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CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 1844**

**Introduced by Assembly Member Fletcher**

**(Principal coauthors: Assembly Members Anderson, Block, Garrick,  
Gilmore, Nielsen, and Salas)**

*(Principal coauthor: Senator Alquist)*

*(Principal coauthors: Senators Hollingsworth and Wyland)*

**(Coauthors: Assembly Members Adams, Arambula, Bill Berryhill,  
Tom Berryhill, Blakeslee, Bradford, Buchanan, Caballero,  
Charles Calderon, Chesbro, Conway, Cook, Coto, Davis, De Leon,  
DeVore, Emmerson, Fong, Fuller, Gaines, Galgiani, Hagman,  
Hall, Harkey, Hill, Huber, Huffman, Jeffries, Knight, Lieu, Logue,  
Ma, Mendoza, Miller, Nava, Nestande, Niello, Norby, Portantino,  
Silva, Smyth, Solorio, Audra Strickland, Swanson, Torlakson,  
Torres, Torrico, Tran, and Villines)**

**(Coauthors: Senators Cogdill, Correa, Cox, Denham, Dutton, Harman,  
Huff, Maldonado, and Runner)**

February 12, 2010

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~~An act to amend Sections 220, 264, 264.1, 286, 288, 288a, 289,  
667.61, 3000, and 3000.1 of, and to add Section 647.9 to, the Penal An  
act to amend Sections 220, 264, 264.1, 286, 288, 288a, 289, 290.04,  
290.05, 290.06, 290.46, 666, 667.61, 1203.067, 2962, 3000, 3000.1,  
3008, and 13887 of, and to add Sections 290.09, 3053.8, and 9003 to,~~

*the Penal Code, and to amend Section 18846.3 of the Revenue and Taxation Code, relating to sex crimes.*

## LEGISLATIVE COUNSEL'S DIGEST

AB 1844, as amended, Fletcher. Sex offenders: punishment: parole.

Under existing law, an assault with the intent to commit mayhem, rape, sodomy, oral copulation, or with the intent to commit, by force, rape, spousal rape, or sexual penetration in concert with another, is punishable by imprisonment in the state prison for 2, 4, or 6 years, except as specified.

This bill would provide that an assault of a person under 18 years of age with the intent to commit rape, sodomy, oral copulation, or with the intent to commit, by force, rape, spousal rape, or sexual penetration in concert with another, would be punishable by imprisonment in state prison for 5, 7, or 9 years.

Under existing law, rape, sodomy accomplished against the victim's will, oral copulation accomplished against the victim's will, and sexual penetration accomplished against the victim's will is punishable by imprisonment in state prison for 3, 6, or 8 years. Rape, sodomy, and oral copulation committed in concert with another is punishable by imprisonment in the state prison for 5, 7, or 9 years.

This bill would provide that the punishment for these specified crimes upon a child who is under 14 years of age is punishable by imprisonment in state prison for ~~6, 12, or 16~~ 9, 11, or 13 years, and if committed upon a minor who is 14 years of age or older is punishable by imprisonment in state prison for ~~6~~ 7, 9, or 11 years. This bill would provide that if these crimes are committed in concert with another person upon a child who is under 14 years of age they are punishable in state prison for ~~7, 13, or 17~~ 10, 12, or 14 years and if committed in concert upon a minor who is 14 years of age or older by imprisonment for ~~7, 10, or 12~~ 9, or 11 years. By increasing the punishment for crimes, this bill would impose a state-mandated local program.

Under existing law, a person who commits an act of rape, rape or sexual penetration in concert, sodomy, oral copulation, or sexual penetration, when the act is committed upon a child who is under 14 years of age and 7 or more years younger than the person, is guilty of aggravated sexual assault of a child. Aggravated sexual assault of a child under these circumstances is punishable by imprisonment in state prison for 15 years to life.

This bill would provide that it does not preclude prosecution under this existing law.

Under existing law, a person who commits any lewd or lascivious act upon a child who is under 14 years of age by use of force or fear is guilty of a felony punishable by imprisonment in state prison for 3, 6, or 8 years.

This bill would increase the punishment for this crime to imprisonment in the state prison for ~~6, 12, or 16~~ 5, 8, or 10 years. By increasing the punishment for a crime, this bill would impose a state-mandated local program.

~~Under existing law, a person who commits any lewd or lascivious act upon a dependent person, as defined, by use of force or fear is guilty of a felony punishable by imprisonment in state prison for 3, 6, or 8 years.~~

~~This bill would increase the punishment for this crime to imprisonment in the state prison for 6, 9, or 11 years. By increasing the punishment for a crime, this bill would impose a state-mandated local program.~~

Existing law, as amended by Proposition 83 of the November 7, 2006, statewide general election, requires a person convicted of certain felonies under specified circumstances to be committed to prison for a term of years to life.

This bill would provide that these felonies committed under the above-specified circumstances upon a victim who is a child under 14 years of age shall be punished by imprisonment in state prison for life without the possibility of parole if the offender is 18 years of age or older or 25 years to life if the offender is under 18 years of age. This bill would add as a circumstance the infliction of bodily harm, as defined, on a victim who is a child under 14 years of age to the list of specified circumstances that would result in this imprisonment.

This bill would provide that when rape, spousal rape, rape in concert, or sexual penetration, sodomy, or oral copulation committed against the victim's will are committed under 2 of a specified list of circumstances, ~~the punishment shall be imprisonment in state prison for 25 years to life, or if committed upon a person who is a child 14 years of age or older, for 25 years to life if committed under one of the specified circumstances, or for life without possibility of parole if committed under 2 or more of the specified circumstances.~~ *upon a minor 14 years of age or older, the punishment shall be imprisonment in state prison for life without the possibility of parole if the offender is 18 years of age or older or 25 years to life if the offender is under 18 years of*

*age, or for 25 years to life if committed under one of the specified circumstances.*

Under existing law, a person convicted of certain felony sex offenses shall be committed to prison for a term of 15 years to life if during the commission of the felony the defendant inflicted great bodily injury on the victim.

~~This bill would change the required sentence to 25 years to life for this type of offense; provide that any person who is convicted of certain sex offenses under specified circumstances, upon a victim who is a child under 14 years of age, shall be punished by imprisonment in the state prison for 25 years to life. The bill would provide a life term of imprisonment for any person convicted of a lewd or lascivious act where he or she inflicted bodily harm.~~

Existing law makes it unlawful for a person who is required to register as a sex offender to reside within 2,000 feet of a public or private school, or park where children regularly gather. Existing law also provides that any person required to register as a sex offender who comes into any school building or upon any school ground without lawful business and written permission is guilty of a misdemeanor.

~~This bill would make it a misdemeanor for a person who is required to register as a sex offender on parole for specified sex offenses to enter any park where children regularly gather without written express permission from either the person's parole agent, if the person is on parole, or the chief administrative officer of the park, if the person is not on parole.~~

Under existing law a prisoner is generally released on parole for a period not exceeding 3 years, except that inmates sentenced for certain enumerated violent felonies are released on parole for a period not exceeding 5 years.

~~This bill would change this period of parole for these violent felons from a maximum of 5 years to a maximum of 10 years or for the felon's life in specified circumstances. This bill would impose lifetime parole on habitual sex offenders whose victims were under 14 years of age and on inmates sentenced for lewd or lascivious acts committed upon the body of a minor, continuous sexual abuse of a child, specified sexual conduct with a child 10 years of age or younger, other specified sexual offenses against a victim under 14 years of age, and aggravated sexual assault of a child.~~

Under existing law, the period of parole for an inmate who has received a life sentence for certain specified sex offenses is for a period not exceeding 10 years.

~~This bill would include in this category of parolees, inmates who have received a life sentence for kidnapping with intent to commit certain specified crimes.~~

*This bill would require lifetime parole for habitual sex offenders and persons convicted of specified sex crimes, including, among others, aggravated sexual assault of a child. The bill would impose a 10-year parole period on inmates sentenced for lewd or lascivious acts committed upon the body of a minor and other specified sexual offenses against a victim under 14 years of age. The bill would impose a 20-year parole period on inmates convicted and required to register as sex offenders for rape, sodomy, lewd or lascivious acts, continuous sexual abuse of a child, and other specified sex crimes, in which one or more of the victims of the offense was a child under 14 years of age, as specified.*

*Existing law provides that every person who, having been convicted of petty theft, grand theft, auto theft, burglary, carjacking, robbery, or receiving stolen property, is subsequently convicted of petty theft, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison.*

*This bill would require that most persons be convicted 3 or more times of a qualifying offense to be subject to imprisonment in the state prison for petty theft. Persons required to register as sex offenders, or with a prior serious or violent felony conviction, or who have been previously sentenced under the 3 strikes law would remain subject to imprisonment in the state prison with one prior qualifying offense.*

*Existing law provides that the sex offender risk assessment tool for use with selected populations shall be known as the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO). Existing law provides that the SARATSO for adult males required to register as sex offenders shall be the STATIC-99 risk assessment scale. Existing law requires the SARATSO Review Committee to determine whether the STATIC-99 should be supplemented with an actuarial instrument that measures dynamic risk factors or whether it should be replaced with a different risk assessment tool.*

*This bill would provide that the STATIC-99 shall be the SARATSO static tool for adult males. The bill would require the SARATSO Review Committee, on or before January 1, 2012, to select an actuarial*

*instrument that measures dynamic risk factors and an actuarial instrument that measures risk of future sexual violence to be administered as specified. The bill would provide that persons who administer the dynamic SARATSO and the future violence SARATSO shall be trained, as specified. The bill would make other conforming changes.*

*Existing law provides that with respect to a person who has been convicted of specified sex crimes, the Department of Justice shall make available to the public via the department's Internet Web site certain identifying and criminal history information.*

*This bill would require the department to also make available the person's static SARATSO score and information on an elevated risk level based on the SARATSO future violence tool.*

*Existing law requires that persons convicted of certain sex crimes be evaluated by the county probation department and requires that if a defendant is granted probation, the court shall order the defendant to be placed in an appropriate treatment program designed to deal with child molestation or sexual offenders, if an appropriate program is available in the county.*

*This bill would remove the requirement that the defendant be placed in an appropriate treatment program but would instead impose specified conditions, including participation in an approved sex offender management program, on persons released on formal supervised probation for an offense requiring registration as a sex offender, as specified. By imposing additional requirements on county probation departments, this bill would impose a state-mandated local program. The bill would similarly require participation in an approved sex offender management program, as a condition of parole, for persons released on parole for an offense that requires registration as a sex offender, as specified.*

*Existing law requires that, as a condition of parole, prisoners who meet specified criteria be treated by the State Department of Mental Health. Existing law requires that prior to release on parole, these prisoners be evaluated, as specified. Existing law provides that only if both independent professionals who evaluate the prisoner, as required, concur with the chief psychiatrist's certification shall treatment by the department be required.*

*This bill would instead make these provisions applicable to the prisoner if at least one of the independent professionals concurs with the chief psychiatrist's certification.*

*Under the Personal Income Tax Law, individual taxpayers are allowed to contribute amounts in excess of their tax liability for the support of specified funds or accounts, including, among others, the California Sexual Violence Victim Services Fund. Existing law provides for the appearance of this fund on the tax return until January 1, 2011, unless a later enacted statute deletes or extends that date.*

*This bill would delete the January 1, 2011, repeal date.*

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

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

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

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

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

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

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

- 1 SECTION 1. This act shall be known as the Chelsea King
- 2 Child Predator Prevention Act of 2010.
- 3 SEC. 2. Section 220 of the Penal Code is amended to read:
- 4 220. (a) (1) Except as provided in subdivision (b), any person
- 5 who assaults another with intent to commit mayhem, rape, sodomy,
- 6 oral copulation, or any violation of Section 264.1, 288, or 289 shall
- 7 be punished by imprisonment in the state prison for two, four, or
- 8 six years.
- 9 (2) Except as provided in subdivision (b), any person who
- 10 assaults another person under 18 years of age with the intent to
- 11 commit rape, sodomy, oral copulation, or any violation of Section
- 12 264.1, 288, or 289 shall be punished by imprisonment in the state
- 13 prison for five, seven, or nine years.

(b) Any person who, in the commission of a burglary of the first degree, as defined in subdivision (a) of Section 460, assaults another with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 shall be punished by imprisonment in the state prison for life with the possibility of parole.

SEC. 3. Section 264 of the Penal Code is amended to read:

264. (a) Except as provided in subdivision (c), rape, as defined in Section 261 or 262, is punishable by imprisonment in the state prison for three, six, or eight years.

(b) In addition to any punishment imposed under this section the judge may assess a fine not to exceed seventy dollars (\$70) against any person who violates Section 261 or 262 with the proceeds of this fine to be used in accordance with Section 1463.23. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

(c) (1) Any person who commits rape in violation of paragraph (2) of subdivision (a) of Section 261 upon a child who is under 14 years of age shall be punished by imprisonment in the state prison for ~~6, 12, or 16~~ 9, 11, or 13 years.

(2) Any person who commits rape in violation of paragraph (2) of subdivision (a) of Section 261 upon a minor who is 14 years of age or older shall be punished by imprisonment in the state prison for ~~6~~ 7, 9, or 11 years.

(3) This subdivision does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

SEC. 4. Section 264.1 of the Penal Code is amended to read:

264.1. (a) The provisions of Section 264 notwithstanding, in any case in which the defendant, voluntarily acting in concert with another person, by force or violence and against the will of the victim, committed an act described in Section 261, 262, or 289, either personally or by aiding and abetting the other person, that fact shall be charged in the indictment or information and if found to be true by the jury, upon a jury trial, or if found to be true by the court, upon a court trial, or if admitted by the defendant, the defendant shall suffer confinement in the state prison for five, seven, or nine years.



(b) (1) If the victim of an offense described in subdivision (a) is a child who is under 14 years of age, the defendant shall be punished by imprisonment in the state prison for ~~7, 13, or 17~~ 10, 12, or 14 years.

(2) If the victim of an offense described in subdivision (a) is a minor who is 14 years of age or older, the defendant shall be punished by imprisonment in the state prison for ~~7, 10, or 12~~ 9, or 11 years.

(3) This subdivision does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

SEC. 5. Section 286 of the Penal Code is amended to read:

286. (a) Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person. Any sexual penetration, however slight, is sufficient to complete the crime of sodomy.

(b) (1) Except as provided in Section 288, any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

(2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of sodomy with another person who is under 16 years of age shall be guilty of a felony.

(c) (1) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(2) (A) Any person who commits an act of sodomy when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of sodomy with another person who is under 14 years of age when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for ~~6, 12, or 16~~ 9, 11, or 13 years.

(C) Any person who commits an act of sodomy with another person who is a minor 14 years of age or older when the act is accomplished against the victim's will by means of force, violence,

1 duress, menace, or fear of immediate and unlawful bodily injury  
2 on the victim or another person shall be punished by imprisonment  
3 in the state prison for ~~6~~ 7, 9, or 11 years.

4 (D) This paragraph does not preclude prosecution under Section  
5 269, Section 288.7, or any other provision of law.

6 (3) Any person who commits an act of sodomy where the act  
7 is accomplished against the victim's will by threatening to retaliate  
8 in the future against the victim or any other person, and there is a  
9 reasonable possibility that the perpetrator will execute the threat,  
10 shall be punished by imprisonment in the state prison for three,  
11 six, or eight years.

12 (d) (1) Any person who, while voluntarily acting in concert  
13 with another person, either personally or aiding and abetting that  
14 other person, commits an act of sodomy when the act is  
15 accomplished against the victim's will by means of force or fear  
16 of immediate and unlawful bodily injury on the victim or another  
17 person or where the act is accomplished against the victim's will  
18 by threatening to retaliate in the future against the victim or any  
19 other person, and there is a reasonable possibility that the  
20 perpetrator will execute the threat, shall be punished by  
21 imprisonment in the state prison for five, seven, or nine years.

22 (2) Any person who, while voluntarily acting in concert with  
23 another person, either personally or aiding and abetting that other  
24 person, commits an act of sodomy upon a victim who is under 14  
25 years of age, when the act is accomplished against the victim's  
26 will by means of force or fear of immediate and unlawful bodily  
27 injury on the victim or another person, shall be punished by  
28 imprisonment in the state prison for ~~7, 13, or 17~~ 10, 12, or 14 years.

