

AMENDED IN SENATE MAY 12, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 676

Introduced by Senator Wolk

February 27, 2009

An act to amend Section 2103 of the Code of Civil Procedure, to amend Section 711.4 of the Fish and Game Code, to amend Sections 27361, 27361.2, 27361.8, and 54985 of the Government Code, to amend Sections 987.5, 1203.1, 1203.1b, 1203.4, 1203.45, 1205, and 13300 of the Penal Code, and to amend Sections 903 and 903.3 of the Welfare and Institutions Code, relating to local fees.

LEGISLATIVE COUNSEL'S DIGEST

SB 676, as amended, Wolk. Local fees.

(1) Existing law, the Uniform Federal Lien Registration Act, governs the filing of notices of liens, certificates, and other notices affecting federal tax liens or other federal liens. The act requires a filing officer to issue, upon request, a certificate showing whether there is on file any notice of a federal lien or certificate or notice affecting any federal lien filed pursuant to the act or as specified. If the filing officer is a county recorder, the fee set by the filing officer may not exceed \$15 for a certificate for each name searched.

This bill would delete the limitation on the fee that may be charged by a county recorder acting as a filing officer for purposes of the act.

(2) Existing law requires the Department of Fish and Game to impose and collect a fee for specified purposes, to defray the costs of managing and protecting fish and wildlife trust resources and authorizes the county clerk to charge a documentary handling fee of \$50 per ~~filing~~ *filing*, in addition to the fees charged by the department.

This bill instead authorizes the county clerk to charge a fee per filing to reimburse the county for the actual costs of services rendered in addition to the fees charged by the department.

(3) Existing law authorizes the county recorder of each county to charge a fee of \$4 for the first page and \$3 for each additional page for recording and indexing every instrument, paper, or notice required or permitted to be recorded, as specified.

This bill would increase the *maximum* fee for the first page to \$10, and would make other conforming changes.

(4) Existing law authorizes the county recorder to charge an additional fee of \$1 per additional reference whenever any instrument, paper, or notice is recorded that contains references to more than one previously recorded document, and which requires additional indexing by the county recorder to give notice by law, as specified.

This bill would instead authorize the county recorder to charge an additional fee to reimburse the county for the actual costs of the services rendered, and would make other conforming changes.

(5) Under existing law, every defendant, when represented by appointed counsel, is required to be assessed a registration fee not to exceed \$25, but the fee is not required of any defendant that is financially unable to pay it. Under existing law, these provisions are operative in a county only upon the adoption of a resolution by the board of supervisors electing to establish the registration fee.

This bill would increase the maximum amount for that registration fee to \$50.

(6) Existing law limits the fees that a court, county, or city, as applicable, may charge for various costs related to the judgment and execution of criminal matters, including certain administrative costs, costs related to collecting restitution or to probation supervision, certain costs of conducting a criminal investigation, and costs related to providing specified court services, such as a petition for changing a plea or for an order sealing a record. Existing law also limits the fee that a local agency may charge for taking fingerprints for licensing, employment, or certification to an amount not to exceed \$10.

This bill would increase the maximum fee for administrative costs of collecting restitution from 10% to 15%, and for other fees would delete those limits on the maximum fees that may be charged for providing those services pursuant to those provisions, as specified.

(7) Existing law authorizes a county to levy charges for the reasonable costs of support of a minor against the father, mother, spouse, or other

person, while the minor is placed, or detained in, or committed to, any institution or other place, or pursuant to an order of the juvenile court. Existing law limits the costs of support to actual costs incurred by the county for food and food preparation, clothing, personal supplies, and medical expenses, not to exceed a maximum cost of \$15 per day, except that the cost may be adjusted every 3rd year to reflect the percentage change in the calendar year annual average of the California Consumer Price Index, as specified.

This bill would increase that amount to \$45 per day.

(8) Existing law authorizes the county board of supervisors or the court, as the case may be, to require reimbursement for the actual cost of services rendered for a petition to seal or expunge a criminal record of a minor, not to exceed \$120.

This bill would remove the \$120 limit.

