~~four hundred~~
21 ~~dollars (\$400)~~ *nine hundred fifty dollars (\$950)*, by imprisonment
22 in a county jail not exceeding six months.

23 (2) If the value of the property exceeds ~~four hundred dollars~~
24 ~~(\$400)~~ *nine hundred fifty dollars (\$950)*, by imprisonment in a
25 county jail not exceeding one year.

26 (3) If the property is an integrated computer chip or panel of a
27 value of ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars*
28 *(\$950)* or more, by imprisonment in the state prison for 16 months,
29 or 2 or 3 years or by imprisonment in a county jail not exceeding
30 one year.

31 ~~For~~

32 (b) *For* purposes of this subdivision, "personal property"
33 includes, but is not limited to, the following:

34 (1) Any television, radio, recorder, phonograph, telephone,
35 piano, or any other musical instrument or sound equipment.

36 (2) Any washing machine, sewing machine, vacuum cleaner,
37 or other household appliance or furnishings.

38 (3) Any typewriter, adding machine, dictaphone, or any other
39 office equipment or furnishings.

1 (4) Any computer, printed circuit, integrated chip or panel, or
2 other part of a computer.

3 (5) Any tool or similar device, including any technical or
4 scientific equipment.

5 (6) Any bicycle, exercise equipment, or any other entertainment
6 or recreational equipment.

7 (7) Any electrical or mechanical equipment, contrivance,
8 material, or piece of apparatus or equipment.

9 (8) Any clock, watch, watch case, or watch movement.

10 (9) Any vehicle or vessel, or any component part thereof.

11 (b)

12 (c) When property described in subdivision (a) comes into the
13 custody of a peace officer it shall become subject to the provision
14 of Chapter 12 (commencing with Section 1407) of Title 10 of Part
15 2, relating to the disposal of stolen or embezzled property. Property
16 subject to this section shall be considered stolen or embezzled
17 property for the purposes of that chapter, and prior to being
18 disposed of, shall have an identification mark imbedded or
19 engraved in, or permanently affixed to it.

20 (e)

21 (d) This section does not apply to those cases or instances where
22 any of the changes or alterations enumerated in subdivision (a)
23 have been customarily made or done as an established practice in
24 the ordinary and regular conduct of business, by the original
25 manufacturer, or by his or her duly appointed direct representative,
26 or under specific authorization from the original manufacturer.

27 *SEC. 26. Section 550 of the Penal Code is amended to read:*

28 550. (a) It is unlawful to do any of the following, or to aid,
29 abet, solicit, or conspire with any person to do any of the following:

30 (1) Knowingly present or cause to be presented any false or
31 fraudulent claim for the payment of a loss or injury, including
32 payment of a loss or injury under a contract of insurance.

33 (2) Knowingly present multiple claims for the same loss or
34 injury, including presentation of multiple claims to more than one
35 insurer, with an intent to defraud.

36 (3) Knowingly cause or participate in a vehicular collision, or
37 any other vehicular accident, for the purpose of presenting any
38 false or fraudulent claim.

39 (4) Knowingly present a false or fraudulent claim for the
40 payments of a loss for theft, destruction, damage, or conversion

1 of a motor vehicle, a motor vehicle part, or contents of a motor
2 vehicle.

3 (5) Knowingly prepare, make, or subscribe any writing, with
4 the intent to present or use it, or to allow it to be presented, in
5 support of any false or fraudulent claim.

6 (6) Knowingly make or cause to be made any false or fraudulent
7 claim for payment of a health care benefit.

8 (7) Knowingly submit a claim for a health care benefit that was
9 not used by, or on behalf of, the claimant.

10 (8) Knowingly present multiple claims for payment of the same
11 health care benefit with an intent to defraud.

12 (9) Knowingly present for payment any undercharges for health
13 care benefits on behalf of a specific claimant unless any known
14 overcharges for health care benefits for that claimant are presented
15 for reconciliation at that same time.

16 (10) For purposes of paragraphs (6) to (9), inclusive, a claim or
17 a claim for payment of a health care benefit also means a claim or
18 claim for payment submitted by or on the behalf of a provider of
19 any workers' compensation health benefits under the Labor Code.

20 (b) It is unlawful to do, or to knowingly assist or conspire with
21 any person to do, any of the following:

22 (1) Present or cause to be presented any written or oral statement
23 as part of, or in support of or opposition to, a claim for payment
24 or other benefit pursuant to an insurance policy, knowing that the
25 statement contains any false or misleading information concerning
26 any material fact.

27 (2) Prepare or make any written or oral statement that is intended
28 to be presented to any insurer or any insurance claimant in
29 connection with, or in support of or opposition to, any claim or
30 payment or other benefit pursuant to an insurance policy, knowing
31 that the statement contains any false or misleading information
32 concerning any material fact.

33 (3) Conceal, or knowingly fail to disclose the occurrence of, an
34 event that affects any person's initial or continued right or
35 entitlement to any insurance benefit or payment, or the amount of
36 any benefit or payment to which the person is entitled.

37 (4) Prepare or make any written or oral statement, intended to
38 be presented to any insurer or producer for the purpose of obtaining
39 a motor vehicle insurance policy, that the person to be the insured

resides or is domiciled in this state when, in fact, that person resides or is domiciled in a state other than this state.

(c) (1) Every person who violates paragraph (1), (2), (3), (4), or (5) of subdivision (a) is guilty of a felony punishable by imprisonment in the state prison for two, three, or five years, and by a fine not exceeding fifty thousand dollars (\$50,000), or double the amount of the fraud, whichever is greater.

(2) Every person who violates paragraph (6), (7), (8), or (9) of subdivision (a) is guilty of a public offense.

(A) When the claim or amount at issue exceeds ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*, the offense is punishable by imprisonment in the state prison for two, three, or five years, or by a fine not exceeding fifty thousand dollars (\$50,000) or double the amount of the fraud, whichever is greater, or by both that imprisonment and fine, or by imprisonment in a county jail not to exceed one year, by a fine of not more than ten thousand dollars (\$10,000), or by both that imprisonment and fine.

(B) When the claim or amount at issue is ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)* or less, the offense is punishable by imprisonment in a county jail not to exceed six months, or by a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine, unless the aggregate amount of the claims or amount at issue exceeds ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)* in any 12-consecutive-month period, in which case the claims or amounts may be charged as in subparagraph (A).

(3) Every person who violates paragraph (1), (2), (3), or (4) of subdivision (b) shall be punished by imprisonment in the state prison for two, three, or five years, or by a fine not exceeding fifty thousand dollars (\$50,000) or double the amount of the fraud, whichever is greater, or by both that imprisonment and fine, or by imprisonment in a county jail not to exceed one year, or by a fine of not more than ten thousand dollars (\$10,000), or by both that imprisonment and fine.

(4) Restitution shall be ordered for a person convicted of violating this section, including restitution for any medical evaluation or treatment services obtained or provided. The court shall determine the amount of restitution and the person or persons to whom the restitution shall be paid.

(d) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of a sentence be suspended for, any adult person convicted of felony violations of this section who previously has been convicted of felony violations of this section or Section 548, or of Section 1871.4 of the Insurance Code, or former Section 556 of the Insurance Code, or former Section 1871.1 of the Insurance Code as an adult under charges separately brought and tried two or more times. The existence of any fact that would make a person ineligible for probation under this subdivision shall be alleged in the information or indictment, and either admitted by the defendant in an open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

Except when the existence of the fact was not admitted or found to be true or the court finds that a prior felony conviction was invalid, the court shall not strike or dismiss any prior felony convictions alleged in the information or indictment.

This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(e) Except as otherwise provided in subdivision (f), any person who violates subdivision (a) or (b) and who has a prior felony conviction of an offense set forth in either subdivision (a) or (b), in Section 548, in Section 1871.4 of the Insurance Code, in former Section 556 of the Insurance Code, or in former Section 1871.1 of the Insurance Code shall receive a two-year enhancement for each prior felony conviction in addition to the sentence provided in subdivision (c). The existence of any fact that would subject a person to a penalty enhancement shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury. Any person who violates this section shall be subject to appropriate orders of restitution pursuant to Section 13967 of the Government Code.