29 (3) Any person who, while voluntarily acting in concert with  
30 another person, either personally or aiding and abetting that other  
31 person, commits an act of sodomy upon a victim who is a minor  
32 14 years of age or older, when the act is accomplished against the  
33 victim's will by means of force or fear of immediate and unlawful  
34 bodily injury on the victim or another person, shall be punished  
35 by imprisonment in the state prison for ~~7, 10, or 12~~ 9, or 11 years.

36 (4) This subdivision does not preclude prosecution under Section  
37 269, Section 288.7, or any other provision of law.

38 (e) Any person who participates in an act of sodomy with any  
39 person of any age while confined in any state prison, as defined  
40 in Section 4504, or in any local detention facility, as defined in

1 Section 6031.4, shall be punished by imprisonment in the state  
2 prison, or in a county jail for not more than one year.

3 (f) Any person who commits an act of sodomy, and the victim  
4 is at the time unconscious of the nature of the act and this is known  
5 to the person committing the act, shall be punished by  
6 imprisonment in the state prison for three, six, or eight years. As  
7 used in this subdivision, “unconscious of the nature of the act”  
8 means incapable of resisting because the victim meets one of the  
9 following conditions:

10 (1) Was unconscious or asleep.

11 (2) Was not aware, knowing, perceiving, or cognizant that the  
12 act occurred.

13 (3) Was not aware, knowing, perceiving, or cognizant of the  
14 essential characteristics of the act due to the perpetrator’s fraud in  
15 fact.

16 (4) Was not aware, knowing, perceiving, or cognizant of the  
17 essential characteristics of the act due to the perpetrator’s fraudulent  
18 representation that the sexual penetration served a professional  
19 purpose when it served no professional purpose.

20 (g) Except as provided in subdivision (h), a person who commits  
21 an act of sodomy, and the victim is at the time incapable, because  
22 of a mental disorder or developmental or physical disability, of  
23 giving legal consent, and this is known or reasonably should be  
24 known to the person committing the act, shall be punished by  
25 imprisonment in the state prison for three, six, or eight years.  
26 Notwithstanding the existence of a conservatorship pursuant to  
27 the Lanterman-Petris-Short Act (Part 1 (commencing with Section  
28 5000) of Division 5 of the Welfare and Institutions Code), the  
29 prosecuting attorney shall prove, as an element of the crime, that  
30 a mental disorder or developmental or physical disability rendered  
31 the alleged victim incapable of giving consent.

32 (h) Any person who commits an act of sodomy, and the victim  
33 is at the time incapable, because of a mental disorder or  
34 developmental or physical disability, of giving legal consent, and  
35 this is known or reasonably should be known to the person  
36 committing the act, and both the defendant and the victim are at  
37 the time confined in a state hospital for the care and treatment of  
38 the mentally disordered or in any other public or private facility  
39 for the care and treatment of the mentally disordered approved by  
40 a county mental health director, shall be punished by imprisonment

1 in the state prison, or in a county jail for not more than one year.  
2 Notwithstanding the existence of a conservatorship pursuant to  
3 the Lanterman-Petris-Short Act (Part 1 (commencing with Section  
4 5000) of Division 5 of the Welfare and Institutions Code), the  
5 prosecuting attorney shall prove, as an element of the crime, that  
6 a mental disorder or developmental or physical disability rendered  
7 the alleged victim incapable of giving legal consent.

8 (i) Any person who commits an act of sodomy, where the victim  
9 is prevented from resisting by an intoxicating or anesthetic  
10 substance, or any controlled substance, and this condition was  
11 known, or reasonably should have been known by the accused,  
12 shall be punished by imprisonment in the state prison for three,  
13 six, or eight years.

14 (j) Any person who commits an act of sodomy, where the victim  
15 submits under the belief that the person committing the act is the  
16 victim's spouse, and this belief is induced by any artifice, pretense,  
17 or concealment practiced by the accused, with intent to induce the  
18 belief, shall be punished by imprisonment in the state prison for  
19 three, six, or eight years.

20 (k) Any person who commits an act of sodomy, where the act  
21 is accomplished against the victim's will by threatening to use the  
22 authority of a public official to incarcerate, arrest, or deport the  
23 victim or another, and the victim has a reasonable belief that the  
24 perpetrator is a public official, shall be punished by imprisonment  
25 in the state prison for three, six, or eight years.

26 As used in this subdivision, "public official" means a person  
27 employed by a governmental agency who has the authority, as part  
28 of that position, to incarcerate, arrest, or deport another. The  
29 perpetrator does not actually have to be a public official.

30 (l) As used in subdivisions (c) and (d), "threatening to retaliate"  
31 means a threat to kidnap or falsely imprison, or inflict extreme  
32 pain, serious bodily injury, or death.

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

40 SEC. 6. Section 288 of the Penal Code is amended to read:

1     288. (a) ~~Any~~ Except as provided in subdivision (i), any person  
2 who willfully and lewdly commits any lewd or lascivious act,  
3 including any of the acts constituting other crimes provided for in  
4 Part 1, upon or with the body, or any part or member thereof, of  
5 a child who is under the age of 14 years, with the intent of arousing,  
6 appealing to, or gratifying the lust, passions, or sexual desires of  
7 that person or the child, is guilty of a felony and shall be punished  
8 by imprisonment in the state prison for three, six, or eight years.

9     (b) (1) Any person who commits an act described in subdivision  
10 (a) by use of force, violence, duress, menace, or fear of immediate  
11 and unlawful bodily injury on the victim or another person, is  
12 guilty of a felony and shall be punished by imprisonment in the  
13 state prison for ~~6, 12, or 16~~ 5, 8, or 10 years.

14     (2) Any person who is a caretaker and commits an act described  
15 in subdivision (a) upon a dependent person by use of force,  
16 violence, duress, menace, or fear of immediate and unlawful bodily  
17 injury on the victim or another person, with the intent described  
18 in subdivision (a), is guilty of a felony and shall be punished by  
19 imprisonment in the state prison for ~~6, 9, or 11~~ 3, 6, or 8 years.

20     (c) (1) Any person who commits an act described in subdivision  
21 (a) with the intent described in that subdivision, and the victim is  
22 a child of 14 or 15 years, and that person is at least 10 years older  
23 than the child, is guilty of a public offense and shall be punished  
24 by imprisonment in the state prison for one, two, or three years,  
25 or by imprisonment in a county jail for not more than one year. In  
26 determining whether the person is at least 10 years older than the  
27 child, the difference in age shall be measured from the birth date  
28 of the person to the birth date of the child.

29     (2) Any person who is a caretaker and commits an act described  
30 in subdivision (a) upon a dependent person, with the intent  
31 described in subdivision (a), is guilty of a public offense and shall  
32 be punished by imprisonment in the state prison for one, two, or  
33 three years, or by imprisonment in a county jail for not more than  
34 one year.

35     (d) In any arrest or prosecution under this section or Section  
36 288.5, the peace officer, district attorney, and the court shall  
37 consider the needs of the child victim or dependent person and  
38 shall do whatever is necessary, within existing budgetary resources,  
39 and constitutionally permissible to prevent psychological harm to

1 the child victim or to prevent psychological harm to the dependent  
2 person victim resulting from participation in the court process.

3 (e) Upon the conviction of any person for a violation of  
4 subdivision (a) or (b), the court may, in addition to any other  
5 penalty or fine imposed, order the defendant to pay an additional  
6 fine not to exceed ten thousand dollars (\$10,000). In setting the  
7 amount of the fine, the court shall consider any relevant factors,  
8 including, but not limited to, the seriousness and gravity of the  
9 offense, the circumstances of its commission, whether the  
10 defendant derived any economic gain as a result of the crime, and  
11 the extent to which the victim suffered economic losses as a result  
12 of the crime. Every fine imposed and collected under this section  
13 shall be deposited in the Victim-Witness Assistance Fund to be  
14 available for appropriation to fund child sexual exploitation and  
15 child sexual abuse victim counseling centers and prevention  
16 programs pursuant to Section 13837.

17 If the court orders a fine imposed pursuant to this subdivision,  
18 the actual administrative cost of collecting that fine, not to exceed  
19 2 percent of the total amount paid, may be paid into the general  
20 fund of the county treasury for the use and benefit of the county.

21 (f) For purposes of paragraph (2) of subdivision (b) and  
22 paragraph (2) of subdivision (c), the following definitions apply:

23 (1) "Caretaker" means an owner, operator, administrator,  
24 employee, independent contractor, agent, or volunteer of any of  
25 the following public or private facilities when the facilities provide  
26 care for elder or dependent persons:

27 (A) Twenty-four hour health facilities, as defined in Sections  
28 1250, 1250.2, and 1250.3 of the Health and Safety Code.

29 (B) Clinics.

30 (C) Home health agencies.

31 (D) Adult day health care centers.

32 (E) Secondary schools that serve dependent persons and  
33 postsecondary educational institutions that serve dependent persons  
34 or elders.

35 (F) Sheltered workshops.

36 (G) Camps.

37 (H) Community care facilities, as defined by Section 1402 of  
38 the Health and Safety Code, and residential care facilities for the  
39 elderly, as defined in Section 1569.2 of the Health and Safety  
40 Code.

1 (I) Respite care facilities.

2 (J) Foster homes.

3 (K) Regional centers for persons with developmental disabilities.

4 (L) A home health agency licensed in accordance with Chapter  
5 8 (commencing with Section 1725) of Division 2 of the Health  
6 and Safety Code.

7 (M) An agency that supplies in-home supportive services.

8 (N) Board and care facilities.

9 (O) Any other protective or public assistance agency that  
10 provides health services or social services to elder or dependent  
11 persons, including, but not limited to, in-home supportive services,  
12 as defined in Section 14005.14 of the Welfare and Institutions  
13 Code.

14 (P) Private residences.

15 (2) “Board and care facilities” means licensed or unlicensed  
16 facilities that provide assistance with one or more of the following  
17 activities:

18 (A) Bathing.

19 (B) Dressing.

20 (C) Grooming.

21 (D) Medication storage.

22 (E) Medical dispensation.

23 (F) Money management.

24 (3) “Dependent person” means any person who has a physical  
25 or mental impairment that substantially restricts his or her ability  
26 to carry out normal activities or to protect his or her rights,  
27 including, but not limited to, persons who have physical or  
28 developmental disabilities or whose physical or mental abilities  
29 have significantly diminished because of age. “Dependent person”  
30 includes any person who is admitted as an inpatient to a 24-hour  
31 health facility, as defined in Sections 1250, 1250.2, and 1250.3 of  
32 the Health and Safety Code.

33 (g) Paragraph (2) of subdivision (b) and paragraph (2) of  
34 subdivision (c) apply to the owners, operators, administrators,  
35 employees, independent contractors, agents, or volunteers working  
36 at these public or private facilities and only to the extent that the  
37 individuals personally commit, conspire, aid, abet, or facilitate any  
38 act prohibited by paragraph (2) of subdivision (b) and paragraph  
39 (2) of subdivision (c).

(h) Paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c) do not apply to a caretaker who is a spouse of, or who is in an equivalent domestic relationship with, the dependent person under care.

(i) (1) *Any person convicted of a violation of subdivision (a) shall be imprisoned in the state prison for life with the possibility of parole if the defendant personally inflicted bodily harm upon the victim.*

(2) *The penalty provided in this subdivision shall only apply if the fact that the defendant personally inflicted bodily harm upon the victim is pled and proved.*

(3) *As used in this subdivision, “bodily harm” means any substantial physical injury resulting from the use of force that is more than the force necessary to commit the offense.*

SEC. 7. Section 288a of the Penal Code is amended to read:

288a. (a) Oral copulation is the act of copulating the mouth of one person with the sexual organ or anus of another person.

(b) (1) Except as provided in Section 288, any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of oral copulation with another person who is under 16 years of age is guilty of a felony.

(c) (1) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(2) (A) Any person who commits an act of oral copulation when the act is accomplished against the victim’s will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of oral copulation upon a person who is under 14 years of age, when the act is accomplished against the victim’s will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for ~~6, 12, or 16~~ 8, 10, or 12 years.



1 (C) Any person who commits an act of oral copulation upon a  
2 minor who is 14 years of age or older, when the act is accomplished  
3 against the victim's will by means of force, violence, duress,  
4 menace, or fear of immediate and unlawful bodily injury on the  
5 victim or another person, shall be punished by imprisonment in  
6 the state prison for 6, ~~9, or 11~~ 8, or 10 years.

7 (D) This paragraph does not preclude prosecution under Section  
8 269, Section 288.7, or any other provision of law.

9 (3) Any person who commits an act of oral copulation where  
10 the act is accomplished against the victim's will by threatening to  
11 retaliate in the future against the victim or any other person, and  
12 there is a reasonable possibility that the perpetrator will execute  
13 the threat, shall be punished by imprisonment in the state prison  
14 for three, six, or eight years.

15 (d) (1) Any person who, while voluntarily acting in concert  
16 with another person, either personally or by aiding and abetting  
17 that other person, commits an act of oral copulation (1) when the  
18 act is accomplished against the victim's will by means of force or  
19 fear of immediate and unlawful bodily injury on the victim or  
20 another person, or (2) where the act is accomplished against the  
21 victim's will by threatening to retaliate in the future against the  
22 victim or any other person, and there is a reasonable possibility  
23 that the perpetrator will execute the threat, or (3) where the victim  
24 is at the time incapable, because of a mental disorder or  
25 developmental or physical disability, of giving legal consent, and  
26 this is known or reasonably should be known to the person  
27 committing the act, shall be punished by imprisonment in the state  
28 prison for five, seven, or nine years. Notwithstanding the  
29 appointment of a conservator with respect to the victim pursuant  
30 to the provisions of the Lanterman-Petris-Short Act (Part 1  
31 (commencing with Section 5000) of Division 5 of the Welfare and  
32 Institutions Code), the prosecuting attorney shall prove, as an  
33 element of the crime described under paragraph (3), that a mental  
34 disorder or developmental or physical disability rendered the  
35 alleged victim incapable of giving legal consent.

36 (2) Any person who, while voluntarily acting in concert with  
37 another person, either personally or aiding and abetting that other  
38 person, commits an act of oral copulation upon a victim who is  
39 under 14 years of age, when the act is accomplished against the  
40 victim's will by means of force or fear of immediate and unlawful

1   bodily injury on the victim or another person, shall be punished  
2   by imprisonment in the state prison for ~~7, 13, or 17~~ 10, 12, or 14  
3   years.

4   (3) Any person who, while voluntarily acting in concert with  
5   another person, either personally or aiding and abetting that other  
6   person, commits an act of oral copulation upon a victim who is a  
7   minor 14 years of age or older, when the act is accomplished  
8   against the victim's will by means of force or fear of immediate  
9   and unlawful bodily injury on the victim or another person, shall  
10   be punished by imprisonment in the state prison for ~~7~~ 8, 10, or 12  
11   years.

12   (4) This paragraph does not preclude prosecution under Section  
13   269, Section 288.7, or any other provision of law.

14   (e) Any person who participates in an act of oral copulation  
15   while confined in any state prison, as defined in Section 4504 or  
16   in any local detention facility as defined in Section 6031.4, shall  
17   be punished by imprisonment in the state prison, or in a county  
18   jail for a period of not more than one year.

19   (f) Any person who commits an act of oral copulation, and the  
20   victim is at the time unconscious of the nature of the act and this  
21   is known to the person committing the act, shall be punished by  
22   imprisonment in the state prison for a period of three, six, or eight  
23   years. As used in this subdivision, "unconscious of the nature of  
24   the act" means incapable of resisting because the victim meets one  
25   of the following conditions:

26   (1) Was unconscious or asleep.

27   (2) Was not aware, knowing, perceiving, or cognizant that the  
28   act occurred.

29   (3) Was not aware, knowing, perceiving, or cognizant of the  
30   essential characteristics of the act due to the perpetrator's fraud in  
31   fact.

32   (4) Was not aware, knowing, perceiving, or cognizant of the  
33   essential characteristics of the act due to the perpetrator's fraudulent  
34   representation that the oral copulation served a professional purpose  
35   when it served no professional purpose.