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

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

1 SECTION 1. Section 2103 of the Code of Civil Procedure is
2 amended to read:
3 2103. (a) If a notice of federal lien, a refile of a notice of
4 federal lien, or a notice of revocation of any certificate described
5 in subdivision (b) is presented to a filing officer who is:
6 (1) The Secretary of State, he or she shall cause the notice to
7 be marked, held, and indexed in accordance with the provisions
8 of Sections 9515, 9516, and 9522 of the Commercial Code as if
9 the notice were a financing statement within the meaning of that
10 code; or
11 (2) A county recorder, he or she shall accept for filing, file for
12 record in the manner set forth in Section 27320 of the Government
13 Code, and index the document by the name of the person against
14 whose interest the lien applies in the general index.
15 (b) If a certificate of release, nonattachment, discharge, or
16 subordination of any lien is presented to the Secretary of State for
17 filing he or she shall:
18 (1) Cause a certificate of release or nonattachment to be marked,
19 held, and indexed as if the certificate were a termination statement
20 within the meaning of the Commercial Code, but the notice of lien

1 to which the certificate relates may not be removed from the files;
2 and

3 (2) Cause a certificate of discharge or subordination to be
4 marked, held, and indexed as if the certificate were a release of
5 collateral within the meaning of the Commercial Code.

6 (c) If a refiled notice of federal lien referred to in subdivision
7 (a) or any of the certificates or notices referred to in subdivision
8 (b) is presented for filing to a county recorder, he or she shall
9 accept for filing, file for record in the manner set forth in Section
10 27320 of the Government Code, and index the document by the
11 name of the person against whose interest the lien applies in the
12 general index.

13 (d) Upon request of any person, the filing officer shall issue his
14 or her certificate showing whether there is on file, on the date and
15 hour stated therein, any notice of lien or certificate or notice
16 affecting any lien filed after January 1, 1968, under this title or
17 former Chapter 14 (commencing with Section 7200) of Division
18 7 of Title 1 of the Government Code, naming a particular person,
19 and if a notice or certificate is on file, giving the date and hour of
20 filing of each notice or certificate. Upon request, the filing officer
21 shall furnish a copy of any notice of federal lien, or notice or
22 certificate affecting a federal lien. If the filing officer is a county
23 recorder, the fee for a certificate for each name searched shall be
24 set by the filing officer in an amount that covers actual costs, and
25 the fee for copies shall be in accordance with Section 27366 of the
26 Government Code. If the filing officer is the Secretary of State,
27 the certificate shall be issued as part of a combined certificate
28 pursuant to Section 9528 of the Commercial Code, and the fee for
29 the certificate and copies shall be in accordance with that section.

30 SEC. 2. Section 711.4 of the Fish and Game Code is amended
31 to read:

32 711.4. (a) The department shall impose and collect a filing fee
33 in the amount prescribed in subdivision (d) to defray the costs of
34 managing and protecting fish and wildlife trust resources,
35 including, but not limited to, consulting with other public agencies,
36 reviewing environmental documents, recommending mitigation
37 measures, developing monitoring requirements for purposes of the
38 California Environmental Quality Act (Division 13 (commencing
39 with Section 21000) of the Public Resources Code), consulting
40 pursuant to Section 21104.2 of the Public Resources Code, and

1 other activities protecting those trust resources identified in the
2 review pursuant to the California Environmental Quality Act.

3 (b) The filing fees shall be proportional to the cost incurred by
4 the department and shall be annually reviewed and adjustments
5 recommended to the Legislature in an amount necessary to pay
6 the full costs of department programs as specified. The department
7 shall annually adjust the fees pursuant to Section 713.

8 (c) (1) All project applicants and public agencies subject to the
9 California Environmental Quality Act shall pay a filing fee for
10 each proposed project, as specified in subdivision (d).

11 (2) Notwithstanding paragraph (1), a filing fee shall not be paid
12 pursuant to this section if any of the following conditions exist:

13 (A) The project has no effect on fish and wildlife.

14 (B) The project is being undertaken by the department.

15 (C) The project costs are payable by the department from any
16 of the following sources that are held by the department:

17 (i) The Public Resources Account in the Cigarette and Tobacco
18 Products Surtax Fund.

19 (ii) The California Wildlife, Coastal, and Park Land
20 Conservation Fund of 1988.

21 (iii) The Habitat Conservation Fund.

22 (iv) The Fisheries Restoration Account in the Fish and Game
23 Preservation Fund.

24 (v) The Commercial Salmon Stamp Account in the Fish and
25 Game Preservation Fund.

26 (vi) Striped bass stamp funds collected pursuant to Section 7360.

27 (vii) The California Ocean Resource Enhancement Account.

28 (D) The project is implemented by the department through a
29 contract with either a nonprofit entity or a local government
30 agency.

31 (3) Filing fees shall be paid at the time and in the amount
32 specified in subdivision (d). Notwithstanding Sections 21080.5
33 and 21081 of the Public Resources Code, a project shall not be
34 operative, vested, or final, and local government permits for the
35 project shall not be valid, until the filing fees required pursuant to
36 this section are paid.

