

AMENDED IN ASSEMBLY AUGUST 31, 2009

AMENDED IN ASSEMBLY JANUARY 13, 2009

CALIFORNIA LEGISLATURE—2009—10 THIRD EXTRAORDINARY SESSION

SENATE BILL

No. 18

Introduced by Senator Ducheny

January 5, 2009

An act relating to the Budget Act of 2008. An act to amend Sections 14491, 17550.19, and 21653 of the Business and Professions Code, to amend Section 5305 of the Financial Code, to amend Section 421 of the Military and Veterans Code, to amend Sections 154, 155, 337.4, 368, 422.7, 461, 463, 476a, 484b, 484g, 484h, 487, 487b, 487c, 487e, 487f, 487h, 496, 498, 500, 502, 537, 537e, 550, 551, 565, 566, 592, 594.4, 641.3, 2932, 2933, 2933.2, 2933.3, 2933.5, 2933.6, 2934, 2935, 3000, 4019, and 4600 of, to amend and renumber Section 2933.4 of, to add Sections 2933.05 and 3000.03 to, to add Article 2.3 (commencing with Section 3015) to Chapter 8 of Title 1 of Part 3 of, and to add and repeal Chapter 3 (commencing with Section 1228) of Title 8 of Part 2 of, the Penal Code, to amend Sections 14591 and 41955 of the Public Resources Code, to amend Sections 10851.5 and 42002.4 of the Vehicle Code, and to amend Sections 10980 and 15656 of the Welfare and Institutions Code, relating to corrections.

LEGISLATIVE COUNSEL'S DIGEST

SB 18, as amended, Ducheny. ~~Budget Act of 2008. Corrections.~~

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

Existing law establishes certain values for determining if theft or certain other property crimes are punishable as felonies or not. Existing

law provides that for many of these crimes, the threshold is \$400, while the thresholds for certain other crimes are \$100, \$200, and \$1,000, as specified.

This bill would increase certain of those thresholds, for example, by increasing certain \$400 thresholds to \$950.

By increasing local incarceration costs, this bill would impose a state-mandated local program.

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

This bill would instead provide that certain prisoners shall earn one day of credit for every one day served either in the state prison or in a local facility prior to delivery to the state prison. This bill would provide for up to 6 weeks of additional credit for the successful completion of certain programs offered by the department, as specified. This bill would also expand an existing program for extra time credits for inmates assigned to conservation camps to apply to inmates who are assigned to correctional institutions as inmate firefighters and to inmates who have completed the training for either of those assignments, as specified. This bill would also revise the time credits for certain prisoners confined or committed to a county jail or other specified facilities, as provided.

This bill would also provide criteria for the denial and loss of these credits, and would make various conforming and technical changes.

Existing law establishes provisions authorizing the department to oversee programs for the purposes of reducing parolee recidivism.

This bill would authorize each county to establish a Community Corrections Performance Incentives Fund (CCPIF) and would authorize the state to annually allocate money into a State Corrections Performance Incentives Fund to be used for certain purposes relating to improving local probation supervision practices and capacities, as specified. This bill would require the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, to make various calculations relating to the costs of incarceration, probation failure rates, and estimated numbers of adult felony probationers who

are successfully prevented from being sent to prison per county, as specified. This bill would require the Department of Finance, in consultation with other specified agencies, to annually calculate 5% of the savings to the state attributed to those counties that successfully reduce the number of adult felony probationers sent to prison, and the bill would authorize those savings to be used to provide high performance grants to county probation departments to reduce recidivism among adult felony probationers. This bill would also require each county using CCPIF funds to identify and track specific outcome-based measures, as specified, and report to the Administrative Office of the Courts on the effectiveness of the programs paid for by the CCPIF.

This bill would require each county's community corrections programs to be developed and implemented by the probation department, as advised by a local Community Corrections Partnership. This bill would require specified local officials to serve as part of that Community Corrections Partnership. Because this bill would increase the duties for certain local officials, it would impose a state-mandated local program.

Existing law requires the Department of Corrections and Rehabilitation to release a prisoner on a specified period of parole after the expiration of a specified term of imprisonment. Under existing law, the department is authorized to return a parolee to prison if the Board of Parole Hearings determines that the parolee violated the terms of his or her parole, as specified.

This bill would prohibit the department from returning certain parolees to prison, placing a parole hold on the parolee, or reporting the parolee to the Board of Parole Hearings for a violation of parole, as specified.

Existing law requires the Department of Corrections and Rehabilitation to establish certain pilot programs to assist parolees in the successful reintegration of those parolees into the community.

This bill would require the Secretary of the Department of Corrections and Rehabilitation to establish a parole reentry accountability program for parolees who have been sentenced to a determinate term of imprisonment. The bill would require the department to employ a parole violation decisionmaking instrument to determine the most appropriate sanctions for parolees who violate their parole conditions. The bill would require the department to adopt regulations that make

appropriate changes in policies and procedures to reflect the bill's intent.

The bill would also authorize the department to refer these parolees, if they have a history of substance abuse or mental illness and violate their parole conditions, to a reentry court program. The bill would require the secretary, subject to available funding, to enter into a memorandum of understanding with the Administrative Office of the Courts for the purpose of the establishment and operation of parolee reentry programs, as specified.

The bill would require the Judicial Council, in collaboration with the department, to design and perform an evaluation of the program to assess its effectiveness in reducing recidivism among parolees and reducing parole revocations. The bill would also require the Judicial Council, in collaboration with the department, to submit a final report of its findings to the Legislature and the Governor, as specified.

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.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.

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

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

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

1 14491. The violation of any of the provisions of this article is
2 a misdemeanor, except that if the violation consists of unlawfully
3 using, selling, or secreting in any place supplies of a value
4 exceeding ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars*
5 *(\$950)*, the violation is a felony.

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

8 17550.19. In addition to any civil penalties provided in this
9 division, violation of this article is punishable as follows:

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

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

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

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

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

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

3 21653. Every junk dealer or secondhand dealer who resells
4 any item acquired in violation of Section 21652 is guilty of a
5 felony, if the value of the item exceeds ~~four hundred dollars (\$400)~~
6 *nine hundred fifty dollars (\$950)*, and is guilty of a misdemeanor
7 if the value of the item does not exceed ~~four hundred dollars (\$400)~~
8 *nine hundred fifty dollars (\$950)*.

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

11 5305. Any institution-affiliated party who abstracts or willfully
12 misapplies any of the money, funds, or property of the savings
13 association, or willfully misapplies its credit, is guilty of a felony
14 and shall be punished by a fine of not more than one million dollars
15 (\$1,000,000), by imprisonment in the state prison for 2, 3, or 4
16 years, or by both that fine and imprisonment. However, if the
17 amount abstracted or willfully misapplied does not exceed ~~one~~
18 ~~hundred dollars (\$100)~~ *two hundred fifty dollars (\$250)*, the offense
19 shall instead be punishable by a fine of not more than one thousand
20 dollars (\$1,000), by imprisonment in the county jail for not more
21 than one year or in the state prison, or by both that fine and
22 imprisonment.

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

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

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

38 154. (a) Every debtor who fraudulently removes his or her
39 property or effects out of this state, or who fraudulently sells,
40 conveys, assigns or conceals his or her property with intent to

1 defraud, hinder or delay his or her creditors of their rights, claims,
 2 or demands, is punishable by imprisonment in the county jail not
 3 exceeding one year, or by fine not exceeding one thousand dollars
 4 (\$1,000), or by both that fine and imprisonment.

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

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

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

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

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

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

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

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

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

15 (2) If in the commission of an offense described in paragraph
16 (1), the victim suffers great bodily injury, as defined in Section
17 12022.7, the defendant shall receive an additional term in the state
18 prison as follows:

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

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

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

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

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

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

1 (d) Any person who is not a caretaker who violates any provision
2 of law proscribing theft, embezzlement, forgery, or fraud, or who
3 violates Section 530.5 proscribing identity theft, with respect to
4 the property or personal identifying information of an elder or a
5 dependent adult, and who knows or reasonably should know that
6 the victim is an elder or a dependent adult, is punishable by
7 imprisonment in a county jail not exceeding one year, or in the
8 state prison for two, three, or four years, when the moneys, labor,
9 goods, services, or real or personal property taken or obtained is
10 of a value exceeding ~~four hundred dollars (\$400)~~ *nine hundred*
11 *fifty dollars (\$950)*; and by a fine not exceeding one thousand
12 dollars (\$1,000), by imprisonment in a county jail not exceeding
13 one year, or by both that fine and imprisonment, when the moneys,
14 labor, goods, services, or real or personal property taken or obtained
15 is of a value not exceeding ~~four hundred dollars (\$400)~~ *nine*
16 *hundred fifty dollars (\$950)*.

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

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

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

38 (h) As used in this section, “dependent adult” means any person
39 who is between the ages of 18 and 64, who has physical or mental
40 limitations which restrict his or her ability to carry out normal

1 activities or to protect his or her rights, including, but not limited
2 to, persons who have physical or developmental disabilities or
3 whose physical or mental abilities have diminished because of
4 age. “Dependent adult” includes any person between the ages of
5 18 and 64 who is admitted as an inpatient to a 24-hour health
6 facility, as defined in Sections 1250, 1250.2, and 1250.3 of the
7 Health and Safety Code.

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

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

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

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

27 422.7. Except in the case of a person punished under Section
28 422.6, any hate crime that is not made punishable by imprisonment
29 in the state prison shall be punishable by imprisonment in the state
30 prison or in a county jail not to exceed one year, by a fine not to
31 exceed ten thousand dollars (\$10,000), or by both that
32 imprisonment and fine, if the crime is committed against the person
33 or property of another for the purpose of intimidating or interfering
34 with that other person’s free exercise or enjoyment of any right
35 secured to him or her by the Constitution or laws of this state or
36 by the Constitution or laws of the United States under any of the
37 following circumstances, which shall be charged in the accusatory
38 pleading:

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

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

6 (c) The person charged with a crime under this section has been
7 convicted previously of a violation of subdivision (a) or (b) of
8 Section 422.6, or has been convicted previously of a conspiracy
9 to commit a crime described in subdivision (a) or (b) of Section
10 422.6.

11 *SEC. 11. Section 461 of the Penal Code is amended to read:*

12 461. Burglary is punishable as follows:

13 1.

14 (a) Burglary in the first degree: by imprisonment in the state
15 prison for two, four, or six years.

16 2.

17 (b) Burglary in the second degree: by imprisonment in the
18 county jail not exceeding one year or in the state prison.

19 *SEC. 12. Section 463 of the Penal Code is amended to read:*

20 463. (a) Every person who violates Section 459, punishable
21 as a second-degree burglary pursuant to ~~subdivision 2~~ *subdivision*
22 *(b)* of Section 461, during and within an affected county in a “state
23 of emergency” or a “local emergency” resulting from an
24 earthquake, fire, flood, riot, or other natural or manmade disaster
25 shall be guilty of the crime of looting, punishable by imprisonment
26 in a county jail for one year or in the state prison. Any person
27 convicted under this subdivision who is eligible for probation and
28 who is granted probation shall, as a condition thereof, be confined
29 in a county jail for at least 180 days, except that the court may, in
30 the case where the interest of justice would best be served, reduce
31 or eliminate that mandatory jail sentence, if the court specifies on
32 the record and enters into the minutes the circumstances indicating
33 that the interest of justice would best be served by that disposition.
34 In addition to whatever custody is ordered, the court, in its
35 discretion, may require any person granted probation following
36 conviction under this subdivision to serve up to 240 hours of
37 community service in any program deemed appropriate by the
38 court, including any program created to rebuild the community.

1 For purposes of this section, the fact that the structure entered
2 has been damaged by the earthquake, fire, flood, or other natural
3 or manmade disaster shall not, in and of itself, preclude conviction.

4 (b) Every person who commits the crime of grand theft, as
5 defined in Section 487, except grand theft of a firearm, during and
6 within an affected county in a “state of emergency” or a “local
7 emergency” resulting from an earthquake, fire, flood, riot, or other
8 natural or unnatural disaster shall be guilty of the crime of looting,
9 punishable by imprisonment in a county jail for one year or in the
10 state prison. Every person who commits the crime of grand theft
11 of a firearm, as defined in Section 487, during and within an
12 affected county in a “state of emergency” or a “local emergency”
13 resulting from an earthquake, fire, flood, riot, or other natural or
14 unnatural disaster shall be guilty of the crime of looting, punishable
15 by imprisonment in the state prison, as set forth in subdivision (a)
16 of Section 489. Any person convicted under this subdivision who
17 is eligible for probation and who is granted probation shall, as a
18 condition thereof, be confined in a county jail for at least 180 days,
19 except that the court may, in the case where the interest of justice
20 would best be served, reduce or eliminate that mandatory jail
21 sentence, if the court specifies on the record and enters into the
22 minutes the circumstances indicating that the interest of justice
23 would best be served by that disposition. In addition to whatever
24 custody is ordered, the court, in its discretion, may require any
25 person granted probation following conviction under this
26 subdivision to serve up to 160 hours of community service in any
27 program deemed appropriate by the court, including any program
28 created to rebuild the community.