(f) Any person who violates paragraph (3) of subdivision (a) and who has two prior felony convictions for a violation of paragraph (3) of subdivision (a) shall receive a five-year

enhancement in addition to the sentence provided in subdivision (c). The existence of any fact that would subject a person to a penalty enhancement shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(g) Except as otherwise provided in Section 12022.7, any person who violates paragraph (3) of subdivision (a) shall receive a two-year enhancement for each person other than an accomplice who suffers serious bodily injury resulting from the vehicular collision or accident in a violation of paragraph (3) of subdivision (a).

(h) This section shall not be construed to preclude the applicability of any other provision of criminal law or equitable remedy that applies or may apply to any act committed or alleged to have been committed by a person.

(i) Any fine imposed pursuant to this section shall be doubled if the offense was committed in connection with any claim pursuant to any automobile insurance policy in an auto insurance fraud crisis area designated by the Insurance Commissioner pursuant to Article 4.6 (commencing with Section 1874.90) of Chapter 12 of Part 2 of Division 1 of the Insurance Code.

SEC. 27. Section 551 of the Penal Code is amended to read:

551. (a) It is unlawful for any automotive repair dealer, contractor, or employees or agents thereof to offer to any insurance agent, broker, or adjuster any fee, commission, profit sharing, or other form of direct or indirect consideration for referring an insured to an automotive repair dealer or its employees or agents for vehicle repairs covered under a policyholder's automobile physical damage or automobile collision coverage, or to a contractor or its employees or agents for repairs to or replacement of a structure covered by a residential or commercial insurance policy.

(b) Except in cases in which the amount of the repair or replacement claim has been determined by the insurer and the repair or replacement services are performed in accordance with that determination or in accordance with provided estimates that are accepted by the insurer, it is unlawful for any automotive repair dealer, contractor, or employees or agents thereof to knowingly

1 offer or give any discount intended to offset a deductible required
2 by a policy of insurance covering repairs to or replacement of a
3 motor vehicle or residential or commercial structure. This
4 subdivision does not prohibit an advertisement for repair or
5 replacement services at a discount as long as the amount of the
6 repair or replacement claim has been determined by the insurer
7 and the repair or replacement services are performed in accordance
8 with that determination or in accordance with provided estimates
9 that are accepted by the insurer.

10 (c) A violation of this section is a public offense. Where the
11 amount at issue exceeds ~~four hundred dollars (\$400)~~ *nine hundred*
12 *fifty dollars (\$950)*, the offense is punishable by imprisonment in
13 the state prison for 16 months, or 2 or 3 years, by a fine of not
14 more than ten thousand dollars (\$10,000), or by both that
15 imprisonment and fine; or by imprisonment in a county jail not to
16 exceed one year, by a fine of not more than one thousand dollars
17 (\$1,000), or by both that imprisonment and fine. In all other cases,
18 the offense is punishable by imprisonment in a county jail not to
19 exceed six months, by a fine of not more than one thousand dollars
20 (\$1,000), or by both that imprisonment and fine.

21 (d) Every person who, having been convicted of subdivision
22 (a) or (b), or Section 7027.3 or former Section 9884.75 of the
23 Business and Professions Code and having served a term therefor
24 in any penal institution or having been imprisoned therein as a
25 condition of probation for that offense, is subsequently convicted
26 of subdivision (a) or (b), upon a subsequent conviction of one of
27 those offenses, shall be punished by imprisonment in the state
28 prison for 16 months, or 2 or 3 years, by a fine of not more than
29 ten thousand dollars (\$10,000), or by both that imprisonment and
30 fine; or by imprisonment in a county jail not to exceed one year,
31 by a fine of not more than one thousand dollars (\$1,000), or by
32 both that imprisonment and fine.

33 (e) For purposes of this section:

34 (1) "Automotive repair dealer" means a person who, for
35 compensation, engages in the business of repairing or diagnosing
36 malfunctions of motor vehicles.

37 (2) "Contractor" has the same meaning as set forth in Section
38 7026 of the Business and Professions Code.

39 *SEC. 28. Section 565 of the Penal Code is amended to read:*

565. It is a misdemeanor, punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six months, or both, for an unauthorized person to possess or use, or to obliterate or destroy the brand registration upon, containers (including milk cases), cabinets, or other dairy equipment, which have a value of ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)* or less, when the containers, cabinets, or other dairy equipment are marked with a brand that is registered pursuant to Chapter 10 (commencing with Section 34501) of Part 1 of Division 15 of the Food and Agricultural Code. “Unauthorized person” shall have the meaning of that term as defined in Section 34564 of the Food and Agricultural Code.

SEC. 29. Section 566 of the Penal Code is amended to read:

566. It is a felony, punishable by a fine not exceeding one thousand five hundred dollars (\$1,500), or by imprisonment, or both, for an unauthorized person to possess or use, or to obliterate or destroy the brand registration upon, containers (including milk cases), cabinets, or other dairy equipment, which have a value in excess of ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*, when the containers, cabinets, or other dairy equipment are marked with a brand that is registered pursuant to Chapter 10 (commencing with Section 34501) of Part 1 of Division 15 of the Food and Agricultural Code. “Unauthorized person” shall have the meaning of that term as defined in Section 34564 of the Food and Agricultural Code.

SEC. 30. Section 592 of the Penal Code is amended to read:

592. (a) Every person who shall, without authority of the owner or managing agent, and with intent to defraud, take water from any canal, ditch, flume, or reservoir used for the purpose of holding or conveying water for manufacturing, agricultural, mining, irrigating, generation of power, or domestic uses is guilty of a misdemeanor.

(b) If the total retail value of all the water taken is more than ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*, or if the defendant has previously been convicted of an offense under this section or any former section that would be an offense under this section, or of an offense under the laws of another state or of the United States that would have been an offense under this section if committed in this state, then the violation is punishable

1 by imprisonment in the county jail for not more than one year, or
2 in the state prison.

3 *SEC. 31. Section 594.4 of the Penal Code is amended to read:*

4 594.4. (a) Any person who willfully and maliciously injects
5 into or throws upon, or otherwise defaces, damages, destroys, or
6 contaminates, any structure with butyric acid, or any other similar
7 noxious or caustic chemical or substance, is guilty of a public
8 offense, punishable by imprisonment in the state prison or in a
9 county jail, by a fine as specified in subdivision (b), or by both
10 that imprisonment and fine.

11 (b) (1) If the amount of the defacement, damage, destruction,
12 or contamination is fifty thousand dollars (\$50,000) or more, by
13 a fine of not more than fifty thousand dollars (\$50,000).

14 (2) If the amount of the defacement, damage, destruction, or
15 contamination is five thousand dollars (\$5,000) or more, but less
16 than fifty thousand dollars (\$50,000), by a fine of not more than
17 ten thousand dollars (\$10,000).

18 (3) If the amount of defacement, damage, destruction, or
19 contamination is ~~four hundred dollars (\$400)~~ *nine hundred fifty*
20 *dollars (\$950)* or more, but less than five thousand dollars (\$5,000),
21 by a fine of not more than five thousand dollars (\$5,000).

22 (4) If the amount of the defacement, damage, destruction, or
23 contamination is less than ~~four hundred dollars (\$400)~~ *nine hundred*
24 *fifty dollars (\$950)*, by a fine of not more than one thousand dollars
25 (\$1,000).

26 (c) For purposes of this section, “structure” includes any house
27 or other building being used at the time of the offense for a
28 dwelling or for commercial purposes.

29 *SEC. 32. Section 641.3 of the Penal Code is amended to read:*

30 641.3. (a) Any employee who solicits, accepts, or agrees to
31 accept money or any thing of value from a person other than his
32 or her employer, other than in trust for the employer, corruptly
33 and without the knowledge or consent of the employer, in return
34 for using or agreeing to use his or her position for the benefit of
35 that other person, and any person who offers or gives an employee
36 money or any thing of value under those circumstances, is guilty
37 of commercial bribery.

38 (b) This section does not apply where the amount of money or
39 monetary worth of the thing of value is ~~one hundred dollars (\$100)~~
40 *two hundred fifty dollars (\$250)* or less.

1 (c) Commercial bribery is punishable by imprisonment in the
2 county jail for not more than one year if the amount of the bribe
3 is one thousand dollars (\$1,000) or less, or by imprisonment in the
4 county jail, or in the state prison for 16 months, or two or three
5 years if the amount of the bribe exceeds one thousand dollars
6 (\$1,000).

7 (d) For purposes of this section:

8 (1) "Employee" means an officer, director, agent, trustee,
9 partner, or employee.

10 (2) "Employer" means a corporation, association, organization,
11 trust, partnership, or sole proprietorship.