36   (g) Except as provided in subdivision (h), any person who  
37   commits an act of oral copulation, and the victim is at the time  
38   incapable, because of a mental disorder or developmental or  
39   physical disability, of giving legal consent, and this is known or  
40   reasonably should be known to the person committing the act,

1 shall be punished by imprisonment in the state prison, for three,  
2 six, or eight years. Notwithstanding the existence of a  
3 conservatorship pursuant to the provisions of the  
4 Lanterman-Petris-Short Act (Part 1 (commencing with Section  
5 5000) of Division 5 of the Welfare and Institutions Code), the  
6 prosecuting attorney shall prove, as an element of the crime, that  
7 a mental disorder or developmental or physical disability rendered  
8 the alleged victim incapable of giving consent.

9 (h) Any person who commits an act of oral copulation, and the  
10 victim is at the time incapable, because of a mental disorder or  
11 developmental or physical disability, of giving legal consent, and  
12 this is known or reasonably should be known to the person  
13 committing the act, and both the defendant and the victim are at  
14 the time confined in a state hospital for the care and treatment of  
15 the mentally disordered or in any other public or private facility  
16 for the care and treatment of the mentally disordered approved by  
17 a county mental health director, shall be punished by imprisonment  
18 in the state prison, or in a county jail for a period of not more than  
19 one year. Notwithstanding the existence of a conservatorship  
20 pursuant to the provisions of the Lanterman-Petris-Short Act (Part  
21 1 (commencing with Section 5000) of Division 5 of the Welfare  
22 and Institutions Code), the prosecuting attorney shall prove, as an  
23 element of the crime, that a mental disorder or developmental or  
24 physical disability rendered the alleged victim incapable of giving  
25 legal consent.

26 (i) Any person who commits an act of oral copulation, where  
27 the victim is prevented from resisting by any intoxicating or  
28 anesthetic substance, or any controlled substance, and this condition  
29 was known, or reasonably should have been known by the accused,  
30 shall be punished by imprisonment in the state prison for a period  
31 of three, six, or eight years.

32 (j) Any person who commits an act of oral copulation, where  
33 the victim submits under the belief that the person committing the  
34 act is the victim's spouse, and this belief is induced by any artifice,  
35 pretense, or concealment practiced by the accused, with intent to  
36 induce the belief, shall be punished by imprisonment in the state  
37 prison for a period of three, six, or eight years.

38 (k) Any person who commits an act of oral copulation, where  
39 the act is accomplished against the victim's will by threatening to  
40 use the authority of a public official to incarcerate, arrest, or deport

1 the victim or another, and the victim has a reasonable belief that  
2 the perpetrator is a public official, shall be punished by  
3 imprisonment in the state prison for a period of three, six, or eight  
4 years.

5 As used in this subdivision, “public official” means a person  
6 employed by a governmental agency who has the authority, as part  
7 of that position, to incarcerate, arrest, or deport another. The  
8 perpetrator does not actually have to be a public official.

9 (l) As used in subdivisions (c) and (d), “threatening to retaliate”  
10 means a threat to kidnap or falsely imprison, or to inflict extreme  
11 pain, serious bodily injury, or death.

12 (m) In addition to any punishment imposed under this section,  
13 the judge may assess a fine not to exceed seventy dollars (\$70)  
14 against any person who violates this section, with the proceeds of  
15 this fine to be used in accordance with Section 1463.23. The court  
16 shall, however, take into consideration the defendant’s ability to  
17 pay, and no defendant shall be denied probation because of his or  
18 her inability to pay the fine permitted under this subdivision.

19 SEC. 8. Section 289 of the Penal Code is amended to read:

20 289. (a) (1) (A) Any person who commits an act of sexual  
21 penetration when the act is accomplished against the victim’s will  
22 by means of force, violence, duress, menace, or fear of immediate  
23 and unlawful bodily injury on the victim or another person shall  
24 be punished by imprisonment in the state prison for three, six, or  
25 eight years.

26 (B) Any person who commits an act of sexual penetration upon  
27 a child who is under 14 years of age, when the act is accomplished  
28 against the victim’s will by means of force, violence, duress,  
29 menace, or fear of immediate and unlawful bodily injury on the  
30 victim or another person, shall be punished by imprisonment in  
31 the state prison for ~~6, 12, or 16~~ 8, 10, or 12 years.

32 (C) Any person who commits an act of sexual penetration upon  
33 a minor who is 14 years of age or older, when the act is  
34 accomplished against the victim’s will by means of force, violence,  
35 duress, menace, or fear of immediate and unlawful bodily injury  
36 on the victim or another person, shall be punished by imprisonment  
37 in the state prison for ~~6, 9, or 11~~ 8, or 10 years.

38 (D) This paragraph does not preclude prosecution under Section  
39 269, Section 288.7, or any other provision of law.

1 (2) Any person who commits an act of sexual penetration when  
2 the act is accomplished against the victim's will by threatening to  
3 retaliate in the future against the victim or any other person, and  
4 there is a reasonable possibility that the perpetrator will execute  
5 the threat, shall be punished by imprisonment in the state prison  
6 for three, six, or eight years.

7 (b) Except as provided in subdivision (c), any person who  
8 commits an act of sexual penetration, and the victim is at the time  
9 incapable, because of a mental disorder or developmental or  
10 physical disability, of giving legal consent, and this is known or  
11 reasonably should be known to the person committing the act or  
12 causing the act to be committed, shall be punished by imprisonment  
13 in the state prison for three, six, or eight years. Notwithstanding  
14 the appointment of a conservator with respect to the victim pursuant  
15 to the provisions of the Lanterman-Petris-Short Act (Part 1  
16 commencing with Section 5000) of Division 5 of the Welfare and  
17 Institutions Code), the prosecuting attorney shall prove, as an  
18 element of the crime, that a mental disorder or developmental or  
19 physical disability rendered the alleged victim incapable of giving  
20 legal consent.

21 (c) Any person who commits an act of sexual penetration, and  
22 the victim is at the time incapable, because of a mental disorder  
23 or developmental or physical disability, of giving legal consent,  
24 and this is known or reasonably should be known to the person  
25 committing the act or causing the act to be committed and both  
26 the defendant and the victim are at the time confined in a state  
27 hospital for the care and treatment of the mentally disordered or  
28 in any other public or private facility for the care and treatment of  
29 the mentally disordered approved by a county mental health  
30 director, shall be punished by imprisonment in the state prison, or  
31 in a county jail for a period of not more than one year.  
32 Notwithstanding the existence of a conservatorship pursuant to  
33 the provisions of the Lanterman-Petris-Short Act (Part 1  
34 commencing with Section 5000) of Division 5 of the Welfare and  
35 Institutions Code), the prosecuting attorney shall prove, as an  
36 element of the crime, that a mental disorder or developmental or  
37 physical disability rendered the alleged victim incapable of giving  
38 legal consent.

39 (d) Any person who commits an act of sexual penetration, and  
40 the victim is at the time unconscious of the nature of the act and

1 this is known to the person committing the act or causing the act  
2 to be committed, shall be punished by imprisonment in the state  
3 prison for three, six, or eight years. As used in this subdivision,  
4 “unconscious of the nature of the act” means incapable of resisting  
5 because the victim meets one of the following conditions:

6 (1) Was unconscious or asleep.

7 (2) Was not aware, knowing, perceiving, or cognizant that the  
8 act occurred.

9 (3) Was not aware, knowing, perceiving, or cognizant of the  
10 essential characteristics of the act due to the perpetrator’s fraud in  
11 fact.

12 (4) Was not aware, knowing, perceiving, or cognizant of the  
13 essential characteristics of the act due to the perpetrator’s fraudulent  
14 representation that the sexual penetration served a professional  
15 purpose when it served no professional purpose.

16 (e) Any person who commits an act of sexual penetration when  
17 the victim is prevented from resisting by any intoxicating or  
18 anesthetic substance, or any controlled substance, and this condition  
19 was known, or reasonably should have been known by the accused,  
20 shall be punished by imprisonment in the state prison for a period  
21 of three, six, or eight years.

22 (f) Any person who commits an act of sexual penetration when  
23 the victim submits under the belief that the person committing the  
24 act or causing the act to be committed is the victim’s spouse, and  
25 this belief is induced by any artifice, pretense, or concealment  
26 practiced by the accused, with intent to induce the belief, shall be  
27 punished by imprisonment in the state prison for a period of three,  
28 six, or eight years.

29 (g) Any person who commits an act of sexual penetration when  
30 the act is accomplished against the victim’s will by threatening to  
31 use the authority of a public official to incarcerate, arrest, or deport  
32 the victim or another, and the victim has a reasonable belief that  
33 the perpetrator is a public official, shall be punished by  
34 imprisonment in the state prison for a period of three, six, or eight  
35 years.

36 As used in this subdivision, “public official” means a person  
37 employed by a governmental agency who has the authority, as part  
38 of that position, to incarcerate, arrest, or deport another. The  
39 perpetrator does not actually have to be a public official.

1 (h) Except as provided in Section 288, any person who  
2 participates in an act of sexual penetration with another person  
3 who is under 18 years of age shall be punished by imprisonment  
4 in the state prison or in the county jail for a period of not more  
5 than one year.

6 (i) Except as provided in Section 288, any person over the age  
7 of 21 years who participates in an act of sexual penetration with  
8 another person who is under 16 years of age shall be guilty of a  
9 felony.

10 (j) Any person who participates in an act of sexual penetration  
11 with another person who is under 14 years of age and who is more  
12 than 10 years younger than he or she shall be punished by  
13 imprisonment in the state prison for three, six, or eight years.

14 (k) As used in this section:

15 (1) “Sexual penetration” is the act of causing the penetration,  
16 however slight, of the genital or anal opening of any person or  
17 causing another person to so penetrate the defendant’s or another  
18 person’s genital or anal opening for the purpose of sexual arousal,  
19 gratification, or abuse by any foreign object, substance, instrument,  
20 or device, or by any unknown object.

21 (2) “Foreign object, substance, instrument, or device” shall  
22 include any part of the body, except a sexual organ.

23 (3) “Unknown object” shall include any foreign object,  
24 substance, instrument, or device, or any part of the body, including  
25 a penis, when it is not known whether penetration was by a penis  
26 or by a foreign object, substance, instrument, or device, or by any  
27 other part of the body.

28 (l) As used in subdivision (a), “threatening to retaliate” means  
29 a threat to kidnap or falsely imprison, or inflict extreme pain,  
30 serious bodily injury or death.

31 (m) As used in this section, “victim” includes any person who  
32 the defendant causes to penetrate the genital or anal opening of  
33 the defendant or another person or whose genital or anal opening  
34 is caused to be penetrated by the defendant or another person and  
35 who otherwise qualifies as a victim under the requirements of this  
36 section.

37 *SEC. 9. Section 290.04 of the Penal Code is amended to read:*

38 290.04. (a) (1) The sex offender risk assessment tools  
39 authorized by this section for use with selected populations shall  
40 be known, with respect to each population, as the State-Authorized

1 Risk Assessment Tool for Sex Offenders (SARATSO). If a  
2 SARATSO has not been selected for a given population pursuant  
3 to this section, no duty to administer the SARATSO elsewhere in  
4 this code shall apply with respect to that population. Every person  
5 required to register as a sex offender shall be subject to assessment  
6 with the SARATSO as set forth in this section and elsewhere in  
7 this code.

8 (2) A representative of the Department of Corrections and  
9 Rehabilitation, in consultation with a representative of the State  
10 Department of Mental Health and a representative of the Attorney  
11 General's office, shall comprise the SARATSO Review  
12 Committee. The purpose of the committee, which shall be staffed  
13 by the Department of Corrections and Rehabilitation, shall be to  
14 ensure that the SARATSO reflects the most reliable, objective and  
15 well-established protocols for predicting sex offender risk of  
16 recidivism, has been scientifically validated and cross validated,  
17 and is, or is reasonably likely to be, widely accepted by the courts.  
18 The committee shall consult with experts in the fields of risk  
19 assessment and the use of actuarial instruments in predicting sex  
20 offender risk, sex offending, sex offender treatment, mental health,  
21 and law, as it deems appropriate.

22 (b) (1) Commencing January 1, 2007, the SARATSO for adult  
23 males required to register as sex offenders shall be the STATIC-99  
24 risk assessment scale, *which shall be the SARATSO static tool for*  
25 *adult males.*

26 (2) On or before January 1, 2008, the SARATSO Review  
27 Committee shall determine whether the STATIC-99 should be  
28 supplemented with an actuarial instrument that measures dynamic  
29 risk factors or whether the STATIC-99 should be replaced as the  
30 SARATSO with a different risk assessment tool. *On or before*  
31 *January 1, 2012, the SARATSO Review Committee shall select an*  
32 *actuarial instrument that measures dynamic risk factors, and an*  
33 *actuarial instrument that measures risk of future sexual violence.*  
34 *The selected instruments shall be the SARATSO dynamic tool for*  
35 *adult males and the SARATSO future violence tool for adult males.*  
36 If the committee unanimously agrees on changes to be made to  
37 ~~the a designated~~ SARATSO, it shall advise the Governor and the  
38 Legislature of the changes, and the ~~State Department of Mental~~  
39 ~~Health~~ *Department of Corrections and Rehabilitation* shall post  
40 the decision on its Internet Web site. Sixty days after the decision



1 is posted, the selected tool shall become the SARATSO for adult  
2 males.

3 (c) On or before July 1, 2007, the SARATSO Review Committee  
4 shall research risk assessment tools for adult females required to  
5 register as sex offenders. If the committee unanimously agrees on  
6 an appropriate risk assessment tool to be used to assess this  
7 population, it shall advise the Governor and the Legislature of the  
8 selected tool, and the State Department of Mental Health shall post  
9 the decision on its Internet Web site. Sixty days after the decision  
10 is posted, the selected tool shall become the SARATSO for adult  
11 females.

12 (d) On or before July 1, 2007, the SARATSO Review  
13 Committee shall research risk assessment tools for male juveniles  
14 required to register as sex offenders. If the committee unanimously  
15 agrees on an appropriate risk assessment tool to be used to assess  
16 this population, it shall advise the Governor and the Legislature  
17 of the selected tool, and the State Department of Mental Health  
18 shall post the decision on its Internet Web site. Sixty days after  
19 the decision is posted, the selected tool shall become the  
20 SARATSO for male juveniles.

21 (e) On or before July 1, 2007, the SARATSO Review Committee  
22 shall research risk assessment tools for female juveniles required  
23 to register as sex offenders. If the committee unanimously agrees  
24 on an appropriate risk assessment tool to be used to assess this  
25 population, it shall advise the Governor and the Legislature of the  
26 selected tool, and the State Department of Mental Health shall post  
27 the decision on its Internet Web site. Sixty days after the decision  
28 is posted, the selected tool shall become the SARATSO for female  
29 juveniles.

30 (f) The committee shall periodically evaluate the SARATSO  
31 *static, dynamic, and risk of future violence tools* for each specified  
32 population. If the committee unanimously agrees on a change to  
33 the SARATSO for any population, it shall advise the Governor  
34 and the Legislature of the selected tool, and the Department of  
35 Corrections and Rehabilitation shall post the decision on its Internet  
36 Web site. Sixty days after the decision is posted, the selected tool  
37 shall become the SARATSO for that population.

38 (g) The committee shall perform other functions consistent with  
39 the provisions of this act or as may be otherwise required by law,  
40 including, but not limited to, defining tiers of risk based on the

1 SARATSO. The committee shall be immune from liability for  
2 good faith conduct under this act.

3 *SEC. 10. Section 290.05 of the Penal Code is amended to read:*

4 290.05. (a) The SARATSO Training Committee shall be  
5 comprised of a representative of the State Department of Mental  
6 Health, a representative of the Department of Corrections and  
7 Rehabilitation, a representative of the Attorney General's Office,  
8 and a representative of the Chief Probation Officers of California.

9 (b) On or before January 1, 2008, the SARATSO Training  
10 Committee, in consultation with the Corrections Standards  
11 Authority and the Commission on Peace Officer Standards and  
12 Training, shall develop a training program for persons authorized  
13 by this code to administer the *static* SARATSO, as set forth in  
14 Section 290.04.

15 (c) (1) The Department of Corrections and Rehabilitation shall  
16 be responsible for overseeing the training of persons who will  
17 administer the *static* SARATSO pursuant to paragraph (1) or (2)  
18 of subdivision (a) of Section 290.06.