29 (c) Every person who commits the crime of petty theft, as
30 defined in Section 488, during and within an affected county in a
31 “state of emergency” or a “local emergency” resulting from an
32 earthquake, fire, flood, riot, or other natural or manmade disaster
33 shall be guilty of a misdemeanor, punishable by imprisonment in
34 a county jail for six months. Any person convicted under this
35 subdivision who is eligible for probation and who is granted
36 probation shall, as a condition thereof, be confined in a county jail
37 for at least 90 days, except that the court may, in the case where
38 the interest of justice would best be served, reduce or eliminate
39 that mandatory minimum jail sentence, if the court specifies on
40 the record and enters into the minutes the circumstances indicating

1 that the interest of justice would best be served by that disposition.
2 In addition to whatever custody is ordered, the court, in its
3 discretion, may require any person granted probation following
4 conviction under this subdivision to serve up to 80 hours of
5 community service in any program deemed appropriate by the
6 court, including any program created to rebuild the community.

7 (d) (1) For purposes of this section, “state of emergency” means
8 conditions which, by reason of their magnitude, are, or are likely
9 to be, beyond the control of the services, personnel, equipment,
10 and facilities of any single county, city and county, or city and
11 require the combined forces of a mutual aid region or regions to
12 combat.

13 (2) For purposes of this section, “local emergency” means
14 conditions which, by reason of their magnitude, are, or are likely
15 to be, beyond the control of the services, personnel, equipment,
16 and facilities of any single county, city and county, or city and
17 require the combined forces of a mutual aid region or regions to
18 combat.

19 (3) For purposes of this section, a “state of emergency” shall
20 exist from the time of the proclamation of the condition of the
21 emergency until terminated pursuant to Section 8629 of the
22 Government Code. For purposes of this section only, a “local
23 emergency” shall exist from the time of the proclamation of the
24 condition of the emergency by the local governing body until
25 terminated pursuant to Section 8630 of the Government Code.

26 (4) Consensual entry into a commercial structure with the intent
27 to commit a violation of Section 470, 476, 476a, 484f, or 484g of
28 the Penal Code, shall not be charged as a violation under this
29 section.

30 *SEC. 13. Section 476a of the Penal Code is amended to read:*

31 476a. (a) Any person who for himself or as the agent or
32 representative of another or as an officer of a corporation, willfully,
33 with intent to defraud, makes or draws or utters or delivers any
34 check, or draft or order upon any bank or depository, or person,
35 or firm, or corporation, for the payment of money, knowing at the
36 time of ~~such~~ that making, drawing, uttering, or delivering that the
37 maker or drawer or the corporation has not sufficient funds in, or
38 credit with ~~said~~ the bank or depository, or person, or firm, or
39 corporation, for the payment of ~~such~~ that check, draft, or order
40 and all other checks, drafts, or orders upon ~~such~~ funds then

1 outstanding, in full upon its presentation, although no express
 2 representation is made with reference thereto, is punishable by
 3 imprisonment in ~~the~~ a county jail for not more than one year, or
 4 in the state prison.

5 (b) However, if the total amount of all such checks, drafts, or
 6 orders that the defendant is charged with and convicted of making,
 7 drawing, or uttering does not exceed ~~two hundred~~ *four hundred*
 8 *fifty* dollars ~~(\$200)~~ (*\$450*), the offense is punishable only by
 9 imprisonment in the county jail for not more than one year, except
 10 that this subdivision shall not be applicable if the defendant has
 11 previously been convicted of a violation of Section 470, 475, or
 12 476, or of this section, or of the crime of petty theft in a case in
 13 which defendant's offense was a violation also of Section 470,
 14 475, or 476 or of this section or if the defendant has previously
 15 been convicted of any offense under the laws of any other state or
 16 of the United States which, if committed in this state, would have
 17 been punishable as a violation of Section 470, 475 or 476 or of
 18 this section or if he has been so convicted of the crime of petty
 19 theft in a case in which, if defendant's offense had been committed
 20 in this state, it would have been a violation also of Section 470,
 21 475, or 476, or of this section.

22 (c) Where ~~such~~ *the* check, draft, or order is protested, on the
 23 ground of insufficiency of funds or credit, the notice of protest
 24 ~~thereof~~ shall be admissible as proof of presentation, nonpayment
 25 and protest and shall be presumptive evidence of knowledge of
 26 insufficiency of funds or credit with ~~such~~ *the* bank or depository,
 27 or person, or firm, or corporation.

28 (d) In any prosecution under this section involving two or more
 29 checks, drafts, or orders, it shall constitute prima facie evidence
 30 of the identity of the drawer of a check, draft, or order if *both of*
 31 *the following occur*:

32 (1) ~~At the time of the acceptance of such~~ *When the payee accepts*
 33 *the check, draft or order from the drawer by the payee there is*
 34 ~~obtained,~~ *he or she obtains* from the drawer the following
 35 information: name and residence of the drawer, business or mailing
 36 address, either a valid driver's license number or Department of
 37 Motor Vehicles identification card number, and the drawer's home
 38 or work phone number or place of employment. ~~Such~~ *That*
 39 information may be recorded on the check, draft, or order itself or

1 may be retained on file by the payee and referred to on the check,
2 draft, or order by identifying number or other similar means; ~~and.~~

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

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

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

14 (g) A sheriff's department, police department, or other law
15 enforcement agency may collect a fee from the defendant for
16 investigation, collection, and processing of checks referred to their
17 agency for investigation of alleged violations of this section or
18 Section 476.

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

28 *SEC. 14. Section 484b of the Penal Code is amended to read:*

29 484b. Any person who receives money for the purpose of
30 obtaining or paying for services, labor, materials or equipment and
31 willfully fails to apply such money for such purpose by either
32 willfully failing to complete the improvements for which funds
33 were provided or willfully failing to pay for services, labor,
34 materials or equipment provided incident to such construction,
35 and wrongfully diverts the funds to a use other than that for which
36 the funds were received, shall be guilty of a public offense and
37 shall be punishable by a fine not exceeding ten thousand dollars
38 (\$10,000), or by imprisonment in the state prison, or in ~~the~~ a county
39 jail not exceeding one year, or by both ~~such that~~ fine and ~~such that~~
40 imprisonment if the amount diverted is in excess of ~~one thousand~~

1 ~~dollars (\$1,000)~~ *two thousand three hundred fifty dollars (\$2,350)*.
 2 If the amount diverted is less than ~~one thousand dollars (\$1,000)~~
 3 *or equal to two thousand three hundred fifty dollars (\$2,350)*, the
 4 person shall be guilty of a misdemeanor.

5 *SEC. 15. Section 484g of the Penal Code is amended to read:*

6 484g. Every person who, with the intent to defraud, (a) uses,
 7 for the purpose of obtaining money, goods, services, or anything
 8 else of value, an access card or access card account information
 9 that has been altered, obtained, or retained in violation of Section
 10 484e or 484f, or an access card which he or she knows is forged,
 11 expired, or revoked, or (b) obtains money, goods, services, or
 12 anything else of value by representing without the consent of the
 13 cardholder that he or she is the holder of an access card and the
 14 card has not in fact been issued, is guilty of theft. If the value of
 15 all money, goods, services, and other things of value obtained in
 16 violation of this section exceeds ~~four hundred dollars (\$400)~~ *nine*
 17 *hundred fifty dollars (\$950)* in any consecutive six-month period,
 18 then the same shall constitute grand theft.

19 *SEC. 16. Section 484h of the Penal Code is amended to read:*

20 484h. Every retailer or other person who, with intent to defraud:
 21 (a) Furnishes money, goods, services or anything else of value
 22 upon presentation of an access card obtained or retained in violation
 23 of Section 484e or an access card which he or she knows is a
 24 counterfeit access card or is forged, expired, or revoked, and who
 25 receives any payment therefor, is guilty of theft. If the payment
 26 received by the retailer or other person for all money, goods,
 27 services, and other things of value furnished in violation of this
 28 section exceeds ~~four hundred dollars (\$400)~~ *nine hundred fifty*
 29 *dollars (\$950)* in any consecutive six-month period, then the same
 30 shall constitute grand theft.

31 (b) Presents for payment a sales slip or other evidence of an
 32 access card transaction, and receives payment therefor, without
 33 furnishing in the transaction money, goods, services, or anything
 34 else of value that is equal in value to the amount of the sales slip
 35 or other evidence of an access card transaction, is guilty of theft.
 36 If the difference between the value of all money, goods, services,
 37 and anything else of value actually furnished and the payment or
 38 payments received by the retailer or other person therefor upon
 39 presentation of a sales slip or other evidence of an access card
 40 transaction exceeds ~~four hundred dollars (\$400)~~ *nine hundred fifty*

1 *dollars (\$950)* in any consecutive six-month period, then the same
2 shall constitute grand theft.

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

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

6 (a) When the money, labor, or real or personal property taken
7 is of a value exceeding four hundred dollars (\$400) except as
8 provided in subdivision (b).

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

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

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

22 (2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or
23 other aquacultural products are taken from a commercial or
24 research operation which is producing that product, of a value
25 exceeding ~~one hundred dollars (\$100)~~ *two hundred fifty dollars*
26 *(\$250)*.

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

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

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

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

36 (2) A firearm.

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

38 *SEC. 18. Section 487b of the Penal Code is amended to read:*

39 487b. Every person who converts real estate of the value of
40 ~~one hundred dollars (\$100)~~ *two hundred fifty dollars (\$250)* or

1 more into personal property by severance from the realty of
2 another, and with felonious intent to do so, steals, takes, and carries
3 away ~~such~~ that property is guilty of grand theft and is punishable
4 by imprisonment in the state prison.

5 *SEC. 19. Section 487c of the Penal Code is amended to read:*

6 487c. Every person who converts real estate of the value of
7 less than ~~one hundred dollars (\$100)~~ two hundred fifty dollars
8 (\$250) into personal property by severance from the realty of
9 another, and with felonious intent to do so steals, takes, and carries
10 away ~~such~~ that property is guilty of petty theft and is punishable
11 by imprisonment in the county jail for not more than one year, or
12 by a fine not exceeding one thousand dollars (\$1,000), or by both
13 ~~such~~ that fine and imprisonment.

14 *SEC. 20. Section 487e of the Penal Code is amended to read:*

15 487e. Every person who feloniously steals, takes, or carries
16 away a dog of another which is of a value exceeding ~~four hundred~~
17 ~~dollars (\$400)~~ nine hundred fifty dollars (\$950) is guilty of grand
18 theft.

19 *SEC. 21. Section 487f of the Penal Code is amended to read:*

20 487f. Every person who feloniously steals, takes, or carries
21 away a dog of another which is of a value not exceeding ~~four~~
22 ~~hundred dollars (\$400)~~ nine hundred fifty dollars (\$950) is guilty
23 of petty theft.

24 *SEC. 22. Section 487h of the Penal Code is amended to read:*

25 487h. (a) Every person who steals, takes, or carries away cargo
26 of another, when the cargo taken is of a value exceeding ~~four~~
27 ~~hundred dollars (\$400)~~ nine hundred fifty dollars (\$950), except
28 as provided in Sections 487, 487a, and 487d, is guilty of grand
29 theft.

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

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

36 *SEC. 23. Section 496 of the Penal Code is amended to read:*

37 496. (a) Every person who buys or receives any property that
38 has been stolen or that has been obtained in any manner
39 constituting theft or extortion, knowing the property to be so stolen
40 or obtained, or who conceals, sells, withholds, or aids in

1 concealing, selling, or withholding any property from the owner,
2 knowing the property to be so stolen or obtained, shall be punished
3 by imprisonment in a state prison, or in a county jail for not more
4 than one year. However, if the district attorney or the grand jury
5 determines that this action would be in the interests of justice, the
6 district attorney or the grand jury, as the case may be, may, if the
7 value of the property does not exceed ~~four hundred~~ *nine hundred*
8 *fifty* dollars ~~(\$400)~~ *(\$950)*, specify in the accusatory pleading that
9 the offense shall be a misdemeanor, punishable only by
10 imprisonment in a county jail not exceeding one year.

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

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

27 Every swap meet vendor, as defined in Section 21661 of the
28 Business and Professions Code, and every person whose principal
29 business is dealing in, or collecting, merchandise or personal
30 property, and every agent, employee, or representative of that
31 person, who buys or receives any property of a value of ~~four~~
32 ~~hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)* or less
33 that has been stolen or obtained in any manner constituting theft
34 or extortion, under circumstances that should cause the person,
35 agent, employee, or representative to make reasonable inquiry to
36 ascertain that the person from whom the property was bought or
37 received had the legal right to sell or deliver it, without making a
38 reasonable inquiry, shall be guilty of a misdemeanor.