12 (3) "Corruptly" means that the person specifically intends to
13 injure or defraud (A) his or her employer, (B) the employer of the
14 person to whom he or she offers, gives, or agrees to give the money
15 or a thing of value, (C) the employer of the person from whom he
16 or she requests, receives, or agrees to receive the money or a thing
17 of value, or (D) a competitor of any such employer.

18 *SEC. 33. Section 2932 of the Penal Code is amended to read:*

19 2932. (a) (1) For any time credit accumulated pursuant to
20 Section 2931 or to *subdivisions (a) and (b) of Section 2933*
21 *2933.05*, not more than 360 days of credit may be denied or lost
22 for a single act of murder, attempted murder, solicitation of murder,
23 manslaughter, rape, sodomy, or oral copulation accomplished
24 against the victim's will, attempted rape, attempted sodomy, or
25 attempted oral copulation accomplished against the victim's will,
26 assault or battery causing serious bodily injury, assault with a
27 deadly weapon or caustic substance, taking of a hostage, escape
28 with force or violence, or possession or manufacture of a deadly
29 weapon or explosive device, whether or not prosecution is
30 undertaken for purposes of this paragraph. Solicitation of murder
31 shall be proved by the testimony of two witnesses, or of one
32 witness and corroborating circumstances.

33 (2) Not more than 180 days of credit may be denied or lost for
34 a single act of misconduct, except as specified in paragraph (1),
35 which could be prosecuted as a felony whether or not prosecution
36 is undertaken.

37 (3) Not more than 90 days of credit may be denied or lost for a
38 single act of misconduct which could be prosecuted as a
39 misdemeanor, whether or not prosecution is undertaken.

(4) Not more than 30 days of credit may be denied or lost for a single act of misconduct defined by regulation as a serious disciplinary offense by the Department of Corrections *and Rehabilitation*. Any person confined due to a change in custodial classification following the commission of any serious disciplinary infraction shall, in addition to any loss of time credits, be ineligible to receive ~~participation or worktime~~ credit *pursuant to subdivisions (a) and (b) of Section 2933.05* for a period not to exceed the number of days of credit which have been lost for the act of misconduct or 180 days, whichever is less. Any person confined in a secure housing unit for having committed any misconduct specified in paragraph (1) in which great bodily injury is inflicted upon a nonprisoner shall, in addition to any loss of time credits, be ineligible to receive ~~participation or worktime~~ credit *pursuant to Section 2933.05* for a period not to exceed the number of days of credit which have been lost for that act of misconduct, or for the period that the prisoner is confined in a secure housing unit, whichever is less. In unusual cases, an inmate may be denied the opportunity to participate in ~~a credit-qualifying~~ *an* assignment for up to six months beyond the period specified in this subdivision if the ~~Director of Corrections~~ *secretary of the department* finds, after a hearing, that no ~~credit-qualifying~~ program may be assigned to the inmate without creating a substantial risk of physical harm to staff or other inmates. At the end of the six-month period and of successive six-month periods, the denial of the opportunity to participate in ~~a credit-qualifying~~ *an* assignment may be renewed upon a hearing and finding by the ~~director~~ *secretary*.

The prisoner may appeal the decision through the department's review procedure, which shall include a review by an individual independent of the institution who has supervisory authority over the institution.

(b) For any credit accumulated pursuant to Section 2931, not more than 30 days of ~~participation~~ credit may be denied or lost for a single failure or refusal to participate. Any act of misconduct described by the Department of Corrections *and Rehabilitation* as a serious disciplinary infraction if committed while participating in work, educational, vocational, therapeutic, or other prison activity shall be deemed a failure to participate.

(c) Any procedure not provided for by this section, but necessary to carry out the purposes of this section, shall be those procedures

provided for by the Department of Corrections *and Rehabilitation* for serious disciplinary infractions if those procedures are not in conflict with this section.

(1) (A) The Department of Corrections *and Rehabilitation* shall, using reasonable diligence to investigate, provide written notice to the prisoner. The written notice shall be given within 15 days after the discovery of information leading to charges that may result in a possible denial of credit, except that if the prisoner has escaped, the notice shall be given within 15 days of the prisoner's return to the custody of the ~~Director~~ *Secretary of the Department of Corrections and Rehabilitation*. The written notice shall include the specific charge, the date, the time, the place that the alleged misbehavior took place, the evidence relied upon, a written explanation of the procedures that will be employed at the proceedings and the prisoner's rights at the hearing. The hearing shall be conducted by an individual who shall be independent of the case and shall take place within 30 days of the written notice.

(B) The Department of Corrections *and Rehabilitation* may delay written notice beyond 15 days when all of the following factors are true:

(i) An act of misconduct is involved which could be prosecuted as murder, attempted murder, or assault on a prison employee, whether or not prosecution is undertaken.

(ii) Further investigation is being undertaken for the purpose of identifying other prisoners involved in the misconduct.

(iii) Within 15 days after the discovery of information leading to charges that may result in a possible denial of credit, the investigating officer makes a written request to delay notifying that prisoner and states the reasons for the delay.

(iv) The warden of the institution approves of the delay in writing.

The period of delay under this paragraph shall not exceed 30 days. The prisoner's hearing shall take place within 30 days of the written notice.

(2) The prisoner may elect to be assigned an employee to assist in the investigation, preparation, or presentation of a defense at the disciplinary hearing if it is determined by the department that: ~~(i) (A) the prisoner is illiterate; or (ii) (B) the complexity of the issues or the prisoner's confinement status makes it unlikely that~~

1 the prisoner can collect and present the evidence necessary for an
2 adequate comprehension of the case.

3 (3) The prisoner may request witnesses to attend the hearing
4 and they shall be called unless the person conducting the hearing
5 has specific reasons to deny this request. The specific reasons shall
6 be set forth in writing and a copy of the document shall be
7 presented to the prisoner.

8 (4) The prisoner has the right, under the direction of the person
9 conducting the hearing, to question all witnesses.

10 (5) At the conclusion of the hearing the charge shall be
11 dismissed if the facts do not support the charge, or the prisoner
12 may be found guilty on the basis of a preponderance of the
13 evidence.

14 (d) If found guilty the prisoner shall be advised in writing of
15 the guilty finding and the specific evidence relied upon to reach
16 this conclusion and the amount of time-credit loss. The prisoner
17 may appeal the decision through the Department of ~~Corrections~~
18 *Corrections and Rehabilitation*'s review procedure, and may, upon
19 final notification of appeal denial, within 15 days of the
20 notification, demand review of the department's denial of credit
21 to the Board of ~~Prison Terms~~ *Parole Hearings*, and the board may
22 affirm, reverse, or modify the department's decision or grant a
23 hearing before the board at which hearing the prisoner shall have
24 the rights specified in Section 3041.5.

25 (e) Each prisoner subject to Section 2931 shall be notified of
26 the total amount of good behavior and participation credit which
27 may be credited pursuant to Section 2931, and his or her anticipated
28 time-credit release date. The prisoner shall be notified of any
29 change in the anticipated release date due to denial or loss of
30 credits, award of ~~worktime credit~~, ~~under any credit pursuant to~~
31 ~~Section 2933~~ 2933.05, or the restoration of any credits previously
32 forfeited.

33 (f) If the conduct the prisoner is charged with also constitutes
34 a crime, the Department of *Corrections and Rehabilitation* may
35 refer the case to criminal authorities for possible prosecution. The
36 department shall notify the prisoner, who may request
37 postponement of the disciplinary proceedings pending the referral.

38 The prisoner may revoke his or her request for postponement of
39 the disciplinary proceedings up until the filing of the accusatory
40 pleading. In the event of the revocation of the request for

1 postponement of the proceeding, the department shall hold the
2 hearing within 30 days of the revocation.

3 Notwithstanding the notification requirements in this paragraph
4 and subparagraphs (A) and (B) of paragraph (1) of subdivision
5 (c), in the event the case is referred to criminal authorities for
6 prosecution and the authority requests that the prisoner not be
7 notified so as to protect the confidentiality of its investigation, no
8 notice to the prisoner shall be required until an accusatory pleading
9 is filed with the court, or the authority notifies the warden, in
10 writing, that it will not prosecute or it authorizes the notification
11 of the prisoner. The notice exceptions provided for in this
12 paragraph shall only apply if the criminal authority requests of the
13 warden, in writing, and within the 15 days provided in
14 subparagraph (A) of paragraph (1) of subdivision (c), that the
15 prisoner not be notified. Any period of delay of notice to the
16 prisoner shall not exceed 30 days beyond the 15 days referred to
17 in subdivision (c). In the event that no prosecution is undertaken,
18 the procedures in subdivision (c) shall apply, and the time periods
19 set forth in that subdivision shall commence to run from the date
20 the warden is notified in writing of the decision not to prosecute.
21 In the event the authority either cancels its requests that the prisoner
22 not be notified before it makes a decision on prosecution or files
23 an accusatory pleading, the provisions of this paragraph shall apply
24 as if no request had been received, beginning from the date of the
25 cancellation or filing.