19 (2) The State Department of Mental Health shall be responsible  
20 for overseeing the training of persons who will administer the  
21 *static* SARATSO pursuant to paragraph (3) of subdivision (a) of  
22 Section 290.06.

23 (3) The Correction Standards Authority shall be responsible for  
24 developing standards for the training of persons who will  
25 administer the *static* SARATSO pursuant to paragraph (5) or (6)  
26 of subdivision (a) of Section 290.06.

27 (4) The Commission on Peace Officer Standards and Training  
28 shall be responsible for developing standards for the training of  
29 persons who will administer the *static* SARATSO pursuant to  
30 subdivision (b) of Section 290.06.

31 (d) The training shall be conducted by experts in the field of  
32 risk assessment and the use of actuarial instruments in predicting  
33 sex offender risk. Subject to requirements established by the  
34 committee, the Department of Corrections and Rehabilitation, the  
35 State Department of Mental Health, probation departments, and  
36 authorized local law enforcement agencies shall designate key  
37 persons within their organizations to attend training and, as  
38 authorized by the department, to train others within their  
39 organizations designated to perform risk assessments as required  
40 or authorized by law. Any person who administers the *static*

1 SARATSO shall receive training no less frequently than every two  
2 years.

3 (e) If the agency responsible for scoring the *static* SARATSO  
4 believes an individual score does not represent the person's true  
5 risk level, based on factors in the offender's record, the agency  
6 may submit the case to the experts retained by the SARATSO  
7 Review Committee to monitor the scoring of the SARATSO. Those  
8 experts shall be guided by empirical research in determining  
9 whether to raise or lower the risk level. Agencies that score the  
10 *static* SARATSO shall develop a protocol for submission of risk  
11 level override requests to the experts retained in accordance with  
12 this subdivision.

13 (f) The *static* SARATSO may be performed for purposes  
14 authorized by statute only by persons trained pursuant to this  
15 section. *Persons who administer the dynamic SARATSO and the*  
16 *future violence SARATSO while under contract to provide sex*  
17 *offender management programs, pursuant to Section 290.09, shall*  
18 *be trained to administer the dynamic and future violence SARATSO*  
19 *tools as required in Section 290.09. Probation officers or parole*  
20 *agents may be trained by SARATSO experts on the dynamic*  
21 *SARATSO tool and perform assessments on that tool only if*  
22 *authorized by the SARATSO Training Committee to do so after*  
23 *successful completion of training.*

24 SEC. 11. Section 290.06 of the Penal Code is amended to read:  
25 290.06. Effective on or before July 1, 2008, the *static*  
26 SARATSO, as set forth in Section 290.04, shall be administered  
27 as follows:

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

33 (2) The department shall assess every eligible person who is on  
34 parole if the person was not assessed prior to release from state  
35 prison. Whenever possible, the assessment shall take place at least  
36 four months, but no sooner than 10 months, prior to termination  
37 of parole. The department shall record in a database the risk  
38 assessment scores of persons assessed pursuant to this paragraph  
39 and paragraph (1), and any risk assessment score that was

1 submitted to the department by a probation officer pursuant to  
2 Section 1203.

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

11 (4) Commencing January 1, 2010, the Department of Corrections  
12 and Rehabilitation and the State Department of Mental Health  
13 shall send the scores obtained in accordance with paragraphs (2)  
14 and (3) respectively, to the Department of Justice Sex Offender  
15 Tracking Program not later than 30 days after the date of the  
16 assessment. The risk assessment score of an offender shall be made  
17 part of his or her file maintained by the Department of Justice Sex  
18 Offender Tracking Program as soon as possible without financial  
19 impact, but no later than January 1, 2012.

20 (5) Each probation department shall assess every eligible person  
21 for whom it prepares a report pursuant to Section 1203.

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

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

28 (1) Upon request of the law enforcement agency in the  
29 jurisdiction in which the person is registered pursuant to Sections  
30 290 to 290.023, inclusive, the person shall be assessed. The law  
31 enforcement agency may enter into a memorandum of  
32 understanding with a probation department to perform the  
33 assessment. In the alternative, the law enforcement agency may  
34 arrange to have personnel trained to perform the risk assessment  
35 in accordance with subdivision (d) of Section 290.05.

36 (2) Eligible persons not assessed pursuant to subdivision (a)  
37 may request that a risk assessment be performed. A request form  
38 shall be available at registering law enforcement agencies. The  
39 person requesting the assessment shall pay a fee for the assessment  
40 that shall be sufficient to cover the cost of the assessment. The risk

1 assessment so requested shall be performed either by the probation  
2 department, if a memorandum of understanding is established  
3 between the law enforcement agency and the probation department,  
4 or by personnel who have been trained to perform risk assessment  
5 in accordance with subdivision (d) of Section 290.05.

6 ~~(e) On or before January 1, 2008, the SARATSO Review~~  
7 ~~Committee shall research the appropriateness and feasibility of~~  
8 ~~providing a means by which an eligible person subject to~~  
9 ~~assessment may, at his or her own expense, be assessed with the~~  
10 ~~SARATSO by a governmental entity prior to his or her scheduled~~  
11 ~~assessment. If the committee unanimously agrees that such a~~  
12 ~~process is appropriate and feasible, it shall advise the Governor~~  
13 ~~and the Legislature of the selected tool, and it shall post its decision~~  
14 ~~on the Department of Corrections and Rehabilitation's Internet~~  
15 ~~Web site. Sixty days after the decision is posted, the established~~  
16 ~~process shall become effective.~~

17 ~~(d)~~

18 (c) For purposes of this section, "eligible person" means a person  
19 who was convicted of an offense that requires him or her to register  
20 as a sex offender pursuant to Section 290 and who is eligible for  
21 assessment, pursuant to the official Coding Rules designated for  
22 use with the risk assessment instrument by the author of any risk  
23 assessment instrument (SARATSO) selected by the SARATSO  
24 Review Committee.

25 ~~(e)~~

26 (d) Persons authorized to perform risk assessments pursuant to  
27 this section, Section 1203, and Section 706 of the Welfare and  
28 Institutions Code shall be immune from liability for good faith  
29 conduct under this act.

30 *SEC. 12. Section 290.09 is added to the Penal Code, to read:*

31 *290.09. On or before July 2012, the SARATSO dynamic tool*  
32 *and the SARATSO future violence tool, as set forth in Section*  
33 *290.04, shall be administered as follows:*

34 (a) (1) *Every sex offender required to register pursuant to*  
35 *Sections 290 to 290.023, inclusive, shall, while on parole or formal*  
36 *supervised probation, participate in an approved sex offender*  
37 *management program, pursuant to Sections 1203.067 and 3008.*

38 (2) *The sex offender management program shall meet the*  
39 *certification requirements developed by the California Sex Offender*  
40 *Management Board pursuant to Section 9003. Probation*

1 departments and the Department of Corrections and Rehabilitation  
2 shall enter into contracts with certified sex offender management  
3 professionals to provide those programs. Probation departments  
4 and the Department of Corrections and Rehabilitation shall not  
5 employ or contract with, and shall not allow a sex offender to  
6 employ or contract with, any individual or entity to provide sex  
7 offender evaluation or treatment services pursuant to this section  
8 unless the sex offender evaluation or treatment services to be  
9 provided by the individual or entity conforms with the standards  
10 developed pursuant to Section 9003.

11 (b) (1) The sex offender management professionals certified  
12 by the California Sex Offender Management Board in accordance  
13 with Section 9003 who enter into the contracts for sex offender  
14 management programs with any probation department and the  
15 Department of Corrections and Rehabilitation, pursuant to Section  
16 290.09, shall assess each registered sex offender on formal  
17 supervised probation or parole using the SARATSO dynamic tool,  
18 when a dynamic risk factor changes, and shall do a final dynamic  
19 assessment within six months of the offender's release from  
20 supervision. The management professional shall also assess the  
21 sex offenders in the program with the SARATSO future violence  
22 tool.

23 (2) The certified sex offender management professional shall,  
24 as soon as possible but not later than 30 days the assessment,  
25 provide the person's score on the SARATSO dynamic tool and the  
26 future violence tool to the person's parole agent or probation  
27 officer. Within five working days of receipt of the score, the parole  
28 or probation officer shall send the score to the Department of  
29 Justice, and the score shall be accessible to law enforcement  
30 through the Department of Justice's Internet Web site for the  
31 California Sex and Arson Registry (CSAR).

32 (c) The certified sex offender management professional shall  
33 communicate with the offender's probation officer or parole agent  
34 on a regular basis, at least once a month, about the offender's  
35 progress in the program and dynamic risk assessment issues, and  
36 shall share pertinent information with the certified polygraph  
37 examiner as required.

38 (d) The SARATSO Training Committee shall provide annual  
39 training on the SARATSO dynamic tool and the SARATSO future  
40 violence tool, and certified sex offender management professionals

1 *attend this training once to obtain authorization to perform the*  
2 *assessments, and thereafter attend training updates as required*  
3 *by the SARATSO Training Committee. If a sex offender*  
4 *management professional is certified pursuant to Section 9003 to*  
5 *conduct an approved sex offender management program prior to*  
6 *attending SARATSO training on the dynamic and violent risk*  
7 *assessment tools, he or she present to the SARATSO Training*  
8 *Committee proof of training on these tools from a risk assessment*  
9 *expert approved by the SARATSO Training Committee.*

10 *SEC. 13. Section 290.46 of the Penal Code is amended to read:*

11 290.46. (a) (1) On or before the dates specified in this section,  
12 the Department of Justice shall make available information  
13 concerning persons who are required to register pursuant to Section  
14 290 to the public via an Internet Web site as specified in this  
15 section. The department shall update the Internet Web site on an  
16 ongoing basis. All information identifying the victim by name,  
17 birth date, address, or relationship to the registrant shall be  
18 excluded from the Internet Web site. The name or address of the  
19 person's employer and the listed person's criminal history other  
20 than the specific crimes for which the person is required to register  
21 shall not be included on the Internet Web site. The Internet Web  
22 site shall be translated into languages other than English as  
23 determined by the department.

24 (2) (A) On or before July 1, 2010, the Department of Justice  
25 shall make available to the public, via an Internet Web site as  
26 specified in this section, as to any person described in subdivision  
27 (b), (c), or (d), the following information:

28 (i) The year of conviction of his or her most recent offense  
29 requiring registration pursuant to Section 290.

30 (ii) The year he or she was released from incarceration for that  
31 offense.

32 (iii) Whether he or she was subsequently incarcerated for any  
33 other felony, if that fact is reported to the department. If the  
34 department has no information about a subsequent incarceration  
35 for any felony, that fact shall be noted on the Internet Web site.

36 However, no year of conviction shall be made available to the  
37 public unless the department also is able to make available the  
38 corresponding year of release of incarceration for that offense, and  
39 the required notation regarding any subsequent felony.

1 (B) (i) Any state facility that releases from incarceration a  
2 person who was incarcerated because of a crime for which he or  
3 she is required to register as a sex offender pursuant to Section  
4 290 shall, within 30 days of release, provide the year of release  
5 for his or her most recent offense requiring registration to the  
6 Department of Justice in a manner and format approved by the  
7 department.

8 (ii) Any state facility that releases a person who is required to  
9 register pursuant to Section 290 from incarceration whose  
10 incarceration was for a felony committed subsequently to the  
11 offense for which he or she is required to register shall, within 30  
12 days of release, advise the Department of Justice of that fact.

13 (iii) Any state facility that, prior to January 1, 2007, released  
14 from incarceration a person who was incarcerated because of a  
15 crime for which he or she is required to register as a sex offender  
16 pursuant to Section 290 shall provide the year of release for his or  
17 her most recent offense requiring registration to the Department  
18 of Justice in a manner and format approved by the department.  
19 The information provided by the Department of Corrections and  
20 Rehabilitation shall be limited to information that is currently  
21 maintained in an electronic format.

22 (iv) Any state facility that, prior to January 1, 2007, released a  
23 person who is required to register pursuant to Section 290 from  
24 incarceration whose incarceration was for a felony committed  
25 subsequently to the offense for which he or she is required to  
26 register shall advise the Department of Justice of that fact in a  
27 manner and format approved by the department. The information  
28 provided by the Department of Corrections and Rehabilitation  
29 shall be limited to information that is currently maintained in an  
30 electronic format.

31 (3) The State Department of Mental Health shall provide to the  
32 Department of Justice Sex Offender Tracking Program the names  
33 of all persons committed to its custody pursuant to Article 4  
34 (commencing with Section 6600) of Chapter 2 of Part 2 of Division  
35 6 of the Welfare and Institutions Code, within 30 days of  
36 commitment, and shall provide the names of all of those persons  
37 released from its custody within five working days of release.

38 (b) (1) On or before July 1, 2005, with respect to a person who  
39 has been convicted of the commission or the attempted commission  
40 of any of the offenses listed in, or who is described in, paragraph



(2), the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, prior adjudication as a sexually violent predator, the address at which the person resides, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a). *On or before January 1, 2013, the department shall make available to the public via the Internet Web site his or her static SARATSO score and information on an elevated risk level based on the SARATSO future violence tool.*

(2) This subdivision shall apply to the following offenses and offenders:

(A) Section 187 committed in the perpetration, or an attempt to perpetrate, rape or any act punishable under Section 286, 288, 288a, or 289.

(B) Section 207 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(C) Section 209 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(D) Paragraph (2) or (6) of subdivision (a) of Section 261.

(E) Section 264.1.

(F) Section 269.

(G) Subdivision (c) or (d) of Section 286.

(H) Subdivision (a), (b), or (c) of Section 288, provided that the offense is a felony.

(I) Subdivision (c) or (d) of Section 288a.

(J) Section 288.3, provided that the offense is a felony.

(K) Section 288.4, provided that the offense is a felony.

(L) Section 288.5.

(M) Subdivision (a) or (j) of Section 289.

(N) Section 288.7.

(O) Any person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code.

(P) A felony violation of Section 311.1.

(Q) A felony violation of subdivision (b), (c), or (d) of Section 311.2.

(R) A felony violation of Section 311.3.

1 (S) A felony violation of subdivision (a), (b), or (c) of Section  
2 311.4.

3 (T) Section 311.10.

4 (U) A felony violation of Section 311.11.

5 (c) (1) On or before July 1, 2005, with respect to a person who  
6 has been convicted of the commission or the attempted commission  
7 of any of the offenses listed in paragraph (2), the Department of  
8 Justice shall make available to the public via the Internet Web site  
9 his or her name and known aliases, a photograph, a physical  
10 description, including gender and race, date of birth, criminal  
11 history, the community of residence and ZIP Code in which the  
12 person resides or the county in which the person is registered as a  
13 transient, and any other information that the Department of Justice  
14 deems relevant, but not the information excluded pursuant to  
15 subdivision (a). On or before July 1, 2006, the Department of  
16 Justice shall determine whether any person convicted of an offense  
17 listed in paragraph (2) also has one or more prior or subsequent  
18 convictions of an offense listed in subdivision (c) of Section 290,  
19 and, for those persons, the Department of Justice shall make  
20 available to the public via the Internet Web site the address at  
21 which the person resides. However, the address at which the person  
22 resides shall not be disclosed until a determination is made that  
23 the person is, by virtue of his or her additional prior or subsequent  
24 conviction of an offense listed in subdivision (c) of Section 290,  
25 subject to this subdivision.

26 (2) This subdivision shall apply to the following offenses:

27 (A) Section 220, except assault to commit mayhem.

28 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

29 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or  
30 (i), of Section 286.

31 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or  
32 (i), of Section 288a.

33 (E) Subdivision (b), (d), (e), or (i) of Section 289.

34 (d) (1) On or before July 1, 2005, with respect to a person who  
35 has been convicted of the commission or the attempted commission  
36 of any of the offenses listed in, or who is described in, this  
37 subdivision, the Department of Justice shall make available to the  
38 public via the Internet Web site his or her name and known aliases,  
39 a photograph, a physical description, including gender and race,  
40 date of birth, criminal history, the community of residence and

1 ZIP Code in which the person resides or the county in which the  
2 person is registered as a transient, and any other information that  
3 the Department of Justice deems relevant, but not the information  
4 excluded pursuant to subdivision (a) or the address at which the  
5 person resides.