39 (c) Any person who has been injured by a violation of
40 subdivision (a) or (b) may bring an action for three times the

1 amount of actual damages, if any, sustained by the plaintiff, costs
2 of suit, and reasonable attorney's fees.

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

8 *SEC. 24. Section 498 of the Penal Code is amended to read:*

9 498. (a) The following definitions govern the construction of
10 this section:

11 (1) "Person" means any individual, or any partnership, firm,
12 association, corporation, limited liability company, or other legal
13 entity.

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

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

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

21 (5) "Divert" means to change the intended course or path of
22 electricity, gas, or water without the authorization or consent of
23 the utility.

24 (6) "Tamper" means to rearrange, injure, alter, interfere with,
25 or otherwise prevent from performing a normal or customary
26 function.

27 (7) "Reconnection" means the reconnection of utility service
28 by a customer or other person after service has been lawfully
29 disconnected by the utility.

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

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

38 (2) Prevents any utility meter, or other device used in
39 determining the charge for utility services, from accurately

1 performing its measuring function by tampering or by any other
2 means.

3 (3) Tamper with any property owned by or used by the utility
4 to provide utility services.

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

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

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

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

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

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

34 (e) This section shall not be construed to preclude the
35 applicability of any other provision of the criminal law of this
36 state.

37 *SEC. 25. Section 500 of the Penal Code is amended to read:*

38 500. (a) Any person who receives money for the actual or
39 purported purpose of transmitting the same or its equivalent to
40 foreign countries as specified in Section 1800.5 of the Financial

1 Code who fails to do at least one of the following acts unless
 2 otherwise instructed by the customer is guilty of a misdemeanor
 3 or felony as set forth in subdivision (b):

4 (1) Forward the money as represented to the customer within
 5 10 days of receipt of the funds.

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

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

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

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

28 *SEC. 26. Section 502 of the Penal Code is amended to read:*

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

38 The Legislature further finds and declares that protection of the
 39 integrity of all types and forms of lawfully created computers,
 40 computer systems, and computer data is vital to the protection of

1 the privacy of individuals as well as to the well-being of financial
2 institutions, business concerns, governmental agencies, and others
3 within this state that lawfully utilize those computers, computer
4 systems, and data.

5 (b) For the purposes of this section, the following terms have
6 the following meanings:

7 (1) “Access” means to gain entry to, instruct, or communicate
8 with the logical, arithmetical, or memory function resources of a
9 computer, computer system, or computer network.

10 (2) “Computer network” means any system that provides
11 communications between one or more computer systems and
12 input/output devices including, but not limited to, display terminals
13 and printers connected by telecommunication facilities.

14 (3) “Computer program or software” means a set of instructions
15 or statements, and related data, that when executed in actual or
16 modified form, cause a computer, computer system, or computer
17 network to perform specified functions.

18 (4) “Computer services” includes, but is not limited to, computer
19 time, data processing, or storage functions, or other uses of a
20 computer, computer system, or computer network.

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

28 (6) “Data” means a representation of information, knowledge,
29 facts, concepts, computer software, computer programs or
30 instructions. Data may be in any form, in storage media, or as
31 stored in the memory of the computer or in transit or presented on
32 a display device.

33 (7) “Supporting documentation” includes, but is not limited to,
34 all information, in any form, pertaining to the design, construction,
35 classification, implementation, use, or modification of a computer,
36 computer system, computer network, computer program, or
37 computer software, which information is not generally available
38 to the public and is necessary for the operation of a computer,
39 computer system, computer network, computer program, or
40 computer software.

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

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

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

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

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

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

33 (2) Knowingly accesses and without permission takes, copies,
34 or makes use of any data from a computer, computer system, or
35 computer network, or takes or copies any supporting
36 documentation, whether existing or residing internal or external
37 to a computer, computer system, or computer network.

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

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

5 (5) Knowingly and without permission disrupts or causes the
6 disruption of computer services or denies or causes the denial of
7 computer services to an authorized user of a computer, computer
8 system, or computer network.

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

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

14 (8) Knowingly introduces any computer contaminant into any
15 computer, computer system, or computer network.

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

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

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

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

37 (B) For any violation that results in a victim expenditure in an
38 amount greater than five thousand dollars (\$5,000) or in an injury,
39 or if the value of the computer services used exceeds ~~four hundred~~
40 ~~dollars (\$400)~~ *nine hundred fifty dollars (\$950)*, or for any second

1 or subsequent violation, by a fine not exceeding ten thousand
2 dollars (\$10,000), or by imprisonment in the state prison for 16
3 months, or two or three years, or by both that fine and
4 imprisonment, or by a fine not exceeding five thousand dollars
5 (\$5,000), or by imprisonment in a county jail not exceeding one
6 year, or by both that fine and imprisonment.

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

9 (A) For a first violation that does not result in injury, an
10 infraction punishable by a fine not exceeding one thousand dollars
11 (\$1,000).

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

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

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

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

30 (B) For any violation that results in injury, or for a second or
31 subsequent violation, by a fine not exceeding ten thousand dollars
32 (\$10,000), or by imprisonment in a county jail not exceeding one
33 year, or in the state prison, or by both that fine and imprisonment.

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

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

38 (B) For any violation that results in injury, or for a second or
39 subsequent violation, by a fine not exceeding five thousand dollars

1 (\$5,000), or by imprisonment in a county jail not exceeding one
2 year, or by both that fine and imprisonment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 *SEC. 27. Section 537 of the Penal Code is amended to read:*

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

17 (1) If the value of the credit, food, fuel, services, or
18 accommodations is ~~four hundred dollars (\$400)~~ *nine hundred fifty*
19 *dollars (\$950)* or less, by a fine not exceeding one thousand dollars
20 (\$1,000) or by imprisonment in the county jail for a term not
21 exceeding six months, or both.

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

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

30 (c) Evidence that a person left the premises of such an hotel,
31 inn, restaurant, boardinghouse, lodginghouse, apartment house,
32 bungalow court, motel, marina, marine facility, autocamp, ski area,
33 or public or private campground, without paying or offering to
34 pay for such food, fuel, services, use of facilities, or
35 accommodation, or that the person, without authorization from the
36 proprietor, resold his or her ski lift ticket to another person after
37 making use of such facilities, shall be prima facie evidence of the
38 following:

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

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

9 *SEC. 28. Section 537e of the Penal Code is amended to read:*

10 537e. (a) Any person who knowingly buys, sells, receives,
 11 disposes of, conceals, or has in his or her possession any personal
 12 property from which the manufacturer's serial number,
 13 identification number, electronic serial number, or any other
 14 distinguishing number or identification mark has been removed,
 15 defaced, covered, altered, or destroyed, is guilty of a public offense,
 16 punishable as follows:

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

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

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

28 ~~For~~

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

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

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

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

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

39 (5) Any tool or similar device, including any technical or
 40 scientific equipment.

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

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

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

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

7 ~~(b)~~

8 (c) When property described in subdivision (a) comes into the
9 custody of a peace officer it shall become subject to the provision
10 of Chapter 12 (commencing with Section 1407) of Title 10 of Part
11 2, relating to the disposal of stolen or embezzled property. Property
12 subject to this section shall be considered stolen or embezzled
13 property for the purposes of that chapter, and prior to being
14 disposed of, shall have an identification mark imbedded or
15 engraved in, or permanently affixed to it.

16 ~~(e)~~

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

23 *SEC. 29. Section 550 of the Penal Code is amended to read:*

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

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

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

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

35 (4) Knowingly present a false or fraudulent claim for the
36 payments of a loss for theft, destruction, damage, or conversion
37 of a motor vehicle, a motor vehicle part, or contents of a motor
38 vehicle.

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

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

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

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

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

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

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

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

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

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

35 (4) Prepare or make any written or oral statement, intended to
36 be presented to any insurer or producer for the purpose of obtaining
37 a motor vehicle insurance policy, that the person to be the insured
38 resides or is domiciled in this state when, in fact, that person resides
39 or is domiciled in a state other than this state.

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

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

8 (A) When the claim or amount at issue exceeds ~~four hundred~~
9 ~~dollars (\$400)~~ *nine hundred fifty dollars (\$950)*, the offense is
10 punishable by imprisonment in the state prison for two, three, or
11 five years, or by a fine not exceeding fifty thousand dollars
12 (\$50,000) or double the amount of the fraud, whichever is greater,
13 or by both that imprisonment and fine, or by imprisonment in a
14 county jail not to exceed one year, by a fine of not more than ten
15 thousand dollars (\$10,000), or by both that imprisonment and fine.

16 (B) When the claim or amount at issue is ~~four hundred dollars~~
17 ~~(\$400)~~ *nine hundred fifty dollars (\$950)* or less, the offense is
18 punishable by imprisonment in a county jail not to exceed six
19 months, or by a fine of not more than one thousand dollars
20 (\$1,000), or by both that imprisonment and fine, unless the
21 aggregate amount of the claims or amount at issue exceeds ~~four~~
22 ~~hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)* in any
23 12-consecutive-month period, in which case the claims or amounts
24 may be charged as in subparagraph (A).

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

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

38 (d) Notwithstanding any other provision of law, probation shall
39 not be granted to, nor shall the execution or imposition of a
40 sentence be suspended for, any adult person convicted of felony

1 violations of this section who previously has been convicted of
2 felony violations of this section or Section 548, or of Section
3 1871.4 of the Insurance Code, or former Section 556 of the
4 Insurance Code, or former Section 1871.1 of the Insurance Code
5 as an adult under charges separately brought and tried two or more
6 times. The existence of any fact that would make a person ineligible
7 for probation under this subdivision shall be alleged in the
8 information or indictment, and either admitted by the defendant
9 in an open court, or found to be true by the jury trying the issue
10 of guilt or by the court where guilt is established by plea of guilty
11 or nolo contendere or by trial by the court sitting without a jury.

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

16 This subdivision does not prohibit the adjournment of criminal
17 proceedings pursuant to Division 3 (commencing with Section
18 3000) or Division 6 (commencing with Section 6000) of the
19 Welfare and Institutions Code.

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

35 (f) Any person who violates paragraph (3) of subdivision (a)
36 and who has two prior felony convictions for a violation of
37 paragraph (3) of subdivision (a) shall receive a five-year
38 enhancement in addition to the sentence provided in subdivision
39 (c). The existence of any fact that would subject a person to a
40 penalty enhancement shall be alleged in the information or

1 indictment and either admitted by the defendant in open court, or
2 found to be true by the jury trying the issue of guilt or by the court
3 where guilt is established by plea of guilty or nolo contendere or
4 by trial by the court sitting without a jury.

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

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

15 (i) Any fine imposed pursuant to this section shall be doubled
16 if the offense was committed in connection with any claim pursuant
17 to any automobile insurance policy in an auto insurance fraud crisis
18 area designated by the Insurance Commissioner pursuant to Article
19 4.6 (commencing with Section 1874.90) of Chapter 12 of Part 2
20 of Division 1 of the Insurance Code.

21 *SEC. 30. Section 551 of the Penal Code is amended to read:*

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

32 (b) Except in cases in which the amount of the repair or
33 replacement claim has been determined by the insurer and the
34 repair or replacement services are performed in accordance with
35 that determination or in accordance with provided estimates that
36 are accepted by the insurer, it is unlawful for any automotive repair
37 dealer, contractor, or employees or agents thereof to knowingly
38 offer or give any discount intended to offset a deductible required
39 by a policy of insurance covering repairs to or replacement of a
40 motor vehicle or residential or commercial structure. This

1 subdivision does not prohibit an advertisement for repair or
2 replacement services at a discount as long as the amount of the
3 repair or replacement claim has been determined by the insurer
4 and the repair or replacement services are performed in accordance
5 with that determination or in accordance with provided estimates
6 that are accepted by the insurer.

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

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

30 (e) For purposes of this section:

31 (1) “Automotive repair dealer” means a person who, for
32 compensation, engages in the business of repairing or diagnosing
33 malfunctions of motor vehicles.

34 (2) “Contractor” has the same meaning as set forth in Section
35 7026 of the Business and Professions Code.

36 *SEC. 31. Section 565 of the Penal Code is amended to read:*

37 565. It is a misdemeanor, punishable by a fine not exceeding
38 one thousand dollars (\$1,000), or by imprisonment in the county
39 jail not exceeding six months, or both, for an unauthorized person
40 to possess or use, or to obliterate or destroy the brand registration

1 upon, containers (including milk cases), cabinets, or other dairy
2 equipment, which have a value of ~~four hundred dollars (\$400)~~ *nine*
3 *hundred fifty dollars (\$950)* or less, when the containers, cabinets,
4 or other dairy equipment are marked with a brand that is registered
5 pursuant to Chapter 10 (commencing with Section 34501) of Part
6 1 of Division 15 of the Food and Agricultural Code. “Unauthorized
7 person” shall have the meaning of that term as defined in Section
8 34564 of the Food and Agricultural Code.