26 In the case where the prisoner is prosecuted by the district
27 attorney, the Department of Corrections *and Rehabilitation* shall
28 not deny time credit where the prisoner is found not guilty and
29 may deny credit if the prisoner is found guilty, in which case the
30 procedures in subdivision (c) shall not apply.

31 (g) If time credit denial proceedings or criminal prosecution
32 prohibit the release of a prisoner who would have otherwise been
33 released, and the prisoner is found not guilty of the alleged
34 misconduct, the amount of time spent incarcerated, in excess of
35 what the period of incarceration would have been absent the alleged
36 misbehavior, shall be deducted from the prisoner's parole period.

37 (h) Nothing in the amendments to this section made at the
38 1981–82 Regular Session of the Legislature shall affect the granting
39 or revocation of credits attributable to that portion of the prisoner's
40 sentence served prior to January 1, 1983.

1 ~~SEC. 34. Section 2933 of the Penal Code is repealed.~~

2 ~~2933.—(a) It is the intent of the Legislature that persons~~
3 ~~convicted of a crime and sentenced to the state prison under Section~~
4 ~~1170 serve the entire sentence imposed by the court, except for a~~
5 ~~reduction in the time served in the custody of the Director of~~
6 ~~Corrections for performance in work, training or education~~
7 ~~programs established by the Director of Corrections. Worktime~~
8 ~~credits shall apply for performance in work assignments and~~
9 ~~performance in elementary, high school, or vocational education~~
10 ~~programs. Enrollment in a two- or four-year college program~~
11 ~~leading to a degree shall result in the application of time credits~~
12 ~~equal to that provided in Section 2931. For every six months of~~
13 ~~full-time performance in a credit qualifying program, as designated~~
14 ~~by the director, a prisoner shall be awarded worktime credit~~
15 ~~reductions from his or her term of confinement of six months. A~~
16 ~~lesser amount of credit based on this ratio shall be awarded for~~
17 ~~any lesser period of continuous performance. Less than maximum~~
18 ~~credit should be awarded pursuant to regulations adopted by the~~
19 ~~director for prisoners not assigned to a full-time credit qualifying~~
20 ~~program. Every prisoner who refuses to accept a full-time credit~~
21 ~~qualifying assignment or who is denied the opportunity to earn~~
22 ~~worktime credits pursuant to subdivision (a) of Section 2932 shall~~
23 ~~be awarded no worktime credit reduction. Every prisoner who~~
24 ~~voluntarily accepts a half-time credit qualifying assignment in lieu~~
25 ~~of a full-time assignment shall be awarded worktime credit~~
26 ~~reductions from his or her term of confinement of three months~~
27 ~~for each six-month period of continued performance. Except as~~
28 ~~provided in subdivision (a) of Section 2932, every prisoner willing~~
29 ~~to participate in a full-time credit qualifying assignment but who~~
30 ~~is either not assigned to a full-time assignment or is assigned to a~~
31 ~~program for less than full time, shall receive no less credit than is~~
32 ~~provided under Section 2931. Under no circumstances shall any~~
33 ~~prisoner receive more than six months' credit reduction for any~~
34 ~~six-month period under this section.~~

35 ~~(b) Worktime credit is a privilege, not a right. Worktime credit~~
36 ~~must be earned and may be forfeited pursuant to the provisions of~~
37 ~~Section 2932. The application of credit to reduce the sentence of~~
38 ~~a prisoner who committed a crime on or after January 1, 1997, is~~
39 ~~subject to the provisions of Section 3067. Except as provided in~~
40 ~~subdivision (a) of Section 2932, every prisoner shall have a~~

reasonable opportunity to participate in a full-time credit qualifying assignment in a manner consistent with institutional security and available resources.

(c) Under regulations adopted by the Department of Corrections, which shall require a period of not more than one year free of disciplinary infractions, worktime credit which has been previously forfeited may be restored by the director. The regulations shall provide for separate classifications of serious disciplinary infractions as they relate to restoration of credits, the time period required before forfeited credits or a portion thereof may be restored, and the percentage of forfeited credits that may be restored for these time periods. For credits forfeited for commission of a felony specified in paragraph (1) of subdivision (a) of Section 2932, the Department of Corrections may provide that up to 180 days of lost credit shall not be restored and up to 90 days of credit shall not be restored for a forfeiture resulting from conspiracy or attempts to commit one of those acts. No credits may be restored if they were forfeited for a serious disciplinary infraction in which the victim died or was permanently disabled. Upon application of the prisoner and following completion of the required time period free of disciplinary offenses, forfeited credits eligible for restoration under the regulations for disciplinary offenses other than serious disciplinary infractions punishable by a credit loss of more than 90 days shall be restored unless, at a hearing, it is found that the prisoner refused to accept or failed to perform in a credit qualifying assignment, or extraordinary circumstances are present that require that credits not be restored. "Extraordinary circumstances" shall be defined in the regulations adopted by the director. However, in any case in which worktime credit was forfeited for a serious disciplinary infraction punishable by a credit loss of more than 90 days, restoration of credit shall be at the discretion of the director.

The prisoner may appeal the finding through the Department of Corrections review procedure, which shall include a review by an individual independent of the institution who has supervisory authority over the institution.

(d) The provisions of subdivision (c) shall also apply in cases of credit forfeited under Section 2931 for offenses and serious disciplinary infractions occurring on or after January 1, 1983.

SEC. 35. Section 2933.05 is added to the Penal Code, to read:

1 2933.05. A prisoner sentenced to the state prison under Section
2 1170 shall receive credit reductions from his or her term of
3 confinement as follows:

4 (a) One day of credit for every day served in the state prison.

5 (b) Except as provided in subdivision (f), one day of credit for
6 every day served in a county jail, city jail, industrial farm, or road
7 camp after the date of sentencing to the state prison as specified
8 in subdivision (g) of Section 4019.

9 (c) Credits earned pursuant to subdivision (a) or (b) are subject
10 to denial or loss pursuant to the provisions of this article, including
11 for refusal to perform work or participate in a program as ordered
12 or assigned.

13 (d) (1) Except as provided in subdivision (f), a prisoner shall
14 receive up to four months of program completion credit for the
15 successful completion of any inmate program approved by the
16 secretary, including, but not limited to, any of the following:

17 (A) A drug rehabilitation program.

18 (B) An alcohol rehabilitation program.

19 (C) An educational program.

20 (D) A vocational program, including, but not limited to, those
21 operated by the Prison Industry Authority and Joint Venture.

22 (E) Any other behavior management, mental health treatment,
23 or rehabilitative program offered by the department.

24 (2) A prisoner may earn up to four months of program
25 completion credit for each program he or she successfully
26 completes.

27 (e) Once an inmate earns program completion credits pursuant
28 to subdivision (d), those credits are not subject to loss pursuant
29 to the provisions of this article.

30 (f) Credits specified in subdivisions (b) and (d) shall not apply
31 to a prisoner serving a term of imprisonment for either an offense
32 requiring registration as a sex offender pursuant to Chapter 5.5
33 (commencing with Section 290) of Title 9 of Part 1 or an offense
34 sentenced pursuant to subdivisions (b) to (i), inclusive, of Section
35 667 or Section 1170.12.

36 (g) Less than maximum credit should be awarded pursuant to
37 regulations adopted by the secretary for prisoners who undergo
38 a change in custodial classification.

39 SEC. 36. Section 2933.1 of the Penal Code is amended to read:

1 2933.1. (a) Notwithstanding any other law, any person who
2 is convicted of a felony offense listed in subdivision (c) of Section
3 667.5 shall accrue no more than 15 percent of ~~worktime~~ credit, as
4 ~~defined in Section 2933.~~

5 (b) The 15-percent limitation provided in subdivision (a) shall
6 apply whether the defendant is sentenced under Chapter 4.5
7 (commencing with Section 1170) of Title 7 of Part 2 or sentenced
8 under some other law. However, nothing in subdivision (a) shall
9 affect the requirement of any statute that the defendant serve a
10 specified period of time prior to minimum parole eligibility, nor
11 shall any offender otherwise statutorily ineligible for credit be
12 eligible for credit pursuant to this section.