6 (2) This subdivision shall apply to the following offenses and  
7 offenders:

8 (A) Subdivision (a) of Section 243.4, provided that the offense  
9 is a felony.

10 (B) Section 266, provided that the offense is a felony.

11 (C) Section 266c, provided that the offense is a felony.

12 (D) Section 266j.

13 (E) Section 267.

14 (F) Subdivision (c) of Section 288, provided that the offense is  
15 a misdemeanor.

16 (G) Section 288.3, provided that the offense is a misdemeanor.

17 (H) Section 288.4, provided that the offense is a misdemeanor.

18 (I) Section 626.81.

19 (J) Section 647.6.

20 (K) Section 653c.

21 (L) Any person required to register pursuant to Section 290  
22 based upon an out-of-state conviction, unless that person is  
23 excluded from the Internet Web site pursuant to subdivision (e).  
24 However, if the Department of Justice has determined that the  
25 out-of-state crime, if committed or attempted in this state, would  
26 have been punishable in this state as a crime described in  
27 subdivision (c) of Section 290, the person shall be placed on the  
28 Internet Web site as provided in subdivision (b) or (c), as applicable  
29 to the crime.

30 (e) (1) If a person has been convicted of the commission or the  
31 attempted commission of any of the offenses listed in this  
32 subdivision, and he or she has been convicted of no other offense  
33 listed in subdivision (b), (c), or (d) other than those listed in this  
34 subdivision, that person may file an application with the  
35 Department of Justice, on a form approved by the department, for  
36 exclusion from the Internet Web site. If the department determines  
37 that the person meets the requirements of this subdivision, the  
38 department shall grant the exclusion and no information concerning  
39 the person shall be made available via the Internet Web site  
40 described in this section. He or she bears the burden of proving

1 the facts that make him or her eligible for exclusion from the  
2 Internet Web site. However, a person who has filed for or been  
3 granted an exclusion from the Internet Web site is not relieved of  
4 his or her duty to register as a sex offender pursuant to Section  
5 290 nor from any otherwise applicable provision of law.

6 (2) This subdivision shall apply to the following offenses:

7 (A) A felony violation of subdivision (a) of Section 243.4.

8 (B) Section 647.6, if the offense is a misdemeanor.

9 (C) A felony violation of Section 311.1, subdivision (b), (c), or  
10 (d) of Section 311.2, or Section 311.3, 311.4, 311.10, or 311.11 if  
11 the person submits to the department a certified copy of a probation  
12 report filed in court that clearly states that all victims involved in  
13 the commission of the offense were at least 16 years of age or older  
14 at the time of the commission of the offense.

15 (D) (i) An offense for which the offender successfully  
16 completed probation, provided that the offender submits to the  
17 department a certified copy of a probation report, presentencing  
18 report, report prepared pursuant to Section 288.1, or other official  
19 court document that clearly demonstrates that the offender was  
20 the victim's parent, stepparent, sibling, or grandparent and that the  
21 crime did not involve either oral copulation or penetration of the  
22 vagina or rectum of either the victim or the offender by the penis  
23 of the other or by any foreign object.

24 (ii) An offense for which the offender is on probation at the  
25 time of his or her application, provided that the offender submits  
26 to the department a certified copy of a probation report,  
27 presentencing report, report prepared pursuant to Section 288.1,  
28 or other official court document that clearly demonstrates that the  
29 offender was the victim's parent, stepparent, sibling, or grandparent  
30 and that the crime did not involve either oral copulation or  
31 penetration of the vagina or rectum of either the victim or the  
32 offender by the penis of the other or by any foreign object.

33 (iii) If, subsequent to his or her application, the offender commits  
34 a violation of probation resulting in his or her incarceration in  
35 county jail or state prison, his or her exclusion, or application for  
36 exclusion, from the Internet Web site shall be terminated.

37 (iv) For the purposes of this subparagraph, "successfully  
38 completed probation" means that during the period of probation  
39 the offender neither received additional county jail or state prison

1 time for a violation of probation nor was convicted of another  
2 offense resulting in a sentence to county jail or state prison.

3 (3) If the department determines that a person who was granted  
4 an exclusion under a former version of this subdivision would not  
5 qualify for an exclusion under the current version of this  
6 subdivision, the department shall rescind the exclusion, make a  
7 reasonable effort to provide notification to the person that the  
8 exclusion has been rescinded, and, no sooner than 30 days after  
9 notification is attempted, make information about the offender  
10 available to the public on the Internet Web site as provided in this  
11 section.

12 (4) Effective January 1, 2012, no person shall be excluded  
13 pursuant to this subdivision unless the offender has submitted to  
14 the department documentation sufficient for the department to  
15 determine that he or she has a SARATSO risk level of low or  
16 moderate-low.

17 (f) The Department of Justice shall make a reasonable effort to  
18 provide notification to persons who have been convicted of the  
19 commission or attempted commission of an offense specified in  
20 subdivision (b), (c), or (d), that on or before July 1, 2005, the  
21 department is required to make information about specified sex  
22 offenders available to the public via an Internet Web site as  
23 specified in this section. The Department of Justice shall also make  
24 a reasonable effort to provide notice that some offenders are  
25 eligible to apply for exclusion from the Internet Web site.

26 (g) (1) A designated law enforcement entity, as defined in  
27 subdivision (f) of Section 290.45, may make available information  
28 concerning persons who are required to register pursuant to Section  
29 290 to the public via an Internet Web site as specified in paragraph  
30 (2).

31 (2) The law enforcement entity may make available by way of  
32 an Internet Web site the information described in subdivision (c)  
33 if it determines that the public disclosure of the information about  
34 a specific offender by way of the entity's Internet Web site is  
35 necessary to ensure the public safety based upon information  
36 available to the entity concerning that specific offender.

37 (3) The information that may be provided pursuant to this  
38 subdivision may include the information specified in subdivision  
39 (b) of Section 290.45. However, that offender's address may not  
40 be disclosed unless he or she is a person whose address is on the

1 Department of Justice's Internet Web site pursuant to subdivision  
2 (b) or (c).

3 (h) For purposes of this section, "offense" includes the statutory  
4 predecessors of that offense, or any offense committed in another  
5 jurisdiction that, if committed or attempted to be committed in this  
6 state, would have been punishable in this state as an offense listed  
7 in subdivision (c) of Section 290.

8 (i) Notwithstanding Section 6254.5 of the Government Code,  
9 disclosure of information pursuant to this section is not a waiver  
10 of exemptions under Chapter 3.5 (commencing with Section 6250)  
11 of Title 1 of Division 7 of the Government Code and does not  
12 affect other statutory restrictions on disclosure in other situations.

13 (j) (1) Any person who uses information disclosed pursuant to  
14 this section to commit a misdemeanor shall be subject to, in  
15 addition to any other penalty or fine imposed, a fine of not less  
16 than ten thousand dollars (\$10,000) and not more than fifty  
17 thousand dollars (\$50,000).

18 (2) Any person who uses information disclosed pursuant to this  
19 section to commit a felony shall be punished, in addition and  
20 consecutive to any other punishment, by a five-year term of  
21 imprisonment in the state prison.

22 (k) Any person who is required to register pursuant to Section  
23 290 who enters an Internet Web site established pursuant to this  
24 section shall be punished by a fine not exceeding one thousand  
25 dollars (\$1,000), imprisonment in a county jail for a period not to  
26 exceed six months, or by both that fine and imprisonment.

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

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

33 (A) Health insurance.

34 (B) Insurance.

35 (C) Loans.

36 (D) Credit.

37 (E) Employment.

38 (F) Education, scholarships, or fellowships.

39 (G) Housing or accommodations.

1 (H) Benefits, privileges, or services provided by any business  
2 establishment.

3 (3) This section shall not affect authorized access to, or use of,  
4 information pursuant to, among other provisions, Sections 11105  
5 and 11105.3, Section 8808 of the Family Code, Sections 777.5  
6 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871  
7 of the Health and Safety Code, and Section 432.7 of the Labor  
8 Code.

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

17 (B) Whenever there is reasonable cause to believe that any  
18 person or group of persons is engaged in a pattern or practice of  
19 misuse of the information available via an Internet Web site  
20 established pursuant to this section in violation of paragraph (2),  
21 the Attorney General, any district attorney, or city attorney, or any  
22 person aggrieved by the misuse is authorized to bring a civil action  
23 in the appropriate court requesting preventive relief, including an  
24 application for a permanent or temporary injunction, restraining  
25 order, or other order against the person or group of persons  
26 responsible for the pattern or practice of misuse. The foregoing  
27 remedies shall be independent of any other remedies or procedures  
28 that may be available to an aggrieved party under other provisions  
29 of law, including Part 2 (commencing with Section 43) of Division  
30 1 of the Civil Code.

31 (m) The public notification provisions of this section are  
32 applicable to every person described in this section, without regard  
33 to when his or her crimes were committed or his or her duty to  
34 register pursuant to Section 290 arose, and to every offense  
35 described in this section, regardless of when it was committed.

36 (n) A designated law enforcement entity and its employees shall  
37 be immune from liability for good faith conduct under this section.

38 (o) The Attorney General, in collaboration with local law  
39 enforcement and others knowledgeable about sex offenders, shall  
40 develop strategies to assist members of the public in understanding

1 and using publicly available information about registered sex  
2 offenders to further public safety. These strategies may include,  
3 but are not limited to, a hotline for community inquiries,  
4 neighborhood and business guidelines for how to respond to  
5 information posted on this Internet Web site, and any other resource  
6 that promotes public education about these offenders.

7 *SEC. 14. Section 666 of the Penal Code is amended to read:*

8 666. ~~Every~~-(a) *Except as provided in subdivision (b), every*  
9 *person who, having been convicted three or more times of petty*  
10 *theft, grand theft, auto theft under Section 10851 of the Vehicle*  
11 *Code, burglary, carjacking, robbery, or a felony violation of Section*  
12 *496 and having served a term therefor in any penal institution or*  
13 *having been imprisoned therein as a condition of probation for*  
14 *that offense, is subsequently convicted of petty theft, then the*  
15 *person convicted of that subsequent offense is punishable by*  
16 *imprisonment in the county jail not exceeding one year, or in the*  
17 *state prison.*

18 *(b) Notwithstanding subdivision (a), every person who has one*  
19 *qualifying conviction as specified in, and who is otherwise subject*  
20 *to, subdivision (a), who is required to register pursuant to the Sex*  
21 *Offender Registration Act, who has a prior serious or violent felony*  
22 *conviction as defined in subdivision (c) of Section 667.5 or*  
23 *subdivision (c) of Section 1192.7, or who has been sentenced under*  
24 *the three strikes law, is punishable by imprisonment in the county*  
25 *jail not exceeding one year, or in the state prison.*

26 *SEC. 15. Section 667.61 of the Penal Code is amended to read:*

27 667.61. (a) ~~Any~~ *Except as provided in subdivision (j), (l), or*  
28 *(m), any person who is convicted of an offense specified in*  
29 *subdivision (c) under one or more of the circumstances specified*  
30 *in subdivision (d) or under two or more of the circumstances*  
31 *specified in subdivision (e) shall be punished by imprisonment in*  
32 *the state prison for 25 years to life.*

33 (b) *Except as provided in subdivision (a), (j), (l), or (m), any*  
34 *person who is convicted of an offense specified in subdivision (c)*  
35 *under one of the circumstances specified in subdivision (e) shall*  
36 *be punished by imprisonment in the state prison for 15 years to*  
37 *life.*

38 (c) *This section shall apply to any of the following offenses:*

39 (1) *Rape, in violation of paragraph (2) or (6) of subdivision (a)*  
40 *of Section 261.*



1 (2) Spousal rape, in violation of paragraph (1) or (4) of  
2 subdivision (a) of Section 262.

3 (3) Rape, spousal rape, or sexual penetration, in concert, in  
4 violation of Section 264.1.

5 (4) Lewd or lascivious act, in violation of subdivision (b) of  
6 Section 288.

7 (5) Sexual penetration, in violation of subdivision (a) of Section  
8 289.

9 (6) Sodomy, in violation of paragraph (2) or (3) of subdivision  
10 (c), or subdivision (d), of Section 286.

11 (7) Oral copulation, in violation of paragraph (2) or (3) of  
12 subdivision (c), or subdivision (d), of Section 288a.

13 (8) Lewd or lascivious act, in violation of subdivision (a) of  
14 Section 288.

15 (9) Continuous sexual abuse of a child, in violation of Section  
16 288.5.

17 (d) The following circumstances shall apply to the offenses  
18 specified in subdivision (c):

19 (1) The defendant has been previously convicted of an offense  
20 specified in subdivision (c), including an offense committed in  
21 another jurisdiction that includes all of the elements of an offense  
22 specified in subdivision (c).

23 (2) The defendant kidnapped the victim of the present offense  
24 and the movement of the victim substantially increased the risk of  
25 harm to the victim over and above that level of risk necessarily  
26 inherent in the underlying offense in subdivision (c).

27 (3) The defendant inflicted aggravated mayhem or torture on  
28 the victim or another person in the commission of the present  
29 offense in violation of Section 205 or 206.

30 (4) The defendant committed the present offense during the  
31 commission of a burglary of the first degree, as defined in  
32 subdivision (a) of Section 460, with intent to commit an offense  
33 specified in subdivision (c).

34 (5) The defendant committed the present offense in violation  
35 of Section 264.1, subdivision (d) of Section 286, or subdivision  
36 (d) of Section 288a, and, in the commission of that offense, any  
37 person committed any act described in paragraph (2), (3), or (4)  
38 of this subdivision.

1     (6) *The defendant personally inflicted great bodily injury on*  
2 *the victim or another person in the commission of the present*  
3 *offense in violation of Section 12022.53, 12022.7, or 12022.8.*

4     (7) *The defendant personally inflicted bodily harm on the victim*  
5 *who was under 14 years of age.*

6     (e) The following circumstances shall apply to the offenses  
7 specified in subdivision (c):

8     (1) Except as provided in paragraph (2) of subdivision (d), the  
9 defendant kidnapped the victim of the present offense in violation  
10 of Section 207, 209, or 209.5.

11     (2) Except as provided in paragraph (4) of subdivision (d), the  
12 defendant committed the present offense during the commission  
13 of a burglary in violation of Section 459.

14     ~~(3) The defendant personally inflicted great bodily injury on~~  
15 ~~the victim or another person in the commission of the present~~  
16 ~~offense in violation of Section 12022.53, 12022.7, or 12022.8.~~

17     ~~(4)~~

18     (3) The defendant personally used a dangerous or deadly weapon  
19 or a firearm in the commission of the present offense in violation  
20 of Section 12022, 12022.3, 12022.5, or 12022.53.

21     ~~(5)~~

22     (4) The defendant has been convicted in the present case or  
23 cases of committing an offense specified in subdivision (c) against  
24 more than one victim.

25     ~~(6)~~

26     (5) The defendant engaged in the tying or binding of the victim  
27 or another person in the commission of the present offense.

28     ~~(7)~~

29     (6) The defendant administered a controlled substance to the  
30 victim in the commission of the present offense in violation of  
31 Section 12022.75.

32     ~~(8)~~

33     (7) The defendant committed the present offense in violation  
34 of Section 264.1, subdivision (d) of Section 286, or subdivision  
35 (d) of Section 288a, and, in the commission of that offense, any  
36 person committed any act described in paragraph (1), (2), (3), (4),  
37 (6), or (7) of this subdivision.

38     (f) If only the minimum number of circumstances specified in  
39 subdivision (d) or (e) that are required for the punishment provided  
40 in subdivision (a) ~~or~~, (b), (j), (l), or (m) to apply have been pled

1 and proved, that circumstance or those circumstances shall be used  
2 as the basis for imposing the term provided in subdivision (a) ~~or~~,  
3 (b), (j), (l), or (m) whichever is greater, rather than being used to  
4 impose the punishment authorized under any other provision of  
5 law, unless another provision of law provides for a greater penalty  
6 or the punishment under another provision of law can be imposed  
7 in addition to the punishment provided by this section. However,  
8 if any additional circumstance or circumstances specified in  
9 subdivision (d) or (e) have been pled and proved, the minimum  
10 number of circumstances shall be used as the basis for imposing  
11 the term provided in subdivision (a), (j), or (l) and any other  
12 additional circumstance or circumstances shall be used to impose  
13 any punishment or enhancement authorized under any other  
14 provision of law.