9 *SEC. 32. Section 566 of the Penal Code is amended to read:*

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

22 *SEC. 33. Section 592 of the Penal Code is amended to read:*

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

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

38 *SEC. 34. Section 594.4 of the Penal Code is amended to read:*

39 594.4. (a) Any person who willfully and maliciously injects
40 into or throws upon, or otherwise defaces, damages, destroys, or

1 contaminates, any structure with butyric acid, or any other similar
 2 noxious or caustic chemical or substance, is guilty of a public
 3 offense, punishable by imprisonment in the state prison or in a
 4 county jail, by a fine as specified in subdivision (b), or by both
 5 that imprisonment and fine.

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

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

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

17 (4) If the amount of the defacement, damage, destruction, or
 18 contamination is less than ~~four hundred dollars (\$400)~~ *nine hundred*
 19 *fifty dollars (\$950)*, by a fine of not more than one thousand dollars
 20 (\$1,000).

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

24 *SEC. 35. Section 641.3 of the Penal Code is amended to read:*

25 641.3. (a) Any employee who solicits, accepts, or agrees to
 26 accept money or any thing of value from a person other than his
 27 or her employer, other than in trust for the employer, corruptly
 28 and without the knowledge or consent of the employer, in return
 29 for using or agreeing to use his or her position for the benefit of
 30 that other person, and any person who offers or gives an employee
 31 money or any thing of value under those circumstances, is guilty
 32 of commercial bribery.

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

36 (c) Commercial bribery is punishable by imprisonment in the
 37 county jail for not more than one year if the amount of the bribe
 38 is one thousand dollars (\$1,000) or less, or by imprisonment in the
 39 county jail, or in the state prison for 16 months, or two or three

1 years if the amount of the bribe exceeds one thousand dollars
2 (\$1,000).

3 (d) For purposes of this section:

4 (1) “Employee” means an officer, director, agent, trustee,
5 partner, or employee.

6 (2) “Employer” means a corporation, association, organization,
7 trust, partnership, or sole proprietorship.

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

14 *SEC. 36. Chapter 3 (commencing with Section 1228) is added*
15 *to Title 8 of Part 2 of the Penal Code, to read:*

16
17 *CHAPTER 3. CALIFORNIA COMMUNITY CORRECTIONS*
18 *PERFORMANCE INCENTIVES*

19
20 *1228. (a) This chapter shall be known and may be cited as the*
21 *California Community Corrections Performance Incentives Act*
22 *of 2009.*

23 *(b) The Legislature finds and declares all of the following:*

24 *(1) In 2007, nearly 270,000 felony offenders were subject to*
25 *probation supervision in California’s communities.*

26 *(2) In 2007, out of 46,987 new admissions to state prison, nearly*
27 *20,000 were felony offenders who were committed to state prison*
28 *after failing probation supervision.*

29 *(3) Probation is a judicially imposed suspension of sentence*
30 *that attempts to supervise, treat, and rehabilitate offenders while*
31 *they remain in the community under the supervision of the*
32 *probation department. Probation is a linchpin of the criminal*
33 *justice system, closely aligned with the courts, and plays a central*
34 *role in promoting public safety in California’s communities.*

35 *(4) Providing sustainable funding for improved, evidence-based*
36 *probation supervision practices and capacities will improve public*
37 *safety outcomes among adult felons who are on probation.*
38 *Improving felony probation performance, measured by a reduction*
39 *in felony probationers who are sent to prison because they were*
40 *revoked on probation or convicted of another crime while on*

1 *probation, will reduce the number of new admissions to state*
2 *prison, saving taxpayer dollars and allowing a portion of those*
3 *state savings to be redirected to probation for investing in*
4 *community corrections programs.*

5 *1229. As used in this chapter, the following definitions apply:*

6 *(a) “Community corrections” means the placement of persons*
7 *convicted of a felony offense under probation supervision, with*
8 *conditions imposed by a court for a specified period.*

9 *(b) “Chief probation officer” means the chief probation officer*
10 *for the county or city and county in which an adult offender is*
11 *subject to probation for the conviction of a felony offense.*

12 *(c) “Community corrections program” means a program*
13 *established pursuant to this act consisting of a system of felony*
14 *probation supervision services dedicated to all of the following*
15 *goals:*

16 *(1) Enhancing public safety through the management and*
17 *reduction of offender risk while under felony probation supervision*
18 *and upon reentry from jail into the community.*

19 *(2) Providing a range of probation supervision tools, sanctions,*
20 *and services applied to felony probationers based on a risk/needs*
21 *assessment for the purpose of reducing criminal conduct and*
22 *promoting behavioral change that results in reducing recidivism*
23 *and promoting the successful reintegration of offenders into the*
24 *community.*

25 *(3) Maximizing offender restitution, reconciliation, and*
26 *restorative services to victims of crime.*

27 *(4) Holding offenders accountable for their criminal behaviors*
28 *and for successful compliance with applicable court orders and*
29 *conditions of supervision.*

30 *(5) Improving public safety outcomes for persons placed on*
31 *probation for a felony offense, as measured by their successful*
32 *completion of probation and commensurate reduction in the rate*
33 *of felony probationers sent to prison as a result of a probation*
34 *revocation or conviction of a new crime.*

35 *(d) “Evidence-based practices” refers to supervision policies,*
36 *procedures, programs, and practices demonstrated by scientific*
37 *research to reduce recidivism among individuals under probation,*
38 *parole, or postrelease supervision.*

39 *1230. (a) Each county is hereby authorized to establish in*
40 *each county treasury a Community Corrections Performance*

1 *Incentive Fund (CCPIF), to receive all amounts allocated to that*
2 *county for purposes of implementing this chapter.*

3 *(b) In any fiscal year for which a county receives moneys to be*
4 *expended for the implementation of this chapter, the moneys,*
5 *including any interest, shall be made available to the chief*
6 *probation officer (CPO) of that county, within 30 days of the*
7 *deposit of those moneys into the fund, for the implementation of*
8 *that county's community corrections program as authorized by*
9 *this chapter.*

10 *(1) The community corrections program shall be developed and*
11 *implemented by the probation department and advised by a local*
12 *Community Corrections Partnership.*

13 *(2) The local Community Corrections Partnership shall be*
14 *chaired by the chief probation officer and comprised of the*
15 *following membership:*

16 *(A) The presiding judge of the superior court, or his or her*
17 *designee.*

18 *(B) A county supervisor or the chief administrative officer for*
19 *the county.*

20 *(C) The district attorney.*

21 *(D) The public defender.*

22 *(E) The sheriff.*

23 *(F) A chief of police.*

24 *(G) The head of the county department of social services.*

25 *(H) The head of the county department of mental health.*

26 *(I) The head of the county department of employment.*

27 *(J) The head of the county alcohol and substance abuse*
28 *programs.*

29 *(K) The head of the county office of education.*

30 *(L) A representative from a community-based organization with*
31 *experience in successfully providing rehabilitative services to*
32 *persons who have been convicted of a criminal offense.*

33 *(3) Funds allocated to probation pursuant to this act shall be*
34 *used to provide supervision and rehabilitative services for adult*
35 *felony offenders subject to probation, and shall be spent on*
36 *evidence-based community corrections practices and programs,*
37 *as defined in subdivision (c) of Section 1229, which may include,*
38 *but are not limited to, the following:*

39 *(A) Implementing and expanding evidence-based risk and needs*
40 *assessments.*

1 (B) Implementing and expanding intermediate sanctions that
2 include, but are not limited to, electronic monitoring, mandatory
3 community service, home detention, day reporting, restorative
4 justice programs, work furlough programs, and incarceration in
5 county jail for up to 90 days.

6 (C) Providing more intensive probation supervision.

7 (D) Expanding the availability of evidence-based rehabilitation
8 programs including, but not limited to, drug and alcohol treatment,
9 mental health treatment, anger management, cognitive behavior
10 programs, and job training and employment services.

11 (E) Evaluating the effectiveness of rehabilitation and supervision
12 programs and ensuring program fidelity.

13 (4) The chief probation officer shall have discretion to spend
14 funds on any of the above practices and programs consistent with
15 this act but, at a minimum, shall devote at least 5 percent of all
16 funding received to evaluate the effectiveness of those programs
17 and practices implemented with the funds provided pursuant to
18 this chapter. A chief probation officer may petition the
19 Administrative Office of the Courts to have this restriction waived,
20 and the Administrative Office of the Courts shall have the authority
21 to grant that petition, if the CPO can demonstrate that the
22 department is already devoting sufficient funds to the evaluation
23 of these programs and practices.

24 (5) Each probation department receiving funds under this
25 chapter shall maintain a complete and accurate accounting of all
26 funds received pursuant to this chapter.

27 1231. (a) Community corrections programs funded pursuant
28 to this act shall identify and track specific outcome-based measures
29 consistent with the goals of this act.

30 (b) The Administrative Office of the Courts, in consultation with
31 the Chief Probation Officers of California, shall specify and define
32 minimum required outcome-based measures, which shall include,
33 but not be limited to, all of the following:

34 (1) The percentage of persons on felony probation who are
35 being supervised in accordance with evidence-based practices.

36 (2) The percentage of state moneys expended for programs that
37 are evidence-based, and a descriptive list of all programs that are
38 evidence-based.

39 (3) Specification of supervision policies, procedures, programs,
40 and practices that were eliminated.

1 (4) *The percentage of persons on felony probation who*
2 *successfully complete the period of probation.*

3 (c) *Each chief probation officer receiving funding pursuant to*
4 *Sections 1233 to 1233.6, inclusive, shall provide an annual written*
5 *report to the Administrative Office of the Courts and the*
6 *Department of Corrections and Rehabilitation evaluating the*
7 *effectiveness of the community corrections program, including,*
8 *but not limited to, the data described in subdivision (b).*

9 (d) *The Administrative Office of the Courts shall, in consultation*
10 *with the chief probation officer of each county and the Department*
11 *of Corrections and Rehabilitation, provide a quarterly statistical*
12 *report to the Department of Finance including, but not limited to,*
13 *the following statistical information for each county:*

14 (1) *The number of felony filings.*

15 (2) *The number of felony convictions.*

16 (3) *The number of felony convictions in which the defendant*
17 *was sentenced to the state prison.*

18 (4) *The number of felony convictions in which the defendant*
19 *was granted probation.*

20 (5) *The adult felon probation population.*

21 (6) *The number of felons who had their probation revoked and*
22 *were sent to prison for that revocation.*

23 (7) *The number of adult felony probationers sent to state prison*
24 *for a conviction of a new felony offense, including when probation*
25 *was revoked or terminated.*

26 1232. *Commencing no later than 18 months following the initial*
27 *receipt of funding pursuant to this act and annually thereafter, the*
28 *Administrative Office of the Courts, in consultation with the*
29 *Department of Corrections and Rehabilitation, the Department of*
30 *Finance, and the Chief Probation Officers of California, shall*
31 *submit to the Governor and the Legislature a comprehensive report*
32 *on the implementation of this act. The report shall include, but not*
33 *be limited to, all of the following information:*

34 (a) *The effectiveness of the community corrections program*
35 *based on the reports of performance-based outcome measures*
36 *required in Section 1231.*

37 (b) *The percentage of felony probationers whose probation was*
38 *revoked for the year about which the report is being made.*

1 (c) *The percentage of felony probationers who were convicted*
2 *of crimes during their term of probation for the year about which*
3 *the report is being made.*

4 (d) *The impact of the moneys appropriated pursuant to this act*
5 *to enhance public safety by reducing the percentage and number*
6 *of felony probationers whose probation was revoked for the year*
7 *being reported on for probation violations or new convictions,*
8 *and to reduce the number of felony probationers who are sent to*
9 *prison for the year about which the report is being made.*

10 (e) *Any recommendations regarding resource allocations or*
11 *additional collaboration with other federal, state, regional, or*
12 *local entities, or other for improvements to this act.*

13 1233. (a) *The Director of Finance, in consultation with the*
14 *Department of Corrections and Rehabilitation, the Joint Legislative*
15 *Budget Committee, the Chief Probation Officers of California,*
16 *and the Administrative Office of the Courts, shall calculate for*
17 *each county a baseline probation failure rate that equals the*
18 *average number of adult felony probationers sent to state prison*
19 *during calendar years 2006 to 2008, inclusive, as a percentage of*
20 *the average adult felony probation population during the same*
21 *period.*

22 (b) *For purposes of calculating the baseline probation failure*
23 *rate, the number of adult felony probationers sent to prison shall*
24 *include those adult felony probationers sent to state prison for a*
25 *revocation of probation, as well as adult felony probationers sent*
26 *to state prison for a conviction of a new felony offense. The*
27 *calculation shall also include adult felony probationers sent to*
28 *prison for conviction of a new crime who simultaneously have*
29 *their probation term terminated.*