13 (c) Notwithstanding Section 4019 or any other provision of law,
14 the maximum credit that may be earned against a period of
15 confinement in, or commitment to, a county jail, industrial farm,
16 or road camp, or a city jail, industrial farm, or road camp, following
17 arrest and prior to placement in the custody of the ~~Director~~
18 *Secretary of the Department of Corrections and Rehabilitation*,
19 shall not exceed 15 percent of the actual period of confinement
20 for any person specified in subdivision (a).

21 (d) This section shall only apply to offenses listed in subdivision
22 (a) that are committed on or after the date on which this section
23 becomes operative.

24 *SEC. 37. Section 2933.2 of the Penal Code is amended to read:*

25 2933.2. (a) Notwithstanding Section 2933.1 or any other law,
26 any person who is convicted of murder, as defined in Section 187,
27 shall not accrue any credit, as specified in Section ~~2933~~ 2933.05.

28 (b) The limitation provided in subdivision (a) shall apply
29 whether the defendant is sentenced under Chapter 4.5 (commencing
30 with Section 1170) of Title 7 of Part 2 or sentenced under some
31 other law.

32 (c) Notwithstanding Section 4019 or any other provision of law,
33 no credit pursuant to Section 4019 may be earned against a period
34 of confinement in, or commitment to, a county jail, industrial farm,
35 or road camp, or a city jail, industrial farm, or road camp, following
36 arrest for any person specified in subdivision (a).

37 (d) This section shall only apply to murder that is committed
38 on or after the date on which this section becomes operative.

39 *SEC. 38. Section 2933.3 of the Penal Code is amended to read:*

1 2933.3. Notwithstanding any other provision of law, any inmate
2 assigned to a conservation camp by the Department of Corrections
3 *and Rehabilitation, including any inmate on the wait list for*
4 *transfer to a conservation camp, who is eligible to earn one day*
5 *of worktime credit for every one day of service pursuant to served*
6 *in custody, as specified in subdivision (a) of Section 2933.05*
7 *shall instead earn two days of worktime credit for every one day*
8 *of service on the wait list for or on assignment to a conservation*
9 *camp. This enhanced worktime credit shall only apply to service*
10 *performed those eligible after January 1, 2003, except as to inmates*
11 *on the wait list, to whom this enhanced credit shall apply after the*
12 *date of enactment of the act that amended this section in the*
13 *2009–10 First Extraordinary Session.*

14 SEC. 39. Section 2933.4 of the Penal Code is amended and
15 *renumbered to read:*

16 2933.4.

17 3050. (a) Notwithstanding any other provision of law, any
18 inmate under the custody of the Department of Corrections and
19 Rehabilitation who is not currently serving and has not served a
20 prior indeterminate sentence or a sentence for a violent felony, a
21 serious felony, or a crime that requires him or her to register as a
22 sex offender pursuant to Section 290, who has successfully
23 completed an inprison drug treatment program, upon release from
24 state prison, shall, whenever possible, be entered into a 150-day
25 residential aftercare drug treatment program sanctioned by the
26 department.

27 (b) As a condition of parole, if the inmate successfully completes
28 150 days of residential aftercare treatment, as determined by the
29 Department of Corrections and Rehabilitation and the aftercare
30 provider, the parolee shall be discharged from parole supervision
31 at that time.

32 (c) Commencing with 2008, the department shall report annually
33 to the Joint Legislative Budget Committee and the State Auditor
34 on the effectiveness of these provisions, including recidivism rates.

35 SEC. 40. Section 2933.4 is added to the Penal Code, to read:

36 2933.4. (a) Under regulations adopted by the Department of
37 Corrections and Rehabilitation, which shall require a period of
38 not more than one year free of disciplinary infractions, credit lost
39 or denied pursuant to Section 2932 may be restored.

1 (1) *The regulations shall provide for separate classifications*
2 *of serious disciplinary infractions as they relate to restoration of*
3 *credits, the time period required before forfeited credits or a*
4 *portion thereof may be restored, and the percentage of forfeited*
5 *credits that may be restored for these time periods.*

6 (2) *For credits forfeited for commission of a felony specified in*
7 *paragraph (1) of subdivision (a) of Section 2932, the department*
8 *may provide that up to 180 days of lost credit shall not be restored*
9 *and up to 90 days of credit shall not be restored for a forfeiture*
10 *resulting from conspiracy or attempts to commit one of those acts.*

11 (3) *No credits may be restored if they were forfeited for a serious*
12 *disciplinary infraction in which the victim died or was permanently*
13 *disabled.*

14 (4) (A) *Upon application of the prisoner and following*
15 *completion of the required time period free of disciplinary offenses,*
16 *forfeited credits eligible for restoration under the regulations for*
17 *disciplinary offenses other than serious disciplinary infractions*
18 *punishable by a credit loss of more than 90 days shall be restored*
19 *unless, at a hearing, it is found that extraordinary circumstances*
20 *are present that require that credits not be restored.*

21 (B) *“Extraordinary circumstances” shall be defined in the*
22 *regulations adopted by the secretary. However, in any case in*
23 *which credit was forfeited for a serious disciplinary infraction*
24 *punishable by a credit loss of more than 90 days, restoration of*
25 *credit shall be at the discretion of the secretary.*

26 (b) *The prisoner may appeal the finding through the*
27 *department’s review procedure, which shall include a review by*
28 *an individual independent of the institution who has supervisory*
29 *authority over the institution.*

30 (c) *Subdivisions (a) and (b) shall also apply in cases of credit*
31 *forfeited under Section 2931 for offenses and serious disciplinary*
32 *infractions occurring on or after January 1, 1983.*

33 SEC. 41. *Section 2933.5 of the Penal Code is amended to read:*

34 2933.5. (a) (1) *Notwithstanding any other provision of law,*
35 *every person who is convicted of any felony offense listed in*
36 *paragraph (2), and who previously has been convicted two or more*
37 *times, on charges separately brought and tried, and who previously*
38 *has served two or more separate prior prison terms, as defined in*
39 *subdivision (g) of Section 667.5, of any offense or offenses listed*

1 in paragraph (2), shall be ineligible to earn credit on his or her
2 term of imprisonment pursuant to this ~~chapter~~ *article*.

3 (2) As used in this subdivision, “felony offense” includes any
4 of the following:

5 (A) Murder, as defined in Sections 187 and 189.

6 (B) Voluntary manslaughter, as defined in subdivision (a) of
7 Section 192.

8 (C) Mayhem as defined in Section 203.

9 (D) Aggravated mayhem, as defined in Section 205.

10 (E) Kidnapping, as defined in Section 207, 209, or 209.5.

11 (F) Assault with vitriol, corrosive acid, or caustic chemical of
12 any nature, as described in Section 244.

13 (G) Rape, as defined in paragraph (2) or (6) of subdivision (a)
14 of Section 261 or paragraph (1) or (4) of subdivision (a) of Section
15 262.

16 (H) Sodomy by means of force, violence, duress, menace or
17 fear of immediate and unlawful bodily injury on the victim or
18 another person, as described in subdivision (c) of Section 286.

19 (I) Sodomy while voluntarily acting in concert, as described in
20 subdivision (d) of Section 286.

21 (J) Lewd or lascivious acts on a child under the age of 14 years,
22 as described in subdivision (b) of Section 288.

23 (K) Oral copulation by means of force, violence, duress, menace,
24 or fear of immediate and unlawful bodily injury on the victim or
25 another person, as described in subdivision (c) of Section 288a.

26 (L) Continuous sexual abuse of a child, as described in Section
27 288.5.

28 (M) Sexual penetration, as described in subdivision (a) of
29 Section 289.

30 (N) Exploding a destructive device or explosive with intent to
31 injure, as described in Section 12303.3, with intent to murder, as
32 described in Section 12308, or resulting in great bodily injury or
33 mayhem, as described in Section 12309.

34 (O) Any felony in which the defendant personally inflicted great
35 bodily injury, as provided in Section 12022.53 or 12022.7.

36 (b) A prior conviction of an offense listed in subdivision (a)
37 shall include a conviction in another jurisdiction for an offense
38 which includes all of the elements of the particular felony as
39 defined under California law.