37 (d) The fees shall be in the following amounts:

38 (1) For a project that is statutorily or categorically exempt from
39 the California Environmental Quality Act, including those certified

1 regulatory programs that incorporate statutory and categorical
2 exemptions, a filing fee shall not be paid.

3 (2) For a project for which a negative declaration is prepared
4 pursuant to subdivision (c) of Section 21080 of the Public
5 Resources Code, the filing fee is one thousand eight hundred
6 dollars (\$1,800). A local agency collecting the filing fee shall remit
7 the fee to the county clerk at the time of filing a notice of
8 determination pursuant to Section 21152 of the Public Resources
9 Code. A state agency collecting the filing fee shall remit the fee
10 to the Office of Planning and Research at the time of filing a notice
11 of determination pursuant to Section 21108 of the Public Resources
12 Code.

13 (3) For a project with an environmental impact report prepared
14 pursuant to the California Environmental Quality Act, the filing
15 fee is two thousand five hundred dollars (\$2,500). A local agency
16 collecting the filing fee shall remit the fee to the county clerk at
17 the time of filing a notice of determination pursuant to Section
18 21152 of the Public Resources Code. A state agency collecting
19 the filing fee shall remit the fee to the Office of Planning and
20 Research at the time of filing a notice of determination pursuant
21 to Section 21108 of the Public Resources Code.

22 (4) For a project that is subject to a certified regulatory program
23 pursuant to Section 21080.5 of the Public Resources Code, the
24 filing fee is eight hundred fifty dollars (\$850). The filing fee shall
25 be paid to the department before the filing of the notice of
26 determination pursuant to Section 21080.5 of the Public Resources
27 Code.

28 (e) The county clerk may charge a documentary handling fee
29 per filing to reimburse the county for the actual costs of services
30 rendered, in addition to the filing fee specified in subdivision (d).

31 (1) The county clerk of each county and the Office of Planning
32 and Research shall maintain a record, both electronic and in paper,
33 of all environmental documents received. The record shall include,
34 for each environmental document received, the name of each
35 applicant or lead agency, the document filing number, the project
36 name as approved by the lead agency, and the filing date. The
37 record shall be made available for examination or audit by
38 authorized personnel of the department during normal business
39 hours.

(2) The filing fee imposed and collected pursuant to subdivision (d) shall be remitted monthly to the department within 30 days after the end of each month. The remittance shall be accompanied with the information required pursuant to paragraph (1). The amount of fees due shall be reported on forms prescribed and provided by the department.

(3) The department shall assess a penalty of 10 percent of the amount of fees due for a failure to remit the amount payable when due. The department may pursue collection of delinquent fees through the Controller's office pursuant to Section 12419.5 of the Government Code.

(f) Notwithstanding Section 12000, failure to pay the fee under subdivision (d) is not a misdemeanor. All unpaid fees are a statutory assessment subject to collection under procedures as provided in the Revenue and Taxation Code.

(g) Only one filing fee shall be paid for each project unless the project is tiered or phased, or separate environmental documents are required.

(h) This section does not preclude or modify the duty of the department to recommend, require, permit, or engage in mitigation activities pursuant to the California Environmental Quality Act.

(i) The permit process of the California Coastal Commission, as certified by the Secretary of the *Natural* Resources Agency, is exempt from the payment of the filing fees prescribed by paragraph (4) of subdivision (d) insofar as the permits are issued under any of the following regulations:

(1) Subchapter 4 (commencing with Section 13136) of Chapter 5 of Division 5.5 of Title 14 of the California Code of Regulations.

(2) Subchapter 1 (commencing with Section 13200), Subchapter 3 (commencing with Section 13213), Subchapter 3.5 (commencing with Section 13214), Subchapter 4 (commencing with Section 13215), Subchapter 4.5 (commencing with Section 13238), Subchapter 5 (commencing with Section 13240), Subchapter 6 (commencing with Section 13250), and Subchapter 8 (commencing with Section 13255.0) of Chapter 6 of Division 5.5 of Title 14 of the California Code of Regulations.