30 1233.1. *After the conclusion of each calendar year following*
31 *the enactment of this section, the Director of Finance, in*
32 *consultation with the Department of Corrections and*
33 *Rehabilitation, the Joint Legislative Budget Committee, the Chief*
34 *Probation Officers of California, and the Administrative Office of*
35 *the Courts, shall calculate the following for that calendar year:*

36 (a) *The cost to the state to incarcerate in prison and supervise*
37 *on parole a probationer sent to prison. This calculation shall take*
38 *into consideration factors, including, but not limited to, the average*
39 *length of stay in prison and on parole for probationers, as well as*
40 *the associated parole revocation rates, and revocation costs.*

1 (b) *The statewide probation failure rate. The statewide probation*
2 *failure rate shall be calculated as the total number of adult felony*
3 *probationers statewide sent to prison in the previous year as a*
4 *percentage of the statewide adult felony probation population as*
5 *of June 30 of that year.*

6 (c) *A probation failure rate for each county. Each county's*
7 *probation failure rate shall be calculated as the number of adult*
8 *felony probationers sent to prison from that county in the previous*
9 *year as a percentage of the county's adult felony probation*
10 *population as of June 30 of that year.*

11 (d) *An estimate of the number of adult felony probationers each*
12 *county successfully prevented from being sent to prison. For each*
13 *county, this estimate shall be calculated based on the reduction*
14 *in the county's probation failure rate as calculated annually*
15 *pursuant to subdivision (c) of this section and the county's baseline*
16 *probation failure rate as calculated pursuant to Section 1233. In*
17 *making this estimate, the Director of Finance, in consultation with*
18 *the Department of Corrections and Rehabilitation, the Joint*
19 *Legislative Budget Committee, the Chief Probation Officers of*
20 *California, and the Administrative Office of the Courts, shall adjust*
21 *the calculations to account for changes in each county's adult*
22 *felony probation caseload in the most recent completed calendar*
23 *year as compared to the county's adult felony probation population*
24 *during the period 2006 to 2008, inclusive.*

25 (e) *In calculating probation failure rates for the state and*
26 *individual counties, the number of adult felony probationers sent*
27 *to prison shall include those adult felony probationers sent to state*
28 *prison for a revocation of probation, as well as adult felony*
29 *probationers sent to state prison for a conviction of a new felony*
30 *offense. The calculation shall also include adult felony*
31 *probationers who are sent to prison for conviction of a new crime*
32 *and who simultaneously have their probation terms terminated.*

33 1233.2. *Annually, after the conclusion of each calendar year,*
34 *the Director of Finance, in consultation with the Department of*
35 *Corrections and Rehabilitation, the Joint Legislative Budget*
36 *Committee, the Chief Probation Officers of California, and the*
37 *Administrative Office of the Courts, shall identify the appropriate*
38 *Probation Revocation Tier for each county for which it was*
39 *estimated that the county successfully prevented any number of*
40 *adult felony probationers from being sent to state prison, as*

1 *provided in subdivision (d) of Section 1233.1. The tiers shall be*
2 *defined as follows:*

3 *(a) Tier 1. A Tier 1 county is one which has a probation failure*
4 *rate, as defined in subdivision (c) of Section 1233.1, that is no*
5 *more than 25 percent higher than the statewide probation failure*
6 *rate, as defined in subdivision (b) of Section 1233.1.*

7 *(b) Tier 2. A Tier 2 county is one which has a probation failure*
8 *rate, as defined in subdivision (c) of Section 1233.1, that is more*
9 *than 25 percent above the statewide probation failure rate, as*
10 *defined in subdivision (b) of Section 1233.1.*

11 *1233.3. Annually, the Director of Finance, in consultation with*
12 *the Department of Corrections and Rehabilitation, the Joint*
13 *Legislative Budget Committee, the Chief Probation Officers of*
14 *California, and the Administrative Office of the Courts, shall*
15 *calculate a probation failure reduction incentive payment for each*
16 *eligible county, pursuant to Section 1233.2, for the most recently*
17 *completed calendar year, as follows:*

18 *(a) For a county identified as being in Tier 1, as defined in*
19 *subdivision (a) of Section 1233.2, its probation failure reduction*
20 *incentive payment shall equal the estimated number of probationers*
21 *successfully prevented from being sent to prison, as defined by*
22 *subdivision (d) of Section 1233.1, multiplied by 45 percent of the*
23 *costs to the state to incarcerate in prison and supervise on parole*
24 *a probationer who was sent to prison, as defined in subdivision*
25 *(a) of Section 1233.1.*

26 *(b) For a county identified as being in Tier 2, as defined in*
27 *subdivision (b) of Section 1233.2, its probation failure reduction*
28 *incentive payment shall equal the estimated number of probationers*
29 *successfully prevented from being sent to prison, as defined by*
30 *subdivision (d) of Section 1233.1, multiplied by 40 percent of the*
31 *costs to the state to incarcerate in prison and supervise on parole*
32 *a probationer who was sent to prison, as defined in subdivision*
33 *(a) of Section 1233.1.*

34 *1233.4. (a) It is the intent of the Legislature for counties*
35 *demonstrating high success rates with adult felony probationers*
36 *to have access to performance-based funding, as provided for in*
37 *this section.*

38 *(b) On an annual basis, the Department of Finance, in*
39 *consultation with the Department of Corrections and*
40 *Rehabilitation, the Joint Legislative Budget Committee, the Chief*

1 *Probation Officers of California, and the Administrative Office of*
2 *the Courts, shall calculate 5 percent of the savings to the state*
3 *attributed to those counties that successfully reduce the number*
4 *of adult felony probationers sent to state prison.*

5 *(c) The savings estimated pursuant to subdivision (b) shall be*
6 *used to provide high performance grants to county probation*
7 *departments for the purpose of bolstering evidence-based probation*
8 *practices designed to reduce recidivism among adult felony*
9 *probationers.*

10 *(d) County probation departments eligible for these high*
11 *performance grants shall be those with adult probation failure*
12 *rates more than 50 percent below the statewide average in the*
13 *most recently completed calendar year.*

14 *(e) A county probation department may receive a high*
15 *performance grant under this section in a year in which it does*
16 *not also receive a probation failure reduction incentive payment*
17 *as provided for in Section 1233.3. The CPO of a county that*
18 *qualifies for both a high performance grant and a probation failure*
19 *reduction incentive payment shall indicate to the Administrative*
20 *Office of the Courts, by a date designated by the Administrative*
21 *Office of the Courts, whether the CPO chooses to receive the high*
22 *performance grant or probation failure reduction payment.*

23 *(f) The grants provided for in this section shall be administered*
24 *by the Administrative Office of the Courts. The Administrative*
25 *Office of the Courts shall seek to ensure that all qualifying*
26 *probation departments that submit qualifying applications receive*
27 *a proportionate share of the grant funding available based on the*
28 *population of adults ages 18 to 25, inclusive, in each of the counties*
29 *receiving the grants.*

30 *1233.5. If data of sufficient quality and of the types required*
31 *for the implementation of this act are not available to the Director*
32 *of Finance, then the Director of Finance, in consultation with the*
33 *Department of Corrections and Rehabilitation, the Joint Legislative*
34 *Budget Committee, and the Administrative Office of the Courts,*
35 *shall use the best available data to estimate probation failure*
36 *reduction incentive payments and high performance grants utilizing*
37 *a methodology that is as consistent with that described in this act*
38 *as is reasonably possible.*

39 *1233.6. (a) Probation failure reduction incentive payments*
40 *and high performance grants calculated for any calendar year*

1 shall be provided to counties in the following fiscal year. The total
2 annual payment to each county shall be divided into four equal
3 quarterly payments.

4 (b) The Department of Finance shall include an estimate of the
5 total probation failure reduction incentive payments and high
6 performance grants to be provided to counties in the coming fiscal
7 year as part of the Governor's proposed budget released no later
8 than January 10 of each year. This estimate shall be adjusted by
9 the Department of Finance, as necessary, to reflect the actual
10 calculations of probation revocation incentive payments and high
11 performance grants completed by the Director of Finance, in
12 consultation with the Department of Corrections and
13 Rehabilitation, the Joint Legislative Budget Committee, the Chief
14 Probation Officers of California, and the Administrative Office of
15 the Courts. This adjustment shall occur as part of standard budget
16 revision processes completed by the Department of Finance in
17 April and May of each year.

18 (c) There is hereby established a State Community Corrections
19 Performance Incentives Fund. Moneys budgeted for purposes of
20 providing probation revocation incentive payments and high
21 performance grants authorized in Sections 1230 to 1233.6,
22 inclusive, shall be deposited into this fund. Any moneys deposited
23 into this fund shall be administered by the Administrative Office
24 of the Courts and the share calculated for each county probation
25 department shall be transferred to its Community Corrections
26 Performance Incentives Fund authorized in Section 1230. The
27 Legislature may allocate up to 3 percent of the funds annually
28 deposited into the State Community Corrections Performance
29 Incentives Fund for use by the Administrative Office of the Courts
30 for the costs of administering this program.

31 1233.7. The moneys appropriated pursuant to this chapter
32 shall be used to supplement, not supplant, any other state or county
33 appropriation for the chief probation officer or the probation
34 department.

35 1233.8. This chapter shall remain in effect only until January
36 1, 2015, and as of that date is repealed, unless a later enacted
37 statute, that is enacted before January 1, 2015, deletes or extends
38 that date.

39 SEC. 37. Section 2932 of the Penal Code is amended to read:

1 2932. (a) (1) For any time credit accumulated pursuant to
2 Section 2931 or to Section 2933, not more than 360 days of credit
3 may be denied or lost for a single act of murder, attempted murder,
4 solicitation of murder, manslaughter, rape, sodomy, or oral
5 copulation accomplished against the victim's will, attempted rape,
6 attempted sodomy, or attempted oral copulation accomplished
7 against the victim's will, assault or battery causing serious bodily
8 injury, assault with a deadly weapon or caustic substance, taking
9 of a hostage, escape with force or violence, or possession or
10 manufacture of a deadly weapon or explosive device, whether or
11 not prosecution is undertaken for purposes of this paragraph.
12 Solicitation of murder shall be proved by the testimony of two
13 witnesses, or of one witness and corroborating circumstances.

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

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

21 (4) Not more than 30 days of credit may be denied or lost for
22 a single act of misconduct defined by regulation as a serious
23 disciplinary offense by the Department of Corrections. Any person
24 confined due to a change in custodial classification following the
25 commission of any serious disciplinary infraction shall, in addition
26 to any loss of time credits, be ineligible to receive participation or
27 worktime credit for a period not to exceed the number of days of
28 credit which have been lost for the act of misconduct or 180 days,
29 whichever is less. Any person confined in a secure housing unit
30 for having committed any misconduct specified in paragraph (1)
31 in which great bodily injury is inflicted upon a nonprisoner shall,
32 in addition to any loss of time credits, be ineligible to receive
33 participation or worktime credit for a period not to exceed the
34 number of days of credit which have been lost for that act of
35 misconduct, ~~or for the period that the prisoner is confined in a~~
36 ~~secure housing unit, whichever is less.~~ In unusual cases, an inmate
37 may be denied the opportunity to participate in a credit qualifying
38 assignment for up to six months beyond the period specified in
39 this subdivision if the Director of Corrections finds, after a hearing,
40 that no credit qualifying program may be assigned to the inmate

1 without creating a substantial risk of physical harm to staff or other
2 inmates. At the end of the six-month period and of successive
3 six-month periods, the denial of the opportunity to participate in
4 a credit qualifying assignment may be renewed upon a hearing
5 and finding by the director.

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

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

17 (c) Any procedure not provided for by this section, but necessary
18 to carry out the purposes of this section, shall be those procedures
19 provided for by the Department of Corrections for serious
20 disciplinary infractions if those procedures are not in conflict with
21 this section.

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

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

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

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

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

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

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

12 (2) The prisoner may elect to be assigned an employee to assist
13 in the investigation, preparation, or presentation of a defense at
14 the disciplinary hearing if it is determined by the department that:

15 (i) the prisoner is illiterate; or (ii) the complexity of the issues or
16 the prisoner's confinement status makes it unlikely that the prisoner
17 can collect and present the evidence necessary for an adequate
18 comprehension of the case.

19 (3) The prisoner may request witnesses to attend the hearing
20 and they shall be called unless the person conducting the hearing
21 has specific reasons to deny this request. The specific reasons shall
22 be set forth in writing and a copy of the document shall be
23 presented to the prisoner.

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

26 (5) At the conclusion of the hearing the charge shall be
27 dismissed if the facts do not support the charge, or the prisoner
28 may be found guilty on the basis of a preponderance of the
29 evidence.