1 (c) This section shall apply whenever the present felony is
2 committed on or after the effective date of this section, regardless
3 of the date of commission of the prior offense or offenses resulting
4 in credit-earning ineligibility.

5 (d) This section shall be in addition to, and shall not preclude
6 the imposition of, any applicable sentence enhancement terms, or
7 probation ineligibility and habitual offender provisions authorized
8 under any other section.

9 *SEC. 42. Section 2933.6 of the Penal Code is amended to read:*

10 2933.6. (a) Notwithstanding any other law, a person who is
11 placed in a Security Housing Unit or an Administrative Segregation
12 Unit for misconduct described in subdivision (b) is ineligible to
13 ~~earn work credits or good behavior credits,~~ *pursuant to Section*
14 *2933.05*, during the time he or she is in the Security Housing Unit
15 or the Administrative Segregation Unit for that misconduct.

16 (b) This section applies to the following offenses:

17 (1) Murder, attempted murder, and solicitation of murder. For
18 purposes of this paragraph, solicitation of murder shall be proven
19 by the testimony of two witnesses, or of one witness and
20 corroborating circumstances.

21 (2) Manslaughter.

22 (3) Assault or battery causing serious bodily injury.

23 (4) Assault or battery on a peace officer or other nonprisoner
24 which results in physical injury.

25 (5) Assault with a deadly weapon or caustic substance.

26 (6) Rape, attempted rape, sodomy, attempted sodomy, oral
27 copulation, or attempted oral copulation accomplished against the
28 victim's will.

29 (7) Taking a hostage.

30 (8) Escape or attempted escape with force or violence.

31 (9) Escape from any departmental prison or institution other
32 than a camp or reentry facility.

33 (10) Possession or manufacture of a deadly weapon or explosive
34 device.

35 (11) Arson involving damage to a structure.

36 (12) Possession of flammable, explosive material with intent to
37 burn any structure or property.

38 (13) Solicitation of assault with a deadly weapon or assault by
39 means of force likely to produce great bodily injury, arson, or a
40 forcible sex act.

(14) Intentional destruction of state property in excess of four hundred dollars (\$400) during a riot or disturbance.

(c) This section does not apply if the administrative finding of the misconduct is overturned or if the person is criminally prosecuted for the misconduct and is found not guilty.

SEC. 43. Section 3000 of the Penal Code is amended to read:

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

(2) The Legislature finds and declares that it is not the intent of this section to diminish resources allocated to the Department of Corrections and Rehabilitation for parole functions for which the department is responsible. It is also not the intent of this section to diminish the resources allocated to the Board of Parole Hearings to execute its duties with respect to parole functions for which the board is responsible.

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

(4) The parole period of any person found to be a sexually violent predator shall be tolled until that person is found to no longer be a sexually violent predator, at which time the period of parole, or any remaining portion thereof, shall begin to run.

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

(1) At the expiration of a term of imprisonment of one year and one day, or a term of imprisonment imposed pursuant to Section 1170 or at the expiration of a term reduced pursuant to Section 2931 or 2933.05, if applicable, the inmate shall be released on parole for a period not exceeding three years, except that any inmate sentenced for an offense specified in paragraph (3), (4);

1 (5), (6), (11), (16), or (18) of subdivision (c) of Section 667.5 shall
2 be released on parole for a period not exceeding five years, as
3 follows, or unless in either case the parole authority for good cause
4 waives parole and discharges the inmate from the custody of the
5 department:

6 (A) A person sentenced for an offense specified in paragraph
7 (3), (4), (5), (6), (11), (16), or (18) of subdivision (c) of Section
8 667.5 shall be released on parole for a period of no more than five
9 years.

10 (B) A person who is not required to register as a sex offender
11 pursuant to Section 290, who was not sentenced for any offense
12 that is a serious felony, as defined in Section 1192.7, or a violent
13 felony, as defined in Section 667.5, and who does not have a prior
14 conviction for a serious felony, as defined in Section 1192.7, or a
15 violent felony, as defined in Section 667.5 shall be discharged from
16 parole if he or she has been on parole continuously for six
17 consecutive months.

18 (C) A person who is on parole as of the effective date of the
19 amendment of this subdivision during the 2009–10 First
20 Extraordinary Session of the Legislature whose parole is not
21 pending revocation shall be discharged from parole immediately
22 if he or she has already served the time and met the terms specified
23 in subparagraph (B), or upon meeting the terms of subparagraph
24 (B).

25 (2) In the case of any inmate sentenced under Section 1168, the
26 period of parole shall not exceed five years in the case of an inmate
27 imprisoned for any offense other than first or second degree murder
28 for which the inmate has received a life sentence, and shall not
29 exceed three years in the case of any other inmate, unless in either
30 case the parole authority for good cause waives parole and
31 discharges the inmate from custody of the department. This
32 subdivision shall also be applicable to inmates who committed
33 crimes prior to July 1, 1977, to the extent specified in Section
34 1170.2.

35 (3) Notwithstanding paragraphs (1) and (2), in the case of any
36 offense for which the inmate has received a life sentence pursuant
37 to Section 667.61 or 667.71, the period of parole shall be 10 years.

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

(5) Upon successful completion of parole, or at the end of the maximum statutory period of parole specified for the inmate under paragraph (1), (2), or (3), as the case may be, whichever is earlier, the inmate shall be discharged from custody. The date of the maximum statutory period of parole under this subdivision and paragraphs (1), (2), and (3) shall be computed from the date of initial parole and shall be a period chronologically determined. Time during which parole is suspended because the prisoner has absconded or has been returned to custody as a parole violator shall not be credited toward any period of parole unless the prisoner is found not guilty of the parole violation. However, the period of parole is subject to the following:

(A) Except as provided in Section 3064, in no case may a prisoner subject to three years on parole be retained under parole supervision or in custody for a period longer than four years from the date of his or her initial parole.

(B) Except as provided in Section 3064, in no case may a prisoner subject to five years on parole be retained under parole supervision or in custody for a period longer than seven years from the date of his or her initial parole.

(C) Except as provided in Section 3064, in no case may a prisoner subject to 10 years on parole be retained under parole supervision or in custody for a period longer than 15 years from the date of his or her initial parole.

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

(7) For purposes of this chapter, the Board of Parole Hearings shall be considered the parole authority.

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

(9) It is the intent of the Legislature that efforts be made with respect to persons who are subject to Section 290.011 who are on parole to engage them in treatment.

SEC. 44. Section 3060.95 is added to the Penal Code, to read:

3060.95. (a) It is the intent of the Legislature that parole violators who present a lower risk to public safety based on their criminal history, the outcomes of risk assessments such as those authorized in Section 33 of Chapter 175 of the Statutes of 2007, and the nature of their parole violations shall be given community sanctions where appropriate. Community sanctions include, but are not limited to, community work crews, increased supervision, increased drug testing, home detention, electronic monitoring, day reporting centers, short-term incarceration, or any combination of these.

(b) No later than January 1, 2009, the Department of Corrections and Rehabilitation shall begin implementation of a parole violation decisionmaking instrument designed to provide guidelines for use by parole agents and the Board of Parole Hearings to determine the most appropriate sanctions for parolees who violate their conditions of parole.

(c) For purposes of this section, a "parole violation decisionmaking instrument" provides ranges of appropriate sanctions for parole violators given relevant case factors, such as offense history, risk of reoffending or risk of violence based on a validated risk assessment tool, need for treatment services, the number and type of current and prior parole violations, and other relevant statutory requirements.

(d) Parole agents and, when a violation of parole has been referred to the board, the board, shall impose sanctions on parole violators in accordance with the parole decision instrument.

(e) The department shall adopt emergency regulations to implement this section initially, and shall subsequently adopt permanent regulations that make appropriate changes in policies and procedures to reflect the intent of this section.

1 (f) Subject to legislative appropriation, the department shall
2 ensure that sufficient bed or program capacity is available in the
3 community to assign parole violators to those sanctions designated
4 in the parole violation decisionmaking instrument.

5 (g) Nothing in this section shall limit the authority of counties
6 to prosecute parolees who commit new crimes.

7 SEC. 45. Section 4019 of the Penal Code is amended to read:
8 4019. (a) The provisions of subdivisions (b) to (f), inclusive,
9 of this section shall apply in all of the following cases:

10 (1) When a prisoner is confined in or committed to a county
11 jail, industrial farm, or road camp, or any city jail, industrial farm,
12 or road camp, including all days of custody from the date of arrest
13 to the date on which the serving of the sentence commences, under
14 a judgment of imprisonment, or a fine and imprisonment until the
15 fine is paid in a criminal action or proceeding.