SEC. 3. Section 27361 of the Government Code is amended to read:

27361. (a) The fee for recording and indexing every instrument, paper, or notice required or permitted by law to be

1 recorded ~~is shall not exceed~~ ten dollars (\$10) for recording the first
2 page and three dollars (\$3) for each additional page, *to reimburse*
3 *the county for the actual costs of services rendered*, except the
4 recorder may charge additional fees as follows:

5 (1) If the printing on printed forms is spaced more than nine
6 lines per vertical inch or more than 22 characters and spaces per
7 inch measured horizontally for not less than three inches in one
8 sentence, the recorder shall charge one dollar (\$1) extra for each
9 page or sheet on which printing appears, except, however, the extra
10 charge shall not apply to printed words which are directive or
11 explanatory in nature for completion of the form or on vital
12 statistics forms. Fees collected under this paragraph are not subject
13 to subdivision (b) or (c).

14 (2) If a page or sheet does not conform with the dimensions
15 described in subdivision (a) of Section 27361.5, the recorder shall
16 charge three dollars (\$3) extra per page or sheet of the document.
17 The funds generated by the extra charge authorized under this
18 paragraph shall be available solely to support, maintain, improve,
19 and provide for the full operation for modernized creation,
20 retention, and retrieval of information in each county's system of
21 recorded documents. Fees collected under this paragraph are not
22 subject to subdivision (b) or (c).

23 (b) One dollar (\$1) of each three dollar (\$3) fee for each
24 additional page shall be deposited in the county general fund.

25 (c) Notwithstanding Section 68085, one dollar (\$1) for recording
26 the first page and one dollar (\$1) for each additional page shall be
27 available solely to support, maintain, improve, and provide for the
28 full operation for modernized creation, retention, and retrieval of
29 information in each county's system of recorded documents.

30 (d) (1) In addition to all other fees authorized by this section,
31 a county recorder may charge a fee of one dollar (\$1) for recording
32 the first page of every instrument, paper, or notice required or
33 permitted by law to be recorded, as authorized by each county's
34 board of supervisors. The funds generated by this fee shall be used
35 only by the county recorder collecting the fee for the purpose of
36 implementing a social security number truncation program pursuant
37 to Article 3.5 (commencing with Section 27300).

38 (2) A county recorder shall not charge the fee described in
39 paragraph (1) after December 31, 2017, unless the county recorder
40 has received reauthorization by the county's board of supervisors.

1 A county recorder shall not seek reauthorization of the fee by the
2 board before June 1, 2017, or after December 31, 2017. In
3 determining the additional period of authorization, the board shall
4 consider the review described in paragraph (4).

5 (3) Notwithstanding paragraph (2), a county recorder who,
6 pursuant to subdivision (c) of Section 27304, secures a revenue
7 anticipation loan, or other outside source of funding, for the
8 implementation of a social security number truncation program,
9 may be authorized to charge the fee described in paragraph (1) for
10 a period not to exceed the term of repayment of the loan or other
11 outside source of funding.

12 (4) A county board of supervisors that authorizes the fee
13 described in this subdivision shall require the county auditor to
14 conduct two reviews to verify that the funds generated by this fee
15 are used only for the purpose of the program, as described in Article
16 3.5 (commencing with Section 27300) and for conducting these
17 reviews. The reviews shall state the progress of the county recorder
18 in truncating recorded documents pursuant to subdivision (a) of
19 Section 27301, and shall estimate any ongoing costs to the county
20 recorder of complying with subdivisions (a) and (b) of Section
21 27301. The board shall require that the first review be completed
22 not before June 1, 2012, or after December 31, 2013, and that the
23 second review be completed not before June 1, 2017, or after
24 December 31, 2017. The reviews shall adhere to generally accepted
25 accounting standards, and the review results shall be made available
26 to the public.

27 SEC. 4. Section 27361.2 of the Government Code is amended
28 to read:

29 27361.2. Whenever any instrument, paper, or notice is recorded
30 which contains references to more than one previously recorded
31 document and which requires additional indexing by the county
32 recorder to give notice required by law, an additional fee shall be
33 charged to reimburse the county for the actual costs of services
34 rendered, for each reference to a previously recorded document,
35 other than the first such reference, requiring additional indexing.
36 References to group mining claims listed on a proof of labor shall
37 be considered as only one reference when they are consecutively
38 numbered or lettered alphabetically, and each break in consecutive
39 numbers or letters shall be considered as an additional mine for
40 fee purposes under this section and shall be so indexed in the index.

1 SEC. 5. Section 27361.8 of the Government Code is amended
2 to read:

3 27361.8. Whenever any instrument, paper, or notice is recorded
4 which requires additional indexing by the county recorder to give
5 notice required by law and does not refer to a previously recorded
6 document by reference, as covered in Section 27361.2, an
7 additional fee shall be charged to reimburse the county for the
8 actual costs of services rendered, for each group of 10 names or
9 fractional portion thereof after the initial group of 10 names.