30 (d) If found guilty the prisoner shall be advised in writing of
31 the guilty finding and the specific evidence relied upon to reach
32 this conclusion and the amount of time-credit loss. The prisoner
33 may appeal the decision through the Department of Corrections'
34 review procedure, and may, upon final notification of appeal denial,
35 within 15 days of the notification demand review of the
36 department's denial of credit to the Board of Prison Terms, and
37 the board may affirm, reverse, or modify the department's decision
38 or grant a hearing before the board at which hearing the prisoner
39 shall have the rights specified in Section 3041.5.

1 (e) Each prisoner subject to Section 2931 shall be notified of
2 the total amount of good behavior and participation credit which
3 may be credited pursuant to Section 2931, and his or her anticipated
4 time-credit release date. The prisoner shall be notified of any
5 change in the anticipated release date due to denial or loss of
6 credits, award of worktime credit, under Section 2933, or the
7 restoration of any credits previously forfeited.

8 (f) If the conduct the prisoner is charged with also constitutes
9 a crime, the Department of Corrections may refer the case to
10 criminal authorities for possible prosecution. The department shall
11 notify the prisoner, who may request postponement of the
12 disciplinary proceedings pending the referral.

13 The prisoner may revoke his or her request for postponement of
14 the disciplinary proceedings up until the filing of the accusatory
15 pleading. In the event of the revocation of the request for
16 postponement of the proceeding, the department shall hold the
17 hearing within 30 days of the revocation.

18 Notwithstanding the notification requirements in this paragraph
19 and subparagraphs (A) and (B) of paragraph (1) of subdivision
20 (c), in the event the case is referred to criminal authorities for
21 prosecution and the authority requests that the prisoner not be
22 notified so as to protect the confidentiality of its investigation, no
23 notice to the prisoner shall be required until an accusatory pleading
24 is filed with the court, or the authority notifies the warden, in
25 writing, that it will not prosecute or it authorizes the notification
26 of the prisoner. The notice exceptions provided for in this
27 paragraph shall only apply if the criminal authority requests of the
28 warden, in writing, and within the 15 days provided in
29 subparagraph (A) of paragraph (1) of subdivision (c), that the
30 prisoner not be notified. Any period of delay of notice to the
31 prisoner shall not exceed 30 days beyond the 15 days referred to
32 in subdivision (c). In the event that no prosecution is undertaken,
33 the procedures in subdivision (c) shall apply, and the time periods
34 set forth in that subdivision shall commence to run from the date
35 the warden is notified in writing of the decision not to prosecute.
36 In the event the authority either cancels its requests that the prisoner
37 not be notified before it makes a decision on prosecution or files
38 an accusatory pleading, the provisions of this paragraph shall apply
39 as if no request had been received, beginning from the date of the
40 cancellation or filing.

1 In the case where the prisoner is prosecuted by the district
2 attorney, the Department of Corrections shall not deny time credit
3 where the prisoner is found not guilty and may deny credit if the
4 prisoner is found guilty, in which case the procedures in
5 subdivision (c) shall not apply.

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

12 (h) Nothing in the amendments to this section made at the
13 1981–82 Regular Session of the Legislature shall affect the granting
14 or revocation of credits attributable to that portion of the prisoner's
15 sentence served prior to January 1, 1983.

16 *SEC. 38. Section 2933 of the Penal Code is amended to read:*

17 2933. (a) It is the intent of the Legislature that persons
18 convicted of a crime and sentenced to the state prison under Section
19 1170 serve the entire sentence imposed by the court, except for a
20 reduction in the time served in the custody of the ~~Director of~~
21 ~~Corrections for performance in work, training or education~~
22 ~~programs established by the Director of Corrections. Worktime~~
23 ~~credits shall apply for performance in work assignments and~~
24 ~~performance in elementary, high school, or vocational education~~
25 ~~programs. Enrollment in a two- or four-year college program~~
26 ~~leading to a degree shall result in the application of time credits~~
27 ~~equal to that provided in Section 2931.~~ *Secretary of the Department*
28 *of Corrections and Rehabilitation pursuant to this section and*
29 *Section 2933.05. For*

30 (b) ~~For every six months of full-time performance in a credit~~
31 ~~qualifying program, as designated by the director continuous~~
32 ~~incarceration, a prisoner shall be awarded worktime credit~~
33 ~~reductions from his or her term of confinement of six months. A~~
34 ~~lesser amount of credit based on this ratio shall be awarded for~~
35 ~~any lesser period of continuous performance. Less than maximum~~
36 ~~credit incarceration. Credit should be awarded pursuant to~~
37 ~~regulations adopted by the director for prisoners not assigned to a~~
38 ~~full-time credit qualifying program. Every prisoner who refuses~~
39 ~~to accept a full-time credit qualifying assignment or who is~~
40 ~~secretary. Prisoners who are denied the opportunity to earn~~

1 ~~worktime~~ credits pursuant to subdivision (a) of Section 2932 shall
2 be awarded no ~~worktime~~ credit reduction *pursuant to this section*.
3 Every prisoner who voluntarily accepts a half-time credit qualifying
4 assignment in lieu of a full-time assignment shall be awarded
5 ~~worktime~~ credit reductions from his or her term of confinement
6 of ~~three months for each six-month period of continued~~
7 ~~performance. Except as provided in subdivision (a) of Section~~
8 ~~2932, every prisoner willing to participate in a full-time credit~~
9 ~~qualifying assignment but who is either not assigned to a full-time~~
10 ~~assignment or is assigned to a program for less than full time, shall~~
11 ~~receive no less credit than is provided under Section 2931. Under~~
12 ~~no circumstances shall any prisoner receive more than six months'~~
13 ~~credit reduction for any six-month period under this section.~~

14 ~~(b) Worktime credit~~

15 (c) *Credit* is a privilege, not a right. ~~Worktime credit~~ *Credit*
16 must be earned and may be forfeited pursuant to the provisions of
17 Section 2932. Except as provided in subdivision (a) of Section
18 2932, every *eligible* prisoner shall have a reasonable opportunity
19 to participate in a full-time credit qualifying assignment in a
20 manner consistent with institutional security and available
21 resources.

22 ~~(e)~~

23 (d) Under regulations adopted by the Department of Corrections
24 *and Rehabilitation*, which shall require a period of not more than
25 one year free of disciplinary infractions, ~~worktime~~ credit which
26 has been previously forfeited may be restored by the ~~director~~
27 *secretary*. The regulations shall provide for separate classifications
28 of serious disciplinary infractions as they relate to restoration of
29 credits, the time period required before forfeited credits or a portion
30 thereof may be restored, and the percentage of forfeited credits
31 that may be restored for these time periods. For credits forfeited
32 ~~for commission of a felony as specified in paragraph (1) of~~
33 subdivision (a) of Section 2932, the Department of Corrections
34 *and Rehabilitation* may provide that up to 180 days of lost credit
35 shall not be restored and up to 90 days of credit shall not be
36 restored for a forfeiture resulting from conspiracy or attempts to
37 commit one of those acts. No credits may be restored if they were
38 forfeited for a serious disciplinary infraction in which the victim
39 died or was permanently disabled. Upon application of the prisoner
40 and following completion of the required time period free of

1 disciplinary offenses, forfeited credits eligible for restoration under
2 the regulations for disciplinary offenses other than serious
3 disciplinary infractions punishable by a credit loss of more than
4 90 days shall be restored unless, at a hearing, it is found that the
5 prisoner refused to accept or failed to perform in a credit qualifying
6 assignment, or extraordinary circumstances are present that require
7 that credits not be restored. “Extraordinary circumstances” shall
8 be defined in the regulations adopted by the ~~director~~ *secretary*.
9 However, in any case in which ~~worktime~~ credit was forfeited for
10 a serious disciplinary infraction punishable by a credit loss of more
11 than 90 days, restoration of credit shall be at the discretion of the
12 ~~director~~ *secretary*.

13 The prisoner may appeal the finding through the Department of
14 Corrections *and Rehabilitation’s* review procedure, which shall
15 include a review by an individual independent of the institution
16 who has supervisory authority over the institution.

17 *(e) A prisoner sentenced to the state prison under Section 1170*
18 *shall receive one day of credit for every day served in a county*
19 *jail, city jail, industrial farm, or road camp after the date he or*
20 *she was sentenced to the state prison as specified in subdivision*
21 *(f) of Section 4019.*

22 ~~(d)~~

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

26 *SEC. 39. Section 2933.05 is added to the Penal Code, to read:*

27 *2933.05. (a) In addition to any credit awarded pursuant to*
28 *Section 2933, the department may also award a prisoner program*
29 *credit reductions from his or her term of confinement as provided*
30 *in this section. Within 90 days of the enactment of this section, the*
31 *secretary shall promulgate regulations that provide for credit*
32 *reductions for inmates who successfully complete specific program*
33 *performance objectives for approved rehabilitative programming*
34 *ranging from credit reduction of not less than one week to credit*
35 *reduction of no more than six weeks for each performance*
36 *milestone. Regulations promulgated pursuant to this subdivision*
37 *shall specify the credit reductions applicable to distinct objectives*
38 *in a schedule of graduated program performance objectives*
39 *concluding with the successful completion of an in-prison*
40 *rehabilitation program. Commencing upon the promulgation of*

1 *those regulations, the department shall thereafter calculate and*
2 *award credit reductions authorized by this section. However, a*
3 *prisoner may not have his or her term of imprisonment reduced*
4 *more than six weeks for credits awarded pursuant to this section*
5 *during any 12-month period of continuous confinement.*

6 *(b) Program credit is a privilege, not a right. Prisoners shall*
7 *have a reasonable opportunity to participate in program credit*
8 *qualifying assignments in a manner consistent with institutional*
9 *security and available resources. Assignments made to program*
10 *credit qualifying programs shall be made in accordance with the*
11 *prisoner’s case plan, when available.*

12 *(c) As used in this section, “approved rehabilitation*
13 *programming” shall include, but is not limited to, academic*
14 *programs, vocational programs, vocational training, and core*
15 *programs such as anger management and social life skills, and*
16 *substance abuse programs.*

17 *(d) Credits awarded pursuant to this section may be forfeited*
18 *pursuant to the provisions of Section 2932. Inmates shall not be*
19 *eligible for program credits that result in an inmate overdue for*
20 *release.*

21 *(e) The following prisoners shall not be eligible for program*
22 *credits pursuant to this section:*

23 *(1) Any person serving a term of imprisonment for an offense*
24 *specified in subdivision (c) of Section 667.5.*

25 *(2) Any person sentenced to state prison pursuant to Section*
26 *1170.12 or subdivisions (b) to (i), inclusive, of Section 667.*

27 *(3) Any person required to register as a sex offender pursuant*
28 *to Chapter 5.5 (commencing with Section 290) of Title 9 of Part*
29 *1.*

30 *(4) Any person serving a term of imprisonment as a result of a*
31 *violation of parole without a new term.*

32 *SEC. 40. Section 2933.2 of the Penal Code is amended to read:*
33 *2933.2. (a) Notwithstanding Section 2933.1 or any other law,*
34 *any person who is convicted of murder, as defined in Section 187,*
35 *shall not accrue any credit, as specified in Section 2933 or Section*
36 *2933.05.*

37 *(b) The limitation provided in subdivision (a) shall apply*
38 *whether the defendant is sentenced under Chapter 4.5 (commencing*
39 *with Section 1170) of Title 7 of Part 2 or sentenced under some*
40 *other law.*

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

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

8 *SEC. 41. Section 2933.3 of the Penal Code is amended to read:*

9 2933.3. (a) Notwithstanding any other ~~provision of law~~, any
10 inmate assigned to a conservation camp by the Department of
11 Corrections *and Rehabilitation*, who is eligible to earn one day of
12 ~~worktime~~ credit for every one day of ~~service~~ incarceration pursuant
13 to Section 2933 shall instead earn two days of ~~worktime~~ credit for
14 every one day of service. ~~This~~ *The* enhanced ~~worktime~~ credit
15 *authorized pursuant to this subdivision* shall only apply to ~~service~~
16 ~~performed~~ *those prisoners eligible* after January 1, 2003.

17 (b) *Notwithstanding any other law, any inmate who has*
18 *completed training for assignment to a conservation camp or to*
19 *a correctional institution as an inmate firefighter or who is*
20 *assigned to a correctional institution as an inmate firefighter and*
21 *who is eligible to earn one day of credit for every one day of*
22 *incarceration pursuant to Section 2933 shall instead earn two*
23 *days of credit for every one day served in that assignment or after*
24 *completing that training.*

25 (c) *In addition to credits granted pursuant to subdivision (a) or*
26 *(b), inmates who have successfully completed training for*
27 *firefighter assignments shall receive a credit reduction from his*
28 *or her term of confinement pursuant to regulations adopted by the*
29 *secretary.*

30 (d) *The credits authorized in subdivisions (b) and (c) shall only*
31 *apply to inmates who are eligible after July 1, 2009.*

32 *SEC. 42. Section 2933.4 of the Penal Code is amended and*
33 *renumbered to read:*

34 ~~2933.4.~~

35 3050. (a) Notwithstanding any other provision of law, any
36 inmate under the custody of the Department of Corrections and
37 Rehabilitation who is not currently serving and has not served a
38 prior indeterminate sentence or a sentence for a violent felony, a
39 serious felony, or a crime that requires him or her to register as a
40 sex offender pursuant to Section 290, who has successfully

1 completed an in prison drug treatment program, upon release from
2 state prison, shall, whenever possible, be entered into a 150-day
3 residential aftercare drug treatment program sanctioned by the
4 department.