15 (g) Notwithstanding Section 1385 or any other provision of law,  
16 the court shall not strike any allegation, admission, or finding of  
17 any of the circumstances specified in subdivision (d) or (e) for any  
18 person who is subject to punishment under this section.

19 (h) Notwithstanding any other provision of law, probation shall  
20 not be granted to, nor shall the execution or imposition of sentence  
21 be suspended for, any person who is subject to punishment under  
22 this section.

23 (i) For any offense specified in paragraphs (1) to (7), inclusive,  
24 of subdivision (c), *or in paragraphs (1) to (6), inclusive, of*  
25 *subdivision (n)*, the court shall impose a consecutive sentence for  
26 each offense that results in a conviction under this section if the  
27 crimes involve separate victims or involve the same victim on  
28 separate occasions as defined in subdivision (d) of Section 667.6.

29 (j) *(1) Any person who is convicted of an offense specified in*  
30 *subdivision (c), with the exception of a violation of subdivision (a)*  
31 *of Section 288, upon a victim who is a child under 14 years of age*  
32 *under one or more of the circumstances specified in subdivision*  
33 *(d) or under two or more of the circumstances specified in*  
34 *subdivision (e), shall be punished by imprisonment in the state*  
35 *prison for life without the possibility of parole. Where the person*  
36 *was under 18 years of age at the time of the offense, the person*  
37 *shall be punished by imprisonment in the state prison for 25 years*  
38 *to life.*

39 *(2) Any person who is convicted of an offense specified in*  
40 *subdivision (c) under one of the circumstances specified in*

1 subdivision (e), upon a victim who is a child under 14 years of  
2 age, shall be punished by imprisonment in the state prison for 25  
3 years to life.

4 (k) As used in this section, “bodily harm” means any substantial  
5 physical injury resulting from the use of force that is more than  
6 the force necessary to commit an offense specified in subdivision  
7 (c).

8 (l) Any person who is convicted of an offense specified in  
9 subdivision (n) under one or more of the circumstances specified  
10 in subdivision (d) or under two or more of the circumstances  
11 specified in subdivision (e), upon a victim who is a minor 14 years  
12 of age or older shall be punished by imprisonment in the state  
13 prison for life without the possibility of parole. If the person was  
14 convicted under 18 years of age at the time of the offense, he or  
15 she shall be punished by imprisonment in the state prison for 25  
16 years to life.

17 (m) Any person who is convicted of an offense specified in  
18 subdivision (n) under one of the circumstances specified in  
19 subdivision (e) against a minor 14 years of age or older shall be  
20 punished by imprisonment in the state prison for 25 years to life.

21 (n) Subdivisions (l) and (m) shall apply to any of the following  
22 offenses:

23 (1) Rape, in violation of paragraph (2) of subdivision (a) of  
24 Section 261.

25 (2) Spousal rape, in violation of paragraph (1) of subdivision  
26 (a) of Section 262.

27 (3) Rape, spousal rape, or sexual penetration, in concert, in  
28 violation of Section 264.1.

29 (4) Sexual penetration, in violation of paragraph (1) of  
30 subdivision (a) of Section 289.

31 (5) Sodomy, in violation of paragraph (2) of subdivision (c) of  
32 Section 286, or in violation of subdivision (d) of Section 286.

33 (6) Oral copulation, in violation of paragraph (2) of subdivision  
34 (c) of Section 288a, or in violation of subdivision (d) of Section  
35 288a.

36 (j)

37 (o) The penalties provided in this section shall apply only if the  
38 existence of any circumstance specified in subdivision (d) or (e)  
39 is alleged in the accusatory pleading pursuant to this section, and

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

3 *SEC. 16. Section 1203.067 of the Penal Code is amended to*  
4 *read:*

5 1203.067. (a) Notwithstanding any other law, before probation  
6 may be granted to any person convicted of a felony specified in  
7 Section 261, 262, 264.1, 286, 288, 288a, 288.5, or 289, who is  
8 eligible for probation, the court shall do all of the following:

9 (1) Order the defendant evaluated pursuant to Section 1203.03,  
10 or similar evaluation by the county probation department.

11 (2) Conduct a hearing at the time of sentencing to determine if  
12 probation of the defendant would pose a threat to the victim. The  
13 victim shall be notified of the hearing by the prosecuting attorney  
14 and given an opportunity to address the court.

15 (3) Order any psychiatrist or psychologist appointed pursuant  
16 to Section 288.1 to include a consideration of the threat to the  
17 victim and the defendant's potential for positive response to  
18 treatment in making his or her report to the court. Nothing in this  
19 section shall be construed to require the court to order an  
20 examination of the victim.

21 ~~(b) If a defendant is granted probation pursuant to subdivision~~  
22 ~~(a), the court shall order the defendant to be placed in an~~  
23 ~~appropriate treatment program designed to deal with child~~  
24 ~~molestation or sexual offenders, if an appropriate program is~~  
25 ~~available in the county. On or after July 1, 2012, the terms of~~  
26 ~~probation for persons placed on formal supervised probation for~~  
27 ~~an offense that requires registration pursuant to Sections 290 to~~  
28 ~~290.023, inclusive, shall include all of the following:~~

29 ~~(1) Persons placed on formal supervised probation prior to July~~  
30 ~~1, 2012, shall participate in an approved sex offender management~~  
31 ~~program, following the standards developed pursuant to Section~~  
32 ~~9003, for a period of not less than one year or the remaining term~~  
33 ~~of probation if it is less than one year. The length of the period in~~  
34 ~~the program is to be determined by the certified sex offender~~  
35 ~~management professional in consultation with the probation officer~~  
36 ~~and as approved by the court.~~

37 ~~(2) Persons placed on formal supervised probation on or after~~  
38 ~~July 1, 2012, shall successfully complete a sex offender~~  
39 ~~management program, following the standards developed pursuant~~  
40 ~~to Section 9003, as a condition of release from probation. The~~

1 *length of the period in the program shall be not less than one year;*  
2 *up to the entire period of probation, as determined by the certified*  
3 *sex offender management professional in consultation with the*  
4 *probation officer and as approved by the court.*

5 *(3) Waiver of any privilege against self-incrimination and*  
6 *participation in polygraph examinations, which shall be part of*  
7 *the sex offender management program.*

8 *(4) Waiver of any psychotherapist-patient privilege to enable*  
9 *communication between the sex offender management professional*  
10 *and supervising probation officer, pursuant to Section 290.09.*

11 (c) Any defendant ordered to be placed in ~~a treatment~~ *an*  
12 *approved sex offender management program* pursuant to  
13 subdivision (b) shall be responsible for paying the expense of his  
14 or her participation in the ~~treatment~~ program as determined by the  
15 court. The court shall take into consideration the ability of the  
16 defendant to pay, and no defendant shall be denied probation  
17 because of his or her inability to pay.

18 *SEC. 17. Section 2962 of the Penal Code is amended to read:*

19 2962. As a condition of parole, a prisoner who meets the  
20 following criteria shall be required to be treated by the State  
21 Department of Mental Health, and the State Department of Mental  
22 Health shall provide the necessary treatment:

23 (a) The prisoner has a severe mental disorder that is not in  
24 remission or cannot be kept in remission without treatment.

25 The term “severe mental disorder” means an illness or disease  
26 or condition that substantially impairs the person’s thought,  
27 perception of reality, emotional process, or judgment; or which  
28 grossly impairs behavior; or that demonstrates evidence of an acute  
29 brain syndrome for which prompt remission, in the absence of  
30 treatment, is unlikely. The term “severe mental disorder” as used  
31 in this section does not include a personality or adjustment disorder,  
32 epilepsy, mental retardation or other developmental disabilities,  
33 or addiction to or abuse of intoxicating substances.

34 The term “remission” means a finding that the overt signs and  
35 symptoms of the severe mental disorder are controlled either by  
36 psychotropic medication or psychosocial support. A person “cannot  
37 be kept in remission without treatment” if during the year prior to  
38 the question being before the Board of Prison Terms or a trial  
39 court, he or she has been in remission and he or she has been  
40 physically violent, except in self-defense, or he or she has made

1 a serious threat of substantial physical harm upon the person of  
2 another so as to cause the target of the threat to reasonably fear  
3 for his or her safety or the safety of his or her immediate family,  
4 or he or she has intentionally caused property damage, or he or  
5 she has not voluntarily followed the treatment plan. In determining  
6 if a person has voluntarily followed the treatment plan, the standard  
7 shall be whether the person has acted as a reasonable person would  
8 in following the treatment plan.

9 (b) The severe mental disorder was one of the causes of or was  
10 an aggravating factor in the commission of a crime for which the  
11 prisoner was sentenced to prison.

12 (c) The prisoner has been in treatment for the severe mental  
13 disorder for 90 days or more within the year prior to the prisoner's  
14 parole or release.

15 (d) (1) Prior to release on parole, the person in charge of treating  
16 the prisoner and a practicing psychiatrist or psychologist from the  
17 State Department of Mental Health have evaluated the prisoner at  
18 a facility of the Department of Corrections, and a chief psychiatrist  
19 of the Department of Corrections has certified to the Board of  
20 Prison Terms that the prisoner has a severe mental disorder, that  
21 the disorder is not in remission, or cannot be kept in remission  
22 without treatment, that the severe mental disorder was one of the  
23 causes or was an aggravating factor in the prisoner's criminal  
24 behavior, that the prisoner has been in treatment for the severe  
25 mental disorder for 90 days or more within the year prior to his or  
26 her parole release day, and that by reason of his or her severe  
27 mental disorder the prisoner represents a substantial danger of  
28 physical harm to others. For prisoners being treated by the State  
29 Department of Mental Health pursuant to Section 2684, the  
30 certification shall be by a chief psychiatrist of the Department of  
31 Corrections, and the evaluation shall be done at a state hospital by  
32 the person at the state hospital in charge of treating the prisoner  
33 and a practicing psychiatrist or psychologist from the Department  
34 of Corrections.

35 (2) If the professionals doing the evaluation pursuant to  
36 paragraph (1) do not concur that (A) the prisoner has a severe  
37 mental disorder, (B) that the disorder is not in remission or cannot  
38 be kept in remission without treatment, or (C) that the severe  
39 mental disorder was a cause of, or aggravated, the prisoner's  
40 criminal behavior, and a chief psychiatrist has certified the prisoner

1 to the Board of Prison Terms pursuant to this paragraph, then the  
2 Board of Prison Terms shall order a further examination by two  
3 independent professionals, as provided for in Section 2978.

4 (3) ~~Only if both~~ *If at least one of the* independent professionals  
5 who evaluate the prisoner pursuant to paragraph (2) ~~concur~~ *concurs*  
6 with the chief psychiatrist's certification of the issues described  
7 in paragraph (2), ~~shall~~ this subdivision *shall* be applicable to the  
8 prisoner. The professionals appointed pursuant to Section 2978  
9 shall inform the prisoner that the purpose of their examination is  
10 not treatment but to determine if the prisoner meets certain criteria  
11 to be involuntarily treated as a mentally disordered offender. It is  
12 not required that the prisoner appreciate or understand that  
13 information.

14 (e) The crime referred to in subdivision (b) meets both of the  
15 following criteria:

16 (1) The defendant received a determinate sentence pursuant to  
17 Section 1170 for the crime.

18 (2) The crime is one of the following:

19 (A) Voluntary manslaughter.

20 (B) Mayhem.

21 (C) Kidnapping in violation of Section 207.

22 (D) Any robbery wherein it was charged and proved that the  
23 defendant personally used a deadly or dangerous weapon, as  
24 provided in subdivision (b) of Section 12022, in the commission  
25 of that robbery.

26 (E) Carjacking, as defined in subdivision (a) of Section 215, if  
27 it is charged and proved that the defendant personally used a deadly  
28 or dangerous weapon, as provided in subdivision (b) of Section  
29 12022, in the commission of the carjacking.

30 (F) Rape, as defined in paragraph (2) or (6) of subdivision (a)  
31 of Section 261 or paragraph (1) or (4) of subdivision (a) of Section  
32 262.

33 (G) Sodomy by force, violence, duress, menace, or fear of  
34 immediate and unlawful bodily injury on the victim or another  
35 person.

36 (H) Oral copulation by force, violence, duress, menace, or fear  
37 of immediate and unlawful bodily injury on the victim or another  
38 person.

39 (I) Lewd acts on a child under the age of 14 years in violation  
40 of Section 288.



1 (J) Continuous sexual abuse in violation of Section 288.5.

2 (K) The offense described in subdivision (a) of Section 289  
3 where the act was accomplished against the victim's will by force,  
4 violence, duress, menace, or fear of immediate and unlawful bodily  
5 injury on the victim or another person.

6 (L) Arson in violation of subdivision (a) of Section 451, or arson  
7 in violation of any other provision of Section 451 or in violation  
8 of Section 455 where the act posed a substantial danger of physical  
9 harm to others.

10 (M) Any felony in which the defendant used a firearm which  
11 use was charged and proved as provided in Section 12022.5,  
12 12022.53, or 12022.55.

13 (N) A violation of Section 12308.

14 (O) Attempted murder.

15 (P) A crime not enumerated in subparagraphs (A) to (O),  
16 inclusive, in which the prisoner used force or violence, or caused  
17 serious bodily injury as defined in paragraph (4) of subdivision (f)  
18 of Section 243.

19 (Q) A crime in which the perpetrator expressly or impliedly  
20 threatened another with the use of force or violence likely to  
21 produce substantial physical harm in such a manner that a  
22 reasonable person would believe and expect that the force or  
23 violence would be used. For purposes of this subparagraph,  
24 substantial physical harm shall not require proof that the threatened  
25 act was likely to cause great or serious bodily injury.

26 (f) As used in this chapter, "substantial danger of physical harm"  
27 does not require proof of a recent overt act.

28 *SEC. 18. Section 3000 of the Penal Code is amended to read:*

29 3000. (a) (1) The Legislature finds and declares that the period  
30 immediately following incarceration is critical to successful  
31 reintegration of the offender into society and to positive citizenship.  
32 It is in the interest of public safety for the state to provide for the  
33 effective supervision of and surveillance of parolees, including  
34 the judicious use of revocation actions, and to provide educational,  
35 vocational, family and personal counseling necessary to assist  
36 parolees in the transition between imprisonment and discharge. A  
37 sentence pursuant to Section 1168 or 1170 shall include a period  
38 of parole, unless waived, or as otherwise provided in this article.

39 (2) The Legislature finds and declares that it is not the intent of  
40 this section to diminish resources allocated to the Department of

1 Corrections and Rehabilitation for parole functions for which the  
2 department is responsible. It is also not the intent of this section  
3 to diminish the resources allocated to the Board of Parole Hearings  
4 to execute its duties with respect to parole functions for which the  
5 board is responsible.

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

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

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

17 (1) At the expiration of a term of imprisonment of one year and  
18 one day, or a term of imprisonment imposed pursuant to Section  
19 1170 or at the expiration of a term reduced pursuant to Section  
20 2931 or 2933, if applicable, the inmate shall be released on parole  
21 for a period not exceeding three years, except that any inmate  
22 sentenced for an offense specified in paragraph (3), (4), (5), (6),  
23 (11), ~~(16)~~, or (18) of subdivision (c) of Section 667.5 shall be  
24 released on parole for a period not exceeding five years, unless in  
25 either case the parole authority for good cause waives parole and  
26 discharges the inmate from the custody of the department.

27 (2) In the case of any inmate sentenced under Section 1168, the  
28 period of parole shall not exceed five years in the case of an inmate  
29 imprisoned for any offense other than first or second degree murder  
30 for which the inmate has received a life sentence, and shall not  
31 exceed three years in the case of any other inmate, unless in either  
32 case the parole authority for good cause waives parole and  
33 discharges the inmate from custody of the department. This  
34 subdivision shall also be applicable to inmates who committed  
35 crimes prior to July 1, 1977, to the extent specified in Section  
36 1170.2.