16 (2) When a prisoner is confined in or committed to the county
17 jail, industrial farm, or road camp or any city jail, industrial farm,
18 or road camp as a condition of probation after suspension of
19 imposition of a sentence or suspension of execution of sentence,
20 in a criminal action or proceeding.

21 (3) When a prisoner is confined in or committed to the county
22 jail, industrial farm, or road camp or any city jail, industrial farm,
23 or road camp for a definite period of time for contempt pursuant
24 to a proceeding, other than a criminal action or proceeding.

25 (4) When a prisoner is confined in a county jail, industrial farm,
26 or road camp, or a city jail, industrial farm, or road camp following
27 arrest and prior to the imposition of sentence for a felony
28 conviction of either an offense for which registration as a sex
29 offender is required pursuant to Chapter 5.5 (commencing with
30 Section 290) of Title 9 of Part 1 or an offense which is sentenced
31 pursuant to subdivisions (b) to (i), inclusive, of Section 667 or
32 Section 1170.12.

33 (b) Subject to the provisions of subdivision (d), for each six-day
34 period in which a prisoner is confined in or committed to a facility
35 as specified in this section, one day shall be deducted from his or
36 her period of confinement unless it appears by the record that the
37 prisoner has refused to satisfactorily perform labor as assigned by
38 the sheriff, chief of police, or superintendent of an industrial farm
39 or road camp.

(c) For each six-day period in which a prisoner is confined in or committed to a facility as specified in this section, one day shall be deducted from his or her period of confinement unless it appears by the record that the prisoner has not satisfactorily complied with the reasonable rules and regulations established by the sheriff, chief of police, or superintendent of an industrial farm or road camp.

(d) Nothing in this section shall be construed to require the sheriff, chief of police, or superintendent of an industrial farm or road camp to assign labor to a prisoner if it appears from the record that the prisoner has refused to satisfactorily perform labor as assigned or that the prisoner has not satisfactorily complied with the reasonable rules and regulations of the sheriff, chief of police, or superintendent of any industrial farm or road camp.

(e) No deduction may be made under this section unless the person is committed for a period of six days or longer.

(f) It is the intent of the Legislature that if all days are earned ~~under as specified in subdivisions (b) to (e), inclusive, of this~~ section, a term of six days will be deemed to have been served for every four days spent in actual custody.

(g) Subdivision (h) shall apply to every prisoner confined in a county jail, city jail, industrial farm, or road camp following arrest and prior to a court's imposition of a state prison sentence for a felony conviction under Section 1170 that is not suspended or a court's order executing a state prison sentence for a felony conviction under Section 1170 that is suspended, except for a prisoner serving a term of imprisonment for either an offense requiring registration as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1 or an offense sentenced pursuant to subdivisions (b) to (i), inclusive, of Section 667 or Section 1170.12.

(h) For each day that a prisoner is confined in or committed to a facility as specified in subdivision (g), one day shall be deducted from his or her period of confinement unless it appears by the record that the prisoner has not satisfactorily complied with the reasonable rules and regulations established by the sheriff, chief of police, or superintendent of an industrial farm or road camp.

SEC. 46. Section 4600 of the Penal Code is amended to read:

4600. (a) Every person who willfully and intentionally breaks down, pulls down, or otherwise destroys or injures any jail, prison,

1 or any public property in any jail or prison, is punishable by a fine
2 not exceeding ten thousand dollars (\$10,000), and by imprisonment
3 in the state prison, except that where the damage or injury to any
4 city, city and county, or county jail property or prison property is
5 determined to be ~~four hundred dollars (\$400)~~ *nine hundred fifty*
6 *dollars (\$950)* or less, that person is guilty of a misdemeanor.

7 (b) In any case in which a person is convicted of violating this
8 section, the court may order the defendant to make restitution to
9 the public entity that owns the property damaged by the defendant.
10 The court shall specify in the order that the public entity that owns
11 the property damaged by the defendant shall not enforce the order
12 until the defendant satisfies all outstanding fines, penalties,
13 assessments, restitution fines, and restitution orders.

14 *SEC. 47. Section 14591 of the Public Resources Code is*
15 *amended to read:*

16 14591. (a) Except as provided in subdivision (b), in addition
17 to any other applicable civil or criminal penalties, any person
18 convicted of a violation of this division is guilty of an infraction,
19 which is punishable by a fine of one hundred dollars (\$100) for
20 each initial separate violation and not more than one thousand
21 dollars (\$1,000) for each subsequent separate violation per day.

22 (b) (1) Every person who, with intent to defraud, takes any of
23 the following actions is guilty of fraud:

24 (A) Submits a false or fraudulent claim for payment pursuant
25 to Section 14573 or 14573.5.

26 (B) Fails to accurately report the number of beverage containers
27 sold, as required by subdivision (b) of Section 14550.

28 (C) Fails to make payments as required by Section 14574.

29 (D) Redeems out-of-state containers, rejected containers, line
30 breakage, or containers that have already been redeemed.

31 (E) Returns redeemed containers to the marketplace for
32 redemption .

33 (F) Brings out-of-state containers, rejected containers, or line
34 breakage to the marketplace for redemption.

35 (G) Submits a false or fraudulent claim for handling fee
36 payments pursuant to Section 14585.

37 (2) If the money obtained or withheld pursuant to paragraph (1)
38 exceeds ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars*
39 *(\$950)*, the fraud is punishable by imprisonment in the county jail
40 for not more than one year or by a fine not exceeding ten thousand

dollars (\$10,000), or by both, or by imprisonment in the state prison for 16 months, two years, or three years, or by a fine not exceeding twenty-five thousand dollars (\$25,000) or twice the late or unpaid payments plus interest, whichever is greater, or by both fine and imprisonment. If the money obtained or withheld pursuant to paragraph (1) equals, or is less than, ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*, the fraud is punishable by imprisonment in the county jail for not more than six months or by a fine not exceeding one thousand dollars (\$1,000), or by both.

(c) For purposes of this section and Chapter 8.5 (commencing with Section 14595), “line breakage” and “rejected container” have the same meanings as defined in the regulations adopted or amended by the department pursuant to this division.

SEC. 48. Section 41955 of the Public Resources Code is amended to read:

41955. If the value of the stolen material is more than fifty dollars (\$50), but less than ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*, a violation of this part may be charged as either a misdemeanor or an infraction. A violation after a second conviction within a 12-month period shall be charged as a misdemeanor punishable pursuant to Section 19 of the Penal Code.

SEC. 49. Section 10851.5 of the Vehicle Code is amended to read:

10851.5. Any person who takes binder chains, required under regulations adopted pursuant to Section 31510, having a value of ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)* or less which chains are not his own, without the consent of the owner thereof, and with intent either permanently or temporarily to deprive the owner thereof of his title to or possession of the binder chains whether with or without intent to steal the same, or any person who is a party or accessory to or an accomplice in the unauthorized taking or stealing is guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for not less than six months or by a fine of not less than one thousand dollars (\$1,000) or by both such fine and imprisonment. The consent of the owner of the binder chain to its taking shall not in any case be presumed or implied because of such owner’s consent on a previous occasion to the taking of the binder chain by the same or a different person.

1 *SEC. 50. Section 42002.4 of the Vehicle Code is amended to*
2 *read:*

3 42002.4. A violation of Section 10751 shall be punished by
4 imprisonment in the county jail not exceeding six months if the
5 value of the property does not exceed ~~four hundred dollars (\$400)~~
6 *nine hundred fifty dollars (\$950)*, and by imprisonment in the
7 county jail not exceeding one year if the value of the property is
8 more than ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars*
9 *(\$950)*.

10 *SEC. 51. Section 10980 of the Welfare and Institutions Code*
11 *is amended to read:*

12 10980. (a) Any person who, willfully and knowingly, with the
13 intent to deceive, makes a false statement or representation or
14 knowingly fails to disclose a material fact in order to obtain aid
15 under the provisions of this division or who, knowing he or she is
16 not entitled thereto, attempts to obtain aid or to continue to receive
17 aid to which he or she is not entitled, or to receive a larger amount
18 than that to which he or she is legally entitled, is guilty of a
19 misdemeanor, punishable by imprisonment in the county jail for
20 a period of not more than six months, by a fine of not more than
21 five hundred dollars (\$500), or by both imprisonment and fine.