5 (b) As a condition of parole, if the inmate successfully completes
6 150 days of residential aftercare treatment, as determined by the
7 Department of Corrections and Rehabilitation and the aftercare
8 provider, the parolee shall be discharged from parole supervision
9 at that time.

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

13 *SEC. 43. Section 2933.5 of the Penal Code is amended to read:*
14 2933.5. (a) (1) Notwithstanding any other ~~provision of law,~~
15 every person who is convicted of any felony offense listed in
16 paragraph (2), and who previously has been convicted two or more
17 times, on charges separately brought and tried, and who previously
18 has served two or more separate prior prison terms, as defined in
19 subdivision (g) of Section 667.5, of any offense or offenses listed
20 in paragraph (2), shall be ineligible to earn credit on his or her
21 term of imprisonment pursuant to this ~~chapter~~ *article*.

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

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

25 (B) Voluntary manslaughter, as defined in subdivision (a) of
26 Section 192.

27 (C) Mayhem as defined in Section 203.

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

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

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

32 (G) Rape, as defined in paragraph (2) or (6) of subdivision (a)
33 of Section 261 or paragraph (1) or (4) of subdivision (a) of Section
34 262.

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

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

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

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

6 (L) Continuous sexual abuse of a child, as described in Section
7 288.5.

8 (M) Sexual penetration, as described in subdivision (a) of
9 Section 289.

10 (N) Exploding a destructive device or explosive with intent to
11 injure, as described in Section 12303.3, with intent to murder, as
12 described in Section 12308, or resulting in great bodily injury or
13 mayhem, as described in Section 12309.

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

16 (b) A prior conviction of an offense listed in subdivision (a)
17 shall include a conviction in another jurisdiction for an offense
18 which includes all of the elements of the particular felony as
19 defined under California law.

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

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

28 *SEC. 44. Section 2933.6 of the Penal Code is amended to read:*

29 2933.6. (a) Notwithstanding any other law, a person who is
30 placed in a Security Housing Unit, *Psychiatric Services Unit,*
31 *Behavioral Management Unit,* or an Administrative Segregation
32 Unit for misconduct described in subdivision (b) *or upon validation*
33 *as a prison gang member or associate* is ineligible to earn ~~work~~
34 ~~credits or good behavior~~ credits *pursuant to Section 2933 or*
35 *2933.05* during the time he or she is in the Security Housing Unit,
36 *Psychiatric Services Unit, Behavioral Management Unit,* or the
37 Administrative Segregation Unit for that misconduct.

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

39 (1) Murder, attempted murder, and solicitation of murder. For
40 purposes of this paragraph, solicitation of murder shall be proven

1 by the testimony of two witnesses, or of one witness and
2 corroborating circumstances.

3 (2) Manslaughter.

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

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

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

8 (6) Rape, attempted rape, sodomy, attempted sodomy, oral
9 copulation, or attempted oral copulation accomplished against the
10 victim's will.

11 (7) Taking a hostage.

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

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

15 (10) Possession or manufacture of a deadly weapon or explosive
16 device.

17 (11) Arson involving damage to a structure.

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

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

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

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

28 *SEC. 45. Section 2934 of the Penal Code is amended to read:*

29 2934. Under rules prescribed by the ~~Director of Corrections~~
30 *Secretary of the Department of Corrections and Rehabilitation*, a
31 prisoner subject to the provisions of Section 2931 may waive the
32 right to receive time credits as provided in Section 2931 and be
33 subject to the provisions of Section 2933. In order to exercise a
34 waiver under this section, a prisoner must apply in writing to the
35 Department of Corrections. A prisoner exercising a waiver under
36 this section shall retain only that portion of good behavior and
37 participation credits, which have not been forfeited pursuant to
38 Section 2932, attributable to the portion of the sentence served by
39 the prisoner prior to the effective date of the waiver. A waiver
40 under this section shall, if accepted by the department, become

1 effective at a time to be determined by the ~~Director of the~~
2 ~~Department of Corrections~~ *Secretary of the Department of*
3 *Corrections and Rehabilitation.*

4 *SEC. 46. Section 2935 of the Penal Code is amended to read:*

5 2935. Under the guidelines prescribed by the rules and
6 regulations of the director, the ~~Director of Corrections~~ *Secretary*
7 *of the Department of Corrections and Rehabilitation* may grant
8 up to 12 additional months of reduction of the sentence to a
9 prisoner who has performed a heroic act in a life-threatening
10 situation, or who has provided exceptional assistance in
11 maintaining the safety and security of a prison.

12 *SEC. 47. Section 3000 of the Penal Code is amended to read:*

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

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

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

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

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

4 (1) At the expiration of a term of imprisonment of one year and
5 one day, or a term of imprisonment imposed pursuant to Section
6 1170 or at the expiration of a term reduced pursuant to Section
7 2931 or 2933, if applicable, the inmate shall be released on parole
8 for a period not exceeding three years, except that any inmate
9 sentenced for an offense specified in paragraph (3), (4), (5), (6),
10 (11), (16), or (18) of subdivision (c) of Section 667.5 shall be
11 released on parole for a period not exceeding five years, unless in
12 either case the parole authority for good cause waives parole and
13 discharges the inmate from the custody of the department.

14 (2) In the case of any inmate sentenced under Section 1168, the
15 period of parole shall not exceed five years in the case of an inmate
16 imprisoned for any offense other than first or second degree murder
17 for which the inmate has received a life sentence, and shall not
18 exceed three years in the case of any other inmate, unless in either
19 case the parole authority for good cause waives parole and
20 discharges the inmate from custody of the department. This
21 subdivision shall also be applicable to inmates who committed
22 crimes prior to July 1, 1977, to the extent specified in Section
23 1170.2.

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

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

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

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

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

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

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

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

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

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

37 *SEC. 48. Section 3000.03 is added to the Penal Code, to read:*
38 *3000.03. Notwithstanding any other provision of law, the*
39 *Department of Corrections and Rehabilitation shall not return to*
40 *prison, place a parole hold on pursuant to Section 3056, or report*

1 any parole violation to the Board of Parole Hearings regarding
2 any person to whom all of the following criteria apply:

3 (a) The person is not required to register as a sex offender
4 pursuant to Chapter 5.5 (commencing with Section 290) of Title
5 9 of Part 1.

6 (b) The person was not committed to prison for a serious felony
7 as defined in Sections 1192.7 and 1192.8, or a violent felony, as
8 defined in Section 667.5, and does not have a prior conviction for
9 a serious felony, as defined in Section 1192.7 and 1192.8, or a
10 violent felony, as defined in Section 667.5.

11 (c) The person was not committed to prison for a sexually violent
12 offense as defined in subdivision (b) of Section 6600 of the Welfare
13 and Institutions Code and does not have a prior conviction for a
14 sexually violent offense as defined in subdivision (b) of Section
15 6600 of the Welfare and Institutions Code.

16 (d) The person was not found guilty of a serious disciplinary
17 offense, as defined in regulation by the department, during his or
18 her current term of imprisonment.

19 (e) The person is not a validated prison gang member or
20 associate, as defined in regulation by the department.

21 (f) The person did not refuse to sign any written notification of
22 parole requirements or conditions, including, but not limited to,
23 the written notification of requirements pursuant to Section 3067.

24 (g) The person was evaluated by the department using a
25 validated risk assessment tool and was not determined to pose a
26 high risk to reoffend.

27 SEC. 49. Article 2.3 (commencing with Section 3015) is added
28 to Chapter 8 of Title 1 of Part 3 of the Penal Code, to read:

29

30 Article 2.3. Parole Reentry Accountability Program

31

32 3015. (a) The Secretary of the Department of Corrections and
33 Rehabilitation shall establish a parole reentry accountability
34 program for parolees who have been sentenced to a term of
35 imprisonment under Section 1170. The purpose of the program is
36 to promote public safety, hold parolees accountable, and reduce
37 recidivism.

38 (b) The department shall employ a parole violation
39 decisionmaking instrument to determine the most appropriate
40 sanctions for these parolees who violate their conditions of parole.

1 (1) For purposes of this subdivision, a “parole violation
2 decisionmaking instrument” means a standardized tool that
3 provides ranges of appropriate sanctions for parole violators given
4 relevant case factors, including, but not limited to, offense history,
5 risk of reoffense based on a validated risk assessment tool, need
6 for treatment services, the number and type of current and prior
7 parole violations, and other relevant statutory requirements.

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

12 (c) The secretary shall have the discretion to establish additional
13 tools and standards to further the purposes of this section.

14 (d) Parolees subject to this program with a history of substance
15 abuse or mental illness who violate their conditions of parole may
16 be referred by the department to a reentry court program
17 established pursuant to subdivision (e).

18 (1) A parolee who is deemed eligible by the department to
19 participate in a reentry court program may be referred by his or
20 her parole officer for participation in the program. The court shall
21 have the discretion to determine if the parolee will be admitted
22 into the program and, in making this determination, shall consider,
23 among other factors, whether the parolee will benefit from the
24 program, the risk the parolee poses to the community, and the
25 history and nature of the committing offense.

26 (2) If the court determines that the parolee will be admitted into
27 the program, the court, with the assistance of the parolee’s parole
28 agent, shall have exclusive authority to determine the appropriate
29 conditions of parole, order rehabilitation and treatment services
30 to be provided, determine appropriate incentives, order
31 appropriate sanctions, lift parole holds, and hear and determine
32 appropriate responses to alleged violations, unless and until the
33 court terminates the parolee’s enrollment in the program
34 authorized by subdivision (e).

35 (3) A reentry court program plan shall include, but not be
36 limited to, all of the following:

37 (A) The anticipated number of parolees who will be served by
38 the program.

39 (B) The method by which each parolee who is eligible for the
40 program shall be referred to the program.

1 (C) *The method by which each parolee is to be individually*
2 *assessed as to his or her treatment and rehabilitative needs and*
3 *the level of community and court monitoring required by the*
4 *program.*

5 (D) *The criteria for continued participation in, and successful*
6 *completion of, the program, as well as the criteria for termination*
7 *from the program and referral to the parole revocation process.*

8 (E) *A description of how the program shall be administered*
9 *effectively.*

10 (F) *An established method by which to report outcome measures*
11 *for program participants.*

12 (G) *The development of a program team, as well as a plan for*
13 *ongoing training in utilizing the drug court and collaborative court*
14 *nonadversarial model.*

15 (e) (1) *Subject to funding made available for this purpose, the*
16 *secretary shall enter into a memorandum of understanding with*
17 *the Administrative Office of the Courts for the purpose of the*
18 *establishment and operation of parolee reentry court programs.*
19 *Only courts with existing drug and mental health courts or courts*
20 *that otherwise demonstrate leadership and a commitment to*
21 *conduct the reentry court authorized by this section may participate*
22 *in this program. These parolee reentry court programs shall, with*
23 *the assistance of the parolee's parole agent, direct the treatment*
24 *and supervision of parolees who would benefit from community*
25 *drug treatment or mental health treatment. The purpose of reentry*
26 *court programs created pursuant to this subdivision is to promote*
27 *public safety, hold parolees accountable, and reduce recidivism.*
28 *The program shall include key components of drug and*
29 *collaborative courts using a highly structured model, including*
30 *close supervision and monitoring, dedicated calendars,*
31 *nonadversarial proceedings, frequent drug and alcohol testing,*
32 *and close collaboration between the respective entities involved*
33 *to improve the parolee's likelihood of success on parole.*

34 (2) *The Judicial Council, in collaboration with the department,*
35 *shall design and perform an evaluation of the program that will*
36 *assess its effectiveness in reducing recidivism among parolees and*
37 *reducing parole revocations.*

38 (3) *The Judicial Council, in collaboration with the department,*
39 *shall submit a final report of the findings from its evaluation of*
40 *the program to the Legislature and the Governor no later than 3*

1 *years after the establishment of a reentry court pursuant to this*
2 *section.*

3 *SEC. 50. Section 4019 of the Penal Code is amended to read:*

4 4019. (a) The provisions of this section shall apply in all of
5 the following cases:

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

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

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

21 (4) When a prisoner is confined in a county jail, industrial farm,
22 or road camp, or a city jail, industrial farm, or road camp following
23 arrest and prior to the imposition of sentence for a felony
24 conviction.