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

1     (4) Notwithstanding paragraphs (1) to (3), inclusive, and except  
2     as provided in paragraph (5) and Section 3000.1, in the case of a  
3     person convicted for an offense under subdivision (a) of Section  
4     288 of the Penal Code, or in the case of a person convicted of an  
5     offense specified in paragraph (1) of subdivision (b), in which one  
6     or more of the victims of the offense was a child under 14 years  
7     of age, the period of parole shall be 10 years.

8     (5) Notwithstanding paragraphs (1) to (4), inclusive, in the case  
9     of a person convicted of and required to register as a sex offender  
10    for the commission of an offense specified in Section 261, 262,  
11    264.1, 286, 288a, paragraph (1) of subdivision (b) of Section 288,  
12    Section 288.5, 288.7, or 289, in which one or more of the victims  
13    of the offense was a child under 14 years of age, the period of  
14    parole shall be 20 years. Persons granted parole under this  
15    paragraph shall be subject to the requirements specified in  
16    subdivision (b) of Section 3000.1.

17    ~~(4)~~

18    (6) The parole authority shall consider the request of any inmate  
19    regarding the length of his or her parole and the conditions thereof.

20    ~~(5)~~

21    (7) Upon successful completion of parole, or at the end of the  
22    maximum statutory period of parole specified for the inmate under  
23    paragraph (1), (2), ~~or~~ (3), (4), or (5), as the case may be, whichever  
24    is earlier, the inmate shall be discharged from custody. The date  
25    of the maximum statutory period of parole under this subdivision  
26    and paragraphs (1), (2), ~~and~~ (3), (4), and (5) shall be computed  
27    from the date of initial parole and shall be a period chronologically  
28    determined. Time during which parole is suspended because the  
29    prisoner has absconded or has been returned to custody as a parole  
30    violation shall not be credited toward any period of parole unless  
31    the prisoner is found not guilty of the parole violation. However,  
32    the period of parole is subject to the following:

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

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

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

5 ~~(6)~~

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

19 ~~(7)~~

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

22 ~~(8)~~

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

29 ~~(9)~~

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

33 ~~SEC. 9. Section 647.9 is added to the Penal Code, to read:~~

34 ~~647.9. (a) Any person who is required to register pursuant to~~  
35 ~~the Sex Offender Registration Act for a felony offense, who enters~~  
36 ~~any park where children regularly gather without written~~  
37 ~~permission, is guilty of a misdemeanor.~~

38 ~~(1) If the person is on parole, written permission shall be~~  
39 ~~obtained from the person's parole officer.~~

1     ~~(2) If the person is not on parole, written permission shall be~~  
2     ~~obtained from the chief administrative official of the park.~~

3     ~~(b) Punishment for a violation of this section shall be as follows:~~

4     ~~(1) Upon a first conviction, by imprisonment in a county jail~~  
5     ~~not exceeding six months, or by a fine not exceeding five hundred~~  
6     ~~dollars (\$500), or by both imprisonment and a fine.~~

7     ~~(2) Upon a second conviction pursuant to this section, by~~  
8     ~~imprisonment in a county jail for a period of not less than 10 days~~  
9     ~~and not more than 6 months. In addition to imprisonment, a~~  
10    ~~violation of this section punishable pursuant to this paragraph may~~  
11    ~~also be punished by a fine not exceeding five hundred dollars~~  
12    ~~(\$500). A defendant sentenced pursuant to this paragraph shall not~~  
13    ~~be released on probation, parole, or any other basis, until he or she~~  
14    ~~has served at least 10 days imprisonment in a county jail.~~

15    ~~(3) Upon a third or subsequent conviction pursuant to this~~  
16    ~~section, by imprisonment in a county jail for a period of not less~~  
17    ~~than 90 days and not more than 6 months and a fine not exceeding~~  
18    ~~five hundred dollars (\$500). A defendant sentenced pursuant to~~  
19    ~~this paragraph shall not be released on probation, parole, or any~~  
20    ~~other basis, until he or she has served at least 90 days imprisonment~~  
21    ~~in a county jail.~~

22    ~~(e) This section does not preclude or prohibit prosecution under~~  
23    ~~any other provision of law.~~

24    ~~SEC. 10. Section 667.61 of the Penal Code is amended to read:~~

25    ~~667.61. (a) Except as provided in subdivision (j), (l), or (m);~~  
26    ~~any person who is convicted of an offense specified in subdivision~~  
27    ~~(e) under one or more of the circumstances specified in subdivision~~  
28    ~~(d) or under two or more of the circumstances specified in~~  
29    ~~subdivision (e) shall be punished by imprisonment in the state~~  
30    ~~prison for 25 years to life.~~

31    ~~(b) Except as provided in subdivision (a), (j), (l), or (m), any~~  
32    ~~person who is convicted of an offense specified in subdivision (e)~~  
33    ~~under one of the circumstances specified in subdivision (e) shall~~  
34    ~~be punished by imprisonment in the state prison for 15 years to~~  
35    ~~life.~~

36    ~~(c) This section shall apply to any of the following offenses:~~

37    ~~(1) Rape, in violation of paragraph (2) or (6) of subdivision (a)~~  
38    ~~of Section 261.~~

39    ~~(2) Spousal rape, in violation of paragraph (1) or (4) of~~  
40    ~~subdivision (a) of Section 262.~~

1     ~~(3) Rape, spousal rape, or sexual penetration, in concert, in~~  
2     ~~violation of Section 264.1.~~

3     ~~(4) Lewd or lascivious act, in violation of subdivision (b) of~~  
4     ~~Section 288.~~

5     ~~(5) Sexual penetration, in violation of subdivision (a) of Section~~  
6     ~~289.~~

7     ~~(6) Sodomy, in violation of paragraph (2) or (3) of subdivision~~  
8     ~~(e), or subdivision (d), of Section 286.~~

9     ~~(7) Oral copulation, in violation of paragraph (2) or (3) of~~  
10    ~~subdivision (e), or subdivision (d), of Section 288a.~~

11    ~~(8) Lewd or lascivious act, in violation of subdivision (a) of~~  
12    ~~Section 288.~~

13    ~~(9) Continuous sexual abuse of a child, in violation of Section~~  
14    ~~288.5.~~

15    ~~(d) The following circumstances shall apply to the offenses~~  
16    ~~specified in subdivision (c):~~

17    ~~(1) The defendant has been previously convicted of an offense~~  
18    ~~specified in subdivision (e), including an offense committed in~~  
19    ~~another jurisdiction that includes all of the elements of an offense~~  
20    ~~specified in subdivision (c):~~

21    ~~(2) The defendant kidnapped the victim of the present offense~~  
22    ~~and the movement of the victim substantially increased the risk of~~  
23    ~~harm to the victim over and above that level of risk necessarily~~  
24    ~~inherent in the underlying offense in subdivision (c).~~

25    ~~(3) The defendant inflicted aggravated mayhem or torture on~~  
26    ~~the victim or another person in the commission of the present~~  
27    ~~offense in violation of Section 205 or 206.~~

28    ~~(4) The defendant committed the present offense during the~~  
29    ~~commission of a burglary of the first degree, as defined in~~  
30    ~~subdivision (a) of Section 460, with intent to commit an offense~~  
31    ~~specified in subdivision (c).~~

32    ~~(5) The defendant committed the present offense in violation~~  
33    ~~of Section 264.1, subdivision (d) of Section 286, or subdivision~~  
34    ~~(d) of Section 288a, and, in the commission of that offense, any~~  
35    ~~person committed any act described in paragraph (2), (3), or (4)~~  
36    ~~of this subdivision.~~

37    ~~(6) The defendant personally inflicted great bodily injury on~~  
38    ~~the victim or another person in the commission of the present~~  
39    ~~offense in violation of Section 12022.53, 12022.7, or 12022.8.~~

1     ~~(e) The following circumstances shall apply to the offenses~~  
2 ~~specified in subdivision (c):~~

3     ~~(1) Except as provided in paragraph (2) of subdivision (d), the~~  
4 ~~defendant kidnapped the victim of the present offense in violation~~  
5 ~~of Section 207, 209, or 209.5.~~

6     ~~(2) Except as provided in paragraph (4) of subdivision (d), the~~  
7 ~~defendant committed the present offense during the commission~~  
8 ~~of a burglary in violation of Section 459.~~

9     ~~(3) The defendant personally used a dangerous or deadly weapon~~  
10 ~~or a firearm in the commission of the present offense in violation~~  
11 ~~of Section 12022, 12022.3, 12022.5, or 12022.53.~~

12     ~~(4) The defendant has been convicted in the present case or~~  
13 ~~cases of committing an offense specified in subdivision (c) against~~  
14 ~~more than one victim.~~

15     ~~(5) The defendant engaged in the tying or binding of the victim~~  
16 ~~or another person in the commission of the present offense.~~

17     ~~(6) The defendant administered a controlled substance to the~~  
18 ~~victim in the commission of the present offense in violation of~~  
19 ~~Section 12022.75.~~

20     ~~(7) The defendant committed the present offense in violation~~  
21 ~~of Section 264.1, subdivision (d) of Section 286, or subdivision~~  
22 ~~(d) of Section 288a, and, in the commission of that offense, any~~  
23 ~~person committed any act described in paragraph (1), (2), (3), (4),~~  
24 ~~(6), or (7) of this subdivision.~~

25     ~~(f) If only the minimum number of circumstances specified in~~  
26 ~~subdivision (d), (e), or (k) that are required for the punishment~~  
27 ~~provided in subdivision (a), (b), (j), (l), or (m) to apply have been~~  
28 ~~pled and proved, that circumstance or those circumstances shall~~  
29 ~~be used as the basis for imposing the term provided in subdivision~~  
30 ~~(a), (b), (j), (l), or (m), whichever is greater, rather than being used~~  
31 ~~to impose the punishment authorized under any other provision of~~  
32 ~~law, unless another provision of law provides for a greater penalty~~  
33 ~~or the punishment under another provision of law can be imposed~~  
34 ~~in addition to the punishment provided by this section. However,~~  
35 ~~if any additional circumstance or circumstances specified in~~  
36 ~~subdivision (d), (e), or (k) have been pled and proved, the minimum~~  
37 ~~number of circumstances shall be used as the basis for imposing~~  
38 ~~the term provided in subdivision (a), (j), or (l), and any other~~  
39 ~~additional circumstance or circumstances shall be used to impose~~

1 ~~any punishment or enhancement authorized under any other~~  
2 ~~provision of law.~~

3 ~~(g) Notwithstanding Section 1385 or any other provision of law,~~  
4 ~~the court shall not strike any allegation, admission, or finding of~~  
5 ~~any of the circumstances specified in subdivision (d), (e), or (k)~~  
6 ~~for any person who is subject to punishment under this section.~~

7 ~~(h) Notwithstanding any other provision of law, probation shall~~  
8 ~~not be granted to, nor shall the execution or imposition of sentence~~  
9 ~~be suspended for, any person who is subject to punishment under~~  
10 ~~this section.~~

11 ~~(i) For any offense specified in paragraphs (1) to (7), inclusive,~~  
12 ~~of subdivision (e), or in subdivision (n), the court shall impose a~~  
13 ~~consecutive sentence for each offense that results in a conviction~~  
14 ~~under this section if the crimes involve separate victims or involve~~  
15 ~~the same victim on separate occasions as defined in subdivision~~  
16 ~~(d) of Section 667.6.~~

17 ~~(j) (1) Any person, who is 18 years of age or older, who is~~  
18 ~~convicted of an offense specified in subdivision (e) under one or~~  
19 ~~more of the circumstances specified in subdivision (d) or (k), or~~  
20 ~~under two or more of the circumstances specified in subdivision~~  
21 ~~(e), upon a victim who is a child under 14 years of age shall be~~  
22 ~~punished by imprisonment in the state prison for life without the~~  
23 ~~possibility of parole.~~

24 ~~(2) Any person under 18 years of age who is convicted of an~~  
25 ~~offense specified in subdivision (e) under one or more of the~~  
26 ~~circumstances specified in subdivision (d) or (k), or under two or~~  
27 ~~more of the circumstances specified in subdivision (e), upon a~~  
28 ~~victim who is a child under 14 years of age shall be punished by~~  
29 ~~imprisonment in the state prison for 25 years to life.~~

30 ~~(3) Any person who is convicted of an offense specified in~~  
31 ~~subdivision (e) under one of the circumstances specified in~~  
32 ~~subdivision (e), upon a victim who is a child under 14 years of age~~  
33 ~~shall be punished by imprisonment in the state prison for 25 years~~  
34 ~~to life.~~

35 ~~(k) Any person who is convicted of an offense specified in~~  
36 ~~subdivision (e) upon a victim who is a child under 14 years of age~~  
37 ~~and who, in the commission of the offense, inflicted bodily harm~~  
38 ~~upon the victim shall be punished pursuant to subdivision (j).~~

39 ~~(l) Any person who is convicted of an offense specified in~~  
40 ~~subdivision (n) under one or more of the circumstances specified~~



1 in subdivision (d) or under two or more of the circumstances  
2 specified in subdivision (e), upon a victim who is a minor 14 years  
3 of age or older shall be punished by imprisonment in the state  
4 prison for life without the possibility of parole.

5 (m) Any person who is convicted of an offense specified in  
6 subdivision (n) under one of the circumstances specified in  
7 subdivision (e) against a minor 14 years of age or older shall be  
8 punished by imprisonment in the state prison for 25 years to life.

9 (n) Subdivision (l) and (m) shall apply to any of the following  
10 offenses:

11 (1) Rape, in violation of paragraph (2) of subdivision (a) of  
12 Section 261.

13 (2) Spousal rape, in violation of paragraph (1) of subdivision  
14 (a) of Section 262.

15 (3) Rape, spousal rape, or sexual penetration, in concert, in  
16 violation of Section 264.1.

17 (4) Sexual penetration, in violation of paragraph (1) of  
18 subdivision (a) of Section 289.

19 (5) Sodomy, in violation of paragraph (2) of subdivision (e) of  
20 Section 286, or in violation of subdivision (d) of Section 286.

21 (6) Oral copulation, in violation of paragraph (2) of subdivision  
22 (e) of Section 288a, or in violation of subdivision (d) of Section  
23 288a.

24 (o) The penalties provided in this section shall apply only if the  
25 existence of any circumstance specified in subdivision (d), (e), or  
26 (k) is alleged in the accusatory pleading pursuant to this section,  
27 and is either admitted by the defendant in open court or found to  
28 be true by the trier of fact.

29 (p) As used in this section, “bodily harm” means any substantial  
30 physical injury resulting from the use of force that is more than  
31 the force necessary to commit an offense specified in subdivision  
32 (e).

33 SEC. 11. Section 3000 of the Penal Code is amended to read:

34 3000. (a) (1) The Legislature finds and declares that the period  
35 immediately following incarceration is critical to successful  
36 reintegration of the offender into society and to positive citizenship.  
37 It is in the interest of public safety for the state to provide for the  
38 effective supervision of and surveillance of parolees, including  
39 the judicious use of revocation actions, and to provide educational,  
40 vocational, family and personal counseling necessary to assist

1 parolees in the transition between imprisonment and discharge. A  
2 sentence pursuant to Section 1168 or 1170 shall include a period  
3 of parole, unless waived, or as otherwise provided in this article.

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

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

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

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

22 (1) At the expiration of a term of imprisonment of one year and  
23 one day, or a term of imprisonment imposed pursuant to Section  
24 1170 or at the expiration of a term reduced pursuant to Section  
25 2931 or 2933, if applicable, the inmate shall be released on parole  
26 for a period not exceeding three years, except that any inmate  
27 sentenced for an offense specified in paragraph (3), (4), (5), (6),  
28 (11), (16), or (18) of subdivision (c) of Section 667.5 shall be  
29 released on parole for a period not exceeding 10 years, unless a  
30 longer period of parole is specified in Section 3000.1.

31 (2) In the case of any inmate sentenced under Section 1168, the  
32 period of parole shall not exceed five years in the case of an inmate  
33 imprisoned for any offense other than first or second degree murder  
34 for which the inmate has received a life sentence, and shall not  
35 exceed three years in the case of any other inmate, unless in either  
36 case the parole authority for good cause waives parole and  
37 discharges the inmate from custody of the department. This  
38 subdivision shall also be applicable to inmates who committed  
39 crimes prior to July 1, 1977, to the extent specified in Section  
40 1170.2.