22 (b) Any person who knowingly makes more than one application
23 for aid under the provisions of this division with the intent of
24 establishing multiple entitlements for any person for the same
25 period or who makes an application for that aid for a fictitious or
26 nonexistent person or by claiming a false identity for any person
27 is guilty of a felony, punishable by imprisonment in the state prison
28 for a period of 16 months, two years, or three years, by a fine of
29 not more than five thousand dollars (\$5,000), or by both
30 imprisonment and fine; or by imprisonment in the county jail for
31 a period of not more than one year, or by a fine of not more than
32 one thousand dollars (\$1,000), or by both imprisonment and fine.

33 (c) Whenever any person has, willfully and knowingly, with
34 the intent to deceive, by means of false statement or representation,
35 or by failing to disclose a material fact, or by impersonation or
36 other fraudulent device, obtained or retained aid under the
37 provisions of this division for himself or herself or for a child not
38 in fact entitled thereto, the person obtaining this aid shall be
39 punished as follows:

(1) If the total amount of the aid obtained or retained is ~~four~~
~~hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)* or less,
 by imprisonment in the county jail for a period of not more than
 six months, by a fine of not more than five hundred dollars (\$500),
 or by both imprisonment and fine.

(2) If the total amount of the aid obtained or retained is more
 than ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*,
 by imprisonment in the state prison for a period of 16 months, two
 years, or three years, by a fine of not more than five thousand
 dollars (\$5,000), or by both imprisonment and fine; or by
 imprisonment in the county jail for a period of not more than one
 year, by a fine of not more than one thousand dollars (\$1,000), or
 by both imprisonment and fine.

(d) Any person who knowingly uses, transfers, acquires, or
 possesses blank authorizations to participate in the federal Food
 Stamp Program in any manner not authorized by Chapter 10
 (commencing with Section 18900) of Part 6 with the intent to
 defraud is guilty of a felony, punishable by imprisonment in the
 state prison for a period of 16 months, two years, or three years,
 by a fine of not more than five thousand dollars (\$5,000), or by
 both imprisonment and fine.

(e) Any person who counterfeits or alters or knowingly uses,
 transfers, acquires, or possesses counterfeited or altered
 authorizations to participate in the federal Food Stamp Program
 or to receive food stamps or electronically transferred benefits in
 any manner not authorized by the Food Stamp Act of 1964 (Public
 Law 88-525 and all amendments thereto) or the federal regulations
 pursuant to the act is guilty of forgery.

(f) Any person who fraudulently appropriates food stamps,
 electronically transferred benefits, or authorizations to participate
 in the federal Food Stamp Program with which he or she has been
 entrusted pursuant to his or her duties as a public employee is
 guilty of embezzlement of public funds.

(g) Any person who knowingly uses, transfers, sells, purchases,
 or possesses food stamps, electronically transferred benefits, or
 authorizations to participate in the federal Food Stamp Program
 in any manner not authorized by Chapter 10 (commencing with
 Section 18900), of Part 6, or by the federal Food Stamp Act of
 1977 (Public Law 95-113 and all amendments thereto) (1) is guilty
 of a misdemeanor if the face value of the food stamp benefits or

1 the authorizations to participate is ~~four hundred dollars (\$400)~~ *nine*
2 *hundred fifty dollars (\$950)* or less, and shall be punished by
3 imprisonment in the county jail for a period of not more than six
4 months, by a fine of not more than five hundred dollars (\$500), or
5 by both imprisonment and fine, or (2) is guilty of a felony if the
6 face value of the food stamps or the authorizations to participate
7 exceeds ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars*
8 *(\$950)*, and shall be punished by imprisonment in the state prison
9 for a period of 16 months, two years, or three years, by a fine of
10 not more than five thousand dollars (\$5,000), or by both
11 imprisonment and fine, or by imprisonment in the county jail for
12 a period of not more than one year, or by a fine of not more than
13 one thousand dollars (\$1,000), or by both imprisonment and fine.

14 (h) (1) If the violation of subdivision (f) or (g) is committed by
15 means of an electronic transfer of benefits, in addition and
16 consecutive to the penalties for the violation, or attempted
17 violation, of those subdivisions, the court shall impose the
18 following punishment:

19 (A) If the electronic transfer of benefits exceeds fifty thousand
20 dollars (\$50,000), an additional term of one year in state prison.

21 (B) If the electronic transfer of benefits exceeds one hundred
22 fifty thousand dollars (\$150,000), an additional term of two years
23 in state prison.

24 (C) If the electronic transfer of benefits exceeds one million
25 dollars (\$1,000,000), an additional term of three years in state
26 prison.

27 (D) If the electronic transfer of benefits exceeds two million
28 five hundred thousand dollars (\$2,500,000), an additional term of
29 four years.

30 (2) In any accusatory pleading involving multiple charges of
31 violations of subdivision (f) or (g), or both, committed by means
32 of an electronic transfer of benefits, the additional terms provided
33 in paragraph (1) may be imposed if the aggregate losses to the
34 victims from all violations exceed the amounts specified in this
35 paragraph and arise from a common scheme or plan.

36 (i) A person who is punished by an additional term of
37 imprisonment under another provision of law for a violation of
38 subdivision (f) or (g) shall not receive an additional term of
39 imprisonment under subdivision (h).

1 *SEC. 52. Section 15656 of the Welfare and Institutions Code*
2 *is amended to read:*

3 15656. (a) Any person who knows or reasonably should know
4 that a person is an elder or dependent adult and who, under
5 circumstances or conditions likely to produce great bodily harm
6 or death, willfully causes or permits any elder or dependent adult
7 to suffer, or inflicts unjustifiable physical pain or mental suffering
8 upon him or her, or having the care or custody of any elder or
9 dependent adult, willfully causes or permits the person or health
10 of the elder or dependent adult to be injured, or willfully causes
11 or permits the elder or dependent adult to be placed in a situation
12 such that his or her person or health is endangered, is punishable
13 by imprisonment in the county jail not exceeding one year, or in
14 the state prison for two, three, or four years.

15 (b) Any person who knows or reasonably should know that a
16 person is an elder or dependent adult and who, under circumstances
17 or conditions other than those likely to produce great bodily harm
18 or death, willfully causes or permits any elder or dependent adult
19 to suffer, or inflicts unjustifiable physical pain or mental suffering
20 on him or her, or having the care or custody of any elder or
21 dependent adult, willfully causes or permits the person or health
22 of the elder or dependent adult to be injured or willfully causes or
23 permits the elder or dependent adult to be placed in a situation
24 such that his or her person or health may be endangered, is guilty
25 of a misdemeanor.

26 (c) Any caretaker of an elder or a dependent adult who violates
27 any provision of law prescribing theft or embezzlement, with
28 respect to the property of that elder or dependent adult, is
29 punishable by imprisonment in the county jail not exceeding one
30 year, or in the state prison for two, three, or four years when the
31 money, labor, or real or personal property taken is of a value
32 exceeding ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars*
33 (\$950), and by a fine not exceeding one thousand dollars (\$1,000),
34 or by imprisonment in the county jail not exceeding one year, or
35 by both that imprisonment and fine, when the money, labor, or
36 real or personal property taken is of a value not exceeding ~~four~~
37 ~~hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*.

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

(e) Conduct covered in subdivision (b) of Section 15610.57 shall not be subject to this section.

SEC. 53. The Department of Corrections and Rehabilitation shall implement the changes made by this act regarding time credits and parole periods in a reasonable time. However, in light of limited case management resources, it is expected that there will be some delays in determining the amount of additional time credits to be granted against inmate sentences, and in determining the applicability of new periods of parole resulting from changes in law pursuant to this act. An inmate shall have no cause of action or claim for damages because of any additional time spent in custody or on parole due to reasonable delays in implementing the changes in the credit and parole provisions of this act. However, to the extent that excess days in state prison due to delays in implementing this act are identified, they shall be considered as time spent on parole, if any parole period is applicable.

SEC. 54. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SEC. 2:~~

SEC. 55. This act addresses the fiscal emergency declared by the Governor by proclamation on December 1, 2008, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

SEC. 56. This act shall not become operative unless either Assembly Bill 2 or Senate Bill 2 and either Assembly Bill 9 or Senate Bill 9 of the 2009–10 First Extraordinary Session are chaptered.

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