25 ~~(b) Subject~~

26 *(b) (1) Except as provided in Section 2933.1 and paragraph*
27 *(2), subject to the provisions of subdivision (d), for each ~~six-day~~*
28 *four-day period in which a prisoner is confined in or committed*
29 *to a facility as specified in this section, one day shall be deducted*
30 *from his or her period of confinement unless it appears by the*
31 *record that the prisoner has refused to satisfactorily perform labor*
32 *as assigned by the sheriff, chief of police, or superintendent of an*
33 *industrial farm or road camp.*

34 *(2) If the prisoner is required to register as a sex offender*
35 *pursuant to Chapter 5.5 (commencing with Section 290), was*
36 *committed for a serious felony, as defined in Section 1192.7, or*
37 *has a prior conviction for a serious felony, as defined in Section*
38 *1192.7, or a violent felony, as defined in Section 667.5, subject to*
39 *the provisions of subdivision (d), for each six-day period in which*
40 *the prisoner is confined in or committed to a facility as specified*

1 *in this section, one day shall be deducted from his or her period*
2 *of confinement unless it appears by the record that the prisoner*
3 *has refused to satisfactorily perform labor as assigned by the*
4 *sheriff, chief of police, or superintendent of an industrial farm or*
5 *road camp.*

6 ~~(e) For~~

7 *(c) (1) Except as provided in Section 2933.1 and paragraph*
8 *(2), for each ~~six-day~~ four-day period in which a prisoner is confined*
9 *in or committed to a facility as specified in this section, one day*
10 *shall be deducted from his or her period of confinement unless it*
11 *appears by the record that the prisoner has not satisfactorily*
12 *complied with the reasonable rules and regulations established by*
13 *the sheriff, chief of police, or superintendent of an industrial farm*
14 *or road camp.*

15 *(2) If the prisoner is required to register as a sex offender*
16 *pursuant to Chapter 5.5 (commencing with Section 290), was*
17 *committed for a serious felony, as defined in Section 1192.7, or*
18 *has a prior conviction for a serious felony, as defined in Section*
19 *1192.7, or a violent felony, as defined in Section 667.5, for each*
20 *six-day period in which the prisoner is confined in or committed*
21 *to a facility as specified in this section, one day shall be deducted*
22 *from his or her period of confinement unless is appears by the*
23 *record that the prisoner has not satisfactorily complied with the*
24 *reasonable rules and regulations established by the sheriff, chief*
25 *of police, or superintendent of an industrial farm or road camp.*

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

33 *(e) No deduction may be made under this section unless the*
34 *person is committed for a period of ~~six~~ four days or longer, or six*
35 *days or longer for persons described in paragraph (2) of*
36 *subdivision (b) or (c).*

37 *(f) It is the intent of the Legislature that if all days are earned*
38 *under this section, a term of ~~six~~ four days will be deemed to have*
39 *been served for every ~~four~~ two days spent in actual custody, except*
40 *that a term of six days will be deemed to have been served for*

1 every four days spent in actual custody for persons described in
2 paragraph (2) of subdivision (b) or (c).

3 SEC. 51. Section 4600 of the Penal Code is amended to read:

4 4600. (a) Every person who willfully and intentionally breaks
5 down, pulls down, or otherwise destroys or injures any jail, prison,
6 or any public property in any jail or prison, is punishable by a fine
7 not exceeding ten thousand dollars (\$10,000), and by imprisonment
8 in the state prison, except that where the damage or injury to any
9 city, city and county, or county jail property or prison property is
10 determined to be ~~four hundred dollars (\$400)~~ *nine hundred fifty*
11 *dollars (\$950)* or less, that person is guilty of a misdemeanor.

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

19 SEC. 52. Section 14591 of the Public Resources Code is
20 amended to read:

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

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

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

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

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

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

36 (E) Returns redeemed containers to the marketplace for
37 ~~redemption~~ *redemption*.

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

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

3 (2) If the money obtained or withheld pursuant to paragraph (1)
4 exceeds ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars*
5 *(\$950)*, the fraud is punishable by imprisonment in the county jail
6 for not more than one year or by a fine not exceeding ten thousand
7 dollars (\$10,000), or by both, or by imprisonment in the state prison
8 for 16 months, two years, or three years, or by a fine not exceeding
9 twenty-five thousand dollars (\$25,000) or twice the late or unmade
10 payments plus interest, whichever is greater, or by both fine and
11 imprisonment. If the money obtained or withheld pursuant to
12 paragraph (1) equals, or is less than, ~~four hundred dollars (\$400)~~
13 *nine hundred fifty dollars (\$950)*, the fraud is punishable by
14 imprisonment in the county jail for not more than six months or
15 by a fine not exceeding one thousand dollars (\$1,000), or by both.

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

20 *SEC. 53. Section 41955 of the Public Resources Code is*
21 *amended to read:*

22 41955. If the value of the stolen material is more than fifty
23 dollars (\$50), but less than ~~four hundred dollars (\$400)~~ *nine*
24 *hundred fifty dollars (\$950)*, a violation of this part may be charged
25 as either a misdemeanor or an infraction. A violation after a second
26 conviction within a 12-month period shall be charged as a
27 misdemeanor punishable pursuant to Section 19 of the Penal Code.

28 *SEC. 54. Section 10851.5 of the Vehicle Code is amended to*
29 *read:*

30 10851.5. Any person who takes binder chains, required under
31 regulations adopted pursuant to Section 31510, having a value of
32 ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)* or
33 less which chains are not his own, without the consent of the owner
34 thereof, and with intent either permanently or temporarily to
35 deprive the owner thereof of his title to or possession of the binder
36 chains whether with or without intent to steal the same, or any
37 person who is a party or accessory to or an accomplice in the
38 unauthorized taking or stealing is guilty of a misdemeanor, and
39 upon conviction thereof shall be punished by imprisonment in the
40 county jail for not less than six months or by a fine of not less than

1 one thousand dollars (\$1,000) or by both such fine and
2 imprisonment. The consent of the owner of the binder chain to its
3 taking shall not in any case be presumed or implied because of
4 such owner's consent on a previous occasion to the taking of the
5 binder chain by the same or a different person.

6 *SEC. 55. Section 42002.4 of the Vehicle Code is amended to*
7 *read:*

8 42002.4. A violation of Section 10751 shall be punished by
9 imprisonment in the county jail not exceeding six months if the
10 value of the property does not exceed ~~four hundred dollars (\$400)~~
11 *nine hundred fifty dollars (\$950)*, and by imprisonment in the
12 county jail not exceeding one year if the value of the property is
13 more than ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars*
14 *(\$950)*.

15 *SEC. 56. Section 10980 of the Welfare and Institutions Code*
16 *is amended to read:*

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

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

38 (c) Whenever any person has, willfully and knowingly, with
39 the intent to deceive, by means of false statement or representation,
40 or by failing to disclose a material fact, or by impersonation or

1 other fraudulent device, obtained or retained aid under the
2 provisions of this division for himself or herself or for a child not
3 in fact entitled thereto, the person obtaining this aid shall be
4 punished as follows:

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

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

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

26 (e) Any person who counterfeits or alters or knowingly uses,
27 transfers, acquires, or possesses counterfeited or altered
28 authorizations to participate in the federal ~~Food Stamp~~
29 *Supplemental Nutrition Assistance* Program or to receive food
30 stamps or electronically transferred benefits in any manner not
31 authorized by the Food Stamp Act of 1964 (Public Law 88-525
32 and all amendments thereto) *or the Food and Nutrition Act of 2008*
33 *(7 U.S.C. Sec. 2011 et seq.)* or the federal regulations pursuant to
34 the act is guilty of forgery.

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

1 (g) Any person who knowingly uses, transfers, sells, purchases,
2 or possesses food stamps, electronically transferred benefits, or
3 authorizations to participate in the federal ~~Food Stamp~~
4 *Supplemental Nutrition Assistance* Program in any manner not
5 authorized by Chapter 10 (commencing with Section 18900), of
6 Part 6, or by the federal Food Stamp Act of 1977 (Public Law
7 95-113 and all amendments thereto) *or the Food and Nutrition Act*
8 *of 2008 (7 U.S.C. Sec. 2011 et seq.)* (1) is guilty of a misdemeanor
9 if the face value of the food stamp benefits or the authorizations
10 to participate is ~~four hundred dollars (\$400)~~ *nine hundred fifty*
11 *dollars (\$950)* or less, and shall be punished by imprisonment in
12 the county jail for a period of not more than six months, by a fine
13 of not more than five hundred dollars (\$500), or by both
14 imprisonment and fine, or (2) is guilty of a felony if the face value
15 of the food stamps or the authorizations to participate exceeds ~~four~~
16 ~~hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*, and shall
17 be punished by imprisonment in the state prison for a period of 16
18 months, two years, or three years, by a fine of not more than five
19 thousand dollars (\$5,000), or by both *that* imprisonment and fine,
20 or by imprisonment in the county jail for a period of not more than
21 one year, or by a fine of not more than one thousand dollars
22 (\$1,000), or by both imprisonment and fine.

23 (h) (1) If the violation of subdivision (f) or (g) is committed by
24 means of an electronic transfer of benefits, in addition and
25 consecutive to the penalties for the violation, or attempted
26 violation, of those subdivisions, the court shall impose the
27 following punishment:

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

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

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

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

39 (2) In any accusatory pleading involving multiple charges of
40 violations of subdivision (f) or (g), or both, committed by means

1 of an electronic transfer of benefits, the additional terms provided
2 in paragraph (1) may be imposed if the aggregate losses to the
3 victims from all violations exceed the amounts specified in this
4 paragraph and arise from a common scheme or plan.

5 (i) A person who is punished by an additional term of
6 imprisonment under another provision of law for a violation of
7 subdivision (f) or (g) shall not receive an additional term of
8 imprisonment under subdivision (h).

9 *SEC. 57. Section 15656 of the Welfare and Institutions Code*
10 *is amended to read:*

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

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

34 (c) Any caretaker of an elder or a dependent adult who violates
35 any provision of law prescribing theft or embezzlement, with
36 respect to the property of that elder or dependent adult, is
37 punishable by imprisonment in the county jail not exceeding one
38 year, or in the state prison for two, three, or four years when the
39 money, labor, or real or personal property taken is of a value
40 exceeding ~~four hundred dollars (\$400)~~ *nine hundred fifty dollars*

1 (\$950), and by a fine not exceeding one thousand dollars (\$1,000),
2 or by imprisonment in the county jail not exceeding one year, or
3 by both that imprisonment and fine, when the money, labor, or
4 real or personal property taken is of a value not exceeding ~~four~~
5 ~~hundred dollars (\$400)~~ *nine hundred fifty dollars (\$950)*.

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

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

11 *SEC. 58. The Judicial Council shall consider the adoption of*
12 *appropriate modifications to the Criminal Rules of Court, and of*
13 *other judicial branch policies, procedures, and programs, affecting*
14 *felony probation services that would support implementation of*
15 *the evidence-based probation supervision practices described in*
16 *Chapter 3 (commencing with Section 1228) of Title 8 of Part 2 of*
17 *the Penal Code.*

18 *SEC. 59. The Department of Corrections and Rehabilitation*
19 *shall implement the changes made by this act regarding time*
20 *credits in a reasonable time. However, in light of limited case*
21 *management resources, it is expected that there will be some delays*
22 *in determining the amount of additional time credits to be granted*
23 *against inmate sentences resulting from changes in law pursuant*
24 *to this act. An inmate shall have no cause of action or claim for*
25 *damages because of any additional time spent in custody due to*
26 *reasonable delays in implementing the changes in the credit*
27 *provisions of this act. However, to the extent that excess days in*
28 *state prison due to delays in implementing this act are identified,*
29 *they shall be considered as time spent on parole, if any parole*
30 *period is applicable.*

31 *SEC. 60. No reimbursement is required by this act pursuant*
32 *to Section 6 of Article XIII B of the California Constitution for*
33 *certain costs that may be incurred by a local agency or school*
34 *district because, in that regard, this act creates a new crime or*
35 *infraction, eliminates a crime or infraction, or changes the penalty*
36 *for a crime or infraction, within the meaning of Section 17556 of*
37 *the Government Code, or changes the definition of a crime within*
38 *the meaning of Section 6 of Article XIII B of the California*
39 *Constitution.*

1 *However, if the Commission on State Mandates determines that*
2 *this act contains other costs mandated by the state, reimbursement*
3 *to local agencies and school districts for those costs shall be made*
4 *pursuant to Part 7 (commencing with Section 17500) of Division*
5 *4 of Title 2 of the Government Code.*

6 ~~SECTION 1. It is the intent of the Legislature to make statutory~~
7 ~~changes relating to the Budget Act of 2008.~~

8 ~~SEC. 2.~~

9 *SEC. 62.* This act addresses the fiscal emergency declared by
10 the Governor by proclamation on December 19, 2008, pursuant
11 to subdivision (f) of Section 10 of Article IV of the California
12 Constitution.

O