1     ~~(3) Notwithstanding paragraphs (1) and (2), and except as~~  
2 ~~provided in subdivision (a) of Section 3000.1, in the case of any~~  
3 ~~offense for which the inmate has received a life sentence pursuant~~  
4 ~~to subdivision (b) of Section 209, if that offense was committed~~  
5 ~~with the intent to commit a specified sexual offense, or Section~~  
6 ~~667.61 or 667.71, the period of parole shall be 10 years.~~

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

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

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

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

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

33     ~~(6) The Department of Corrections and Rehabilitation shall meet~~  
34 ~~with each inmate at least 30 days prior to his or her good time~~  
35 ~~release date and shall provide, under guidelines specified by the~~  
36 ~~parole authority, the conditions of parole and the length of parole~~  
37 ~~up to the maximum period of time provided by law. The inmate~~  
38 ~~has the right to reconsideration of the length of parole and~~  
39 ~~conditions thereof by the parole authority. The Department of~~  
40 ~~Corrections and Rehabilitation or the Board of Parole Hearings~~

1 may impose as a condition of parole that a prisoner make payments  
2 on the prisoner's outstanding restitution fines or orders imposed  
3 pursuant to subdivision (a) or (c) of Section 13967 of the  
4 Government Code, as operative prior to September 28, 1994, or  
5 subdivision (b) or (f) of Section 1202.4.

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

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

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

17 ~~SEC. 12.~~

18 *SEC. 19.* Section 3000.1 of the Penal Code is amended to read:

19 3000.1. (a) (1) In the case of any inmate sentenced under  
20 Section 1168 for any offense of first or second degree murder with  
21 a maximum term of life imprisonment, the period of parole, if  
22 parole is granted, shall be the remainder of the inmate's life.

23 ~~(2) Notwithstanding any other provision of law, in the case of~~  
24 ~~any inmate sentenced under subdivision (a) or paragraph (1) of~~  
25 ~~subdivision (b) of Section 288, Section 288.5, or Section 288.7,~~  
26 ~~the period of parole, if parole is granted, shall be the remainder of~~  
27 ~~the inmate's life.~~

28 ~~(3) Notwithstanding any other provision of law, in the case of~~  
29 ~~any inmate sentenced under Section 667.71 in which one or more~~  
30 ~~of the victims of the offense was a child under 14 years of age, the~~  
31 ~~period of parole, if parole is granted, shall be the remainder of the~~  
32 ~~inmate's life.~~

33 ~~(4) Notwithstanding any other provision of law, in the case of~~  
34 ~~any inmate sentenced under Section 269, subdivision (c) of Section~~  
35 ~~667.51 with a maximum term of life imprisonment, paragraph (2)~~  
36 ~~of subdivision (j) of Section 667.61, or subdivision (m) of Section~~  
37 ~~667.61, the period of parole, if parole is granted, shall be the~~  
38 ~~remainder of the inmate's life.~~

39 ~~(5) Notwithstanding any other provision of law, in the case of~~  
40 ~~any inmate sentenced under Section 261, 262, 264.1, 286, 288a,~~

1 ~~or 289 in which one or more of the victims of the offense was a~~  
2 ~~child under 14 years of age, the period of parole, if parole is~~  
3 ~~granted, shall be the remainder of the inmate's life.~~

4 (2) *Notwithstanding any other provision of law, in the case of*  
5 *any inmate sentenced to a life term under Section 269, subdivision*  
6 *(c) of Section 667.51, Section 667.71 in which one or more of the*  
7 *victims of the offense was a child under 14 years of age, or*  
8 *subdivision (j), (l), or (m) of Section 667.61, the period of parole,*  
9 *if parole is granted, shall be the remainder of the inmate's life.*

10 (b) Notwithstanding any other provision of law, when any person  
11 referred to in paragraph (1) of subdivision (a) has been released  
12 on parole from the state prison, and has been on parole  
13 continuously for seven years in the case of any person imprisoned  
14 for first degree murder, and five years in the case of any person  
15 imprisoned for second degree murder, since release from  
16 confinement, the board shall, within 30 days, discharge that person  
17 from parole, unless the board, for good cause, determines that the  
18 person will be retained on parole. The board shall make a written  
19 record of its determination and transmit a copy of it to the parolee.

20 (c) In the event of a retention on parole *pursuant to subdivision*  
21 *(b)*, the parolee shall be entitled to a review by the board each year  
22 thereafter.

23 (d) There shall be a hearing as provided in Sections 3041.5 and  
24 3041.7 within 12 months of the date of any revocation of parole  
25 to consider the release of the inmate on ~~parole~~, *and parole and*,  
26 notwithstanding the provisions of paragraph (2) of subdivision (b)  
27 of Section 3041.5, there shall be annual parole consideration  
28 hearings thereafter, unless the person is released or otherwise  
29 ineligible for parole release. The panel or board shall release the  
30 person within one year of the date of the revocation unless it  
31 determines that the circumstances and gravity of the parole  
32 violation are such that consideration of the public safety requires  
33 a more lengthy period of incarceration or unless there is a new  
34 prison commitment following a conviction.

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

37 *SEC. 20. Section 3008 of the Penal Code is amended to read:*

38 3008. (a) The Department of Corrections and Rehabilitation  
39 shall ensure that all parolees under active supervision who are  
40 deemed to pose a high risk to the public of committing sex crimes,

1 as determined by the State-Authorized Risk Assessment Tool for  
2 Sex Offenders (SARATSO), as set forth in Sections 290.04 to  
3 290.06, inclusive, are placed on intensive and specialized parole  
4 supervision and are required to report frequently to designated  
5 parole officers. The department may place any other parolee  
6 convicted of an offense that requires him or her to register as a sex  
7 offender pursuant to Section 290 who is on active supervision on  
8 intensive and specialized supervision and require him or her to  
9 report frequently to designated parole officers.

10 (b) The department shall develop and, at the discretion of the  
11 secretary, and subject to an appropriation of the necessary funds,  
12 may implement a plan for the implementation of relapse prevention  
13 treatment programs, and the provision of other services deemed  
14 necessary by the department, in conjunction with intensive and  
15 specialized parole supervision, to reduce the recidivism of sex  
16 offenders.

17 (c) The department shall develop control and containment  
18 programming for sex offenders who have been deemed to pose a  
19 high risk to the public of committing a sex crime, as determined  
20 by the SARATSO, and shall require participation in appropriate  
21 programming as a condition of parole.

22 (d) *On or after July 1, 2012, the parole conditions of a person*  
23 *released on parole for an offense that requires registration*  
24 *pursuant to Sections 290 to 290.023, inclusive, shall include all*  
25 *of the following:*

26 (1) *Persons placed on parole prior to July 1, 2012, shall*  
27 *participate in an approved sex offender management program,*  
28 *following the standards developed pursuant to Section 9003, for*  
29 *a period of not less than one year or the remaining term of parole*  
30 *if it is less than one year. The length of the period in the program*  
31 *is to be determined by the certified sex offender management*  
32 *professional in consultation with the parole officer and as approved*  
33 *by the court.*

34 (2) *Persons placed on parole on or after July 1, 2012, shall*  
35 *successfully complete a sex offender management program,*  
36 *following the standards developed pursuant to Section 9003, as a*  
37 *condition of parole. The length of the period in the program shall*  
38 *be not less than one year, up to the entire period of parole, as*  
39 *determined by the certified sex offender management professional*

1 in consultation with the parole officer and as approved by the  
2 court.

3 (3) Waiver of any privilege against self-incrimination and  
4 participation in polygraph examinations, which shall be part of  
5 the sex offender management program.

6 (4) Waiver of any psychotherapist-patient privilege to enable  
7 communication between the sex offender management professional  
8 and supervising parole officer, pursuant to Section 290.09.

9 (e) Any defendant ordered to be placed in an approved sex  
10 offender management treatment program pursuant to subdivision  
11 (d) shall be responsible for paying the expense of his or her  
12 participation in the program as determined by the court. The court  
13 shall take into consideration the ability of the defendant to pay,  
14 and no defendant shall be denied discharge onto parole because  
15 of his or her inability to pay.

16 SEC. 21. Section 3053.8 is added to the Penal Code, to read:

17 3053.8. (a) Notwithstanding any other provision of law, when  
18 a person is released on parole after having served a term of  
19 imprisonment for any of the offenses specified in subdivision (b)  
20 in which one or more of the victims was under 14 years of age,  
21 and for which registration is required pursuant to the Sex Offender  
22 Registration Act, it shall be a condition of parole that the person  
23 may not, during his or her period of parole, enter any park where  
24 children regularly gather without the express permission of his or  
25 her parole agent.

26 (b) Subdivision (a) shall apply to persons released on parole  
27 after having served a term of imprisonment for an offense specified  
28 in Section 261, 262, 264.1, 269, 286, 288a, paragraph (1) of  
29 subdivision (b) of Section 288, 288.5, 288.7, 289, subdivision (c)  
30 of Section 667.51, subdivision (j), (k), or (l) of Section 667.61, or  
31 667.71.

32 SEC. 22. Section 9003 is added to the Penal Code, to read:

33 9003. (a) On or before July 1, 2011, the board shall develop  
34 and update standards for certification of sex offender management  
35 professionals. All those professionals who enter into contracts  
36 with a probation department or the Department of Corrections  
37 and Rehabilitation to provide sex offender management programs  
38 and risk assessments, pursuant to Section 290.09, shall be certified  
39 by the board according to these standards. The standards shall

1 *be published on the board's Internet Web site. Professionals may*  
2 *apply to the board for certification on or after August 1, 2011.*

3 *(1) The board shall require any person who applies for*  
4 *certification to provide sex offender management services pursuant*  
5 *to Section 290.09 to submit a complete set of his or her fingerprints.*  
6 *The board shall forward any such fingerprints received pursuant*  
7 *to paragraph (2), to the Department of Justice for use in conducting*  
8 *a state criminal history record check and for transmittal to the*  
9 *Federal Bureau of Investigation for a national criminal history*  
10 *record check.*

11 *(2) The board shall require any person who applies for*  
12 *certification under this section to submit information relevant to*  
13 *the applicant's fitness to provide sex offender management*  
14 *services.*

15 *(3) The board shall assess a fee to the applicant not to exceed*  
16 *one hundred twenty-five dollars (\$125) per application.*

17 *(b) On or before July 1, 2011, the board shall develop and*  
18 *update standards for certification of sex offender management*  
19 *programs, which shall include treatment, as specified, and dynamic*  
20 *and future violence risk assessments pursuant to Section 290.09.*  
21 *The standards shall be published on the board's Internet Web site.*  
22 *All those programs shall include polygraph examinations by a*  
23 *certified polygraph examiner, which shall be conducted as needed*  
24 *during the period that the offender is in the sex offender*  
25 *management program. Only certified sex offender management*  
26 *professionals whose programs meet the standards set by the board*  
27 *are eligible to enter into contracts with probation and parole to*  
28 *provide sex offender management programs pursuant to Section*  
29 *290.09.*

30 *(c) On or before July 1, 2011, the board shall develop and*  
31 *update standards for certification of polygraph examiners. The*  
32 *standards shall be published on the board's Internet Web site.*

33 *SEC. 23. Section 13887 of the Penal Code is amended to read:*

34 *13887. (a) Any county may establish and implement a sexual*  
35 *assault felony enforcement (SAFE) team program pursuant to the*  
36 *provisions of this chapter.*

37 *(b) The Legislature finds and declares that identifying and*  
38 *developing reliable and sustainable funding for SAFE teams*  
39 *established by this chapter, including those established in rural*



1 *and regional areas, is critical for reducing sexual assaults in*  
2 *California.*

3 *SEC. 24. Section 18846.3 of the Revenue and Taxation Code*  
4 *is amended to read:*

5 ~~18846.3. (a) Except as otherwise provided in subdivision (b),~~  
6 ~~this article shall remain in effect only until January 1, 2011, and~~  
7 ~~as of that date is repealed, unless a later enacted statute, that is~~  
8 ~~enacted before the applicable date, deletes or extends that date.~~

9 ~~(b)~~

10 *18846.3. (a) (1) By September 1, 2006, and by September 1*  
11 *of each subsequent calendar year that the California Sexual*  
12 *Violence Victim Services Fund appears on a tax return, the*  
13 *Franchise Tax Board shall do all of the following:*

14 *(A) Determine the minimum contribution amount required to*  
15 *be received during the next calendar year for the fund to appear*  
16 *on the tax return for the taxable year that includes that next calendar*  
17 *year.*

18 *(B) Provide written notification to the California Coalition*  
19 *Against Sexual Assault of the amount determined in subparagraph*  
20 *(A).*

21 *(C) Determine whether the amount of contributions estimated*  
22 *to be received during the calendar year will equal or exceed the*  
23 *minimum contribution amount determined by the Franchise Tax*  
24 *Board for the calendar year pursuant to subparagraph (A). The*  
25 *Franchise Tax Board shall estimate the amount of contributions*  
26 *to be received by using the actual amounts received and an estimate*  
27 *of the contributions that will be received by the end of that calendar*  
28 *year.*

29 *(2) If the Franchise Tax Board determines that the amount of*  
30 *contributions estimated to be received during a calendar year will*  
31 *not at least equal the minimum contribution amount for the calendar*  
32 *year, this article is repealed with respect to taxable years beginning*  
33 *on or after January 1 of that calendar year.*

34 *(3) For purposes of this section, the minimum contribution*  
35 *amount for a calendar year means two hundred fifty thousand*  
36 *dollars (\$250,000) for the 2007 calendar year or the adjusted*  
37 *minimum contribution amount adjusted pursuant to subdivision*  
38 ~~(e) (b).~~

39 ~~(e)~~

1 (b) For each calendar year, beginning with the 2008 calendar  
2 year, the Franchise Tax Board shall adjust, on or before September  
3 1 of that calendar year, the minimum contribution amount specified  
4 in subdivision (b) (a) as follows:

5 (1) The minimum contribution amount for the calendar year  
6 shall be an amount equal to the product of the minimum  
7 contribution amount for the prior calendar year multiplied by the  
8 inflation factor adjustment as specified in paragraph (2) of  
9 subdivision (h) of Section 17041, rounded off to the nearest dollar.

10 (2) The inflation factor adjustment used for the calendar year  
11 shall be based on the figures for the percentage change in the  
12 California Consumer Price Index received on or before August 1  
13 of the calendar year pursuant to paragraph (1) of subdivision (h)  
14 of Section 17041.

15 ~~(d) Notwithstanding the repeal of this article, any contribution~~  
16 ~~amounts designated pursuant to this article prior to its repeal shall~~  
17 ~~continue to be transferred and disbursed in accordance with this~~  
18 ~~article as in effect immediately prior to that repeal.~~

19 ~~SEC. 13.— No reimbursement is required by this act pursuant to~~  
20 ~~Section 6 of Article XIII B of the California Constitution because~~  
21 ~~the only costs that may be incurred by a local agency or school~~  
22 ~~district will be incurred because this act creates a new crime or~~  
23 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
24 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
25 ~~the Government Code, or changes the definition of a crime within~~  
26 ~~the meaning of Section 6 of Article XIII B of the California~~  
27 ~~Constitution.~~

28 *SEC. 25. No reimbursement is required by this act pursuant*  
29 *to Section 6 of Article XIII B of the California Constitution for*  
30 *certain costs that may be incurred by a local agency or school*  
31 *district because, in that regard, this act creates a new crime or*  
32 *infraction, eliminates a crime or infraction, or changes the penalty*  
33 *for a crime or infraction, within the meaning of Section 17556 of*  
34 *the Government Code, or changes the definition of a crime within*  
35 *the meaning of Section 6 of Article XIII B of the California*  
36 *Constitution.*

37 *However, if the Commission on State Mandates determines that*  
38 *this act contains other costs mandated by the state, reimbursement*  
39 *to local agencies and school districts for those costs shall be made*

1 *pursuant to Part 7 (commencing with Section 17500) of Division*  
2 *4 of Title 2 of the Government Code.*

3 ~~SEC. 14.~~

4 SEC. 26. The provisions of this act are severable. If any  
5 provision of this act or its application is held invalid, that invalidity  
6 shall not affect other provisions or applications that can be given  
7 effect without the invalid provision or application.

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