10 SEC. 6. Section 54985 of the Government Code is amended
11 to read:

12 54985. (a) Notwithstanding any other provision of law that
13 prescribes an amount or otherwise limits the amount of a fee or
14 charge that may be levied by a county, a county service area, or a
15 county waterworks district governed by a county board of
16 supervisors, a county board of supervisors shall have the authority
17 to increase or decrease the fee or charge, that is otherwise
18 authorized to be levied by another provision of law, in the amount
19 reasonably necessary to recover the cost of providing any product
20 or service or the cost of enforcing any regulation for which the fee
21 or charge is levied. The fee or charge may reflect the average cost
22 of providing any product or service or enforcing any regulation.
23 Indirect costs that may be reflected in the cost of providing any
24 product or service or the cost of enforcing any regulation shall be
25 limited to those items that are included in the federal Office of
26 Management and Budget Circular A-87 on January 1, 1984.

27 (b) If any person disputes whether a fee or charge levied
28 pursuant to subdivision (a) is reasonable, the board of supervisors
29 may request the county auditor to conduct a study and to determine
30 whether the fee or charge is reasonable.

31 Nothing in this subdivision shall be construed to mean that the
32 county shall not continue to be subject to fee review procedures
33 required by Article XIII B of the California Constitution.

34 (c) This chapter shall not apply to any of the following:

35 (1) Any fee charged or collected by a court clerk pursuant to
36 Chapter 5.5 (commencing with Section 116.110) of Title 1 of Part
37 1 of the Code of Civil Procedure, Title 8 (commencing with Section
38 68070) of the Government Code, or Section 103470 of the Health
39 and Safety Code, or any other fee or charge that may be assessed,

1 charged, collected, or levied pursuant to law for filing judicial
2 documents or for other judicial functions.

3 (2) Any fees charged or collected pursuant to Chapter 2
4 (commencing with Section 6100) of Division 7 of Title 1.

5 (3) Any standby or availability assessment or charge.

6 (4) Any fee charged or collected by a county agricultural
7 commissioner.

8 (5) Any fee charged or collected pursuant to Article 2.1
9 (commencing with Section 12240) of Chapter 2 of Division 5 of
10 the Business and Professions Code.

11 (6) Any fee charged or collected by a county recorder or local
12 registrar for filing, recording, or indexing any document,
13 performing any service, issuing any certificate, or providing a copy
14 of any document pursuant to Section 27361, 27361.1, 27361.3,
15 27361.4, 27364, 27365, or 27366 of the Government Code, Section
16 103625 of the Health and Safety Code, or Section 9525 of the
17 Commercial Code.

18 (7) Any fee charged or collected pursuant to Article 7
19 (commencing with Section 26720) of Chapter 2 of Part 3 of
20 Division 2 of Title 3 of the Government Code.

21 SEC. 7. Section 987.5 of the Penal Code is amended to read:

22 987.5. (a) Every defendant shall be assessed a registration fee
23 not to exceed fifty dollars (\$50) when represented by appointed
24 counsel. Notwithstanding this subdivision, no fee shall be required
25 of any defendant that is financially unable to pay the fee.

26 (b) At the time of appointment of counsel by the court, or upon
27 commencement of representation by the public defender, if prior
28 to court appointment, the defendant shall be asked if he or she is
29 financially able to pay the registration fee or any portion thereof.
30 If the defendant indicates that he or she is able to pay the fee or a
31 portion thereof, the court or public defender shall make an
32 assessment in accordance with ability to pay. No fee shall be
33 assessed against any defendant who asserts that he or she is unable
34 to pay the fee or any portion thereof. No other inquiry concerning
35 the defendant's ability to pay shall be made until proceedings are
36 held pursuant to Section 987.8.

37 (c) No defendant shall be denied the assistance of appointed
38 counsel due solely to a failure to pay the registration fee. An order
39 to pay the registration fee may be enforced in the manner provided

1 for enforcement of civil judgments generally, but may not be
2 enforced by contempt.

3 (d) The fact that a defendant has or has not been assessed a fee
4 pursuant to this section shall have no effect in any later proceedings
5 held pursuant to Section 987.8, except that the defendant shall be
6 given credit for any amounts paid as a registration fee toward any
7 lien or assessment imposed pursuant to Section 987.8.

8 (e) This section shall be operative in a county only upon the
9 adoption of a resolution or ordinance by the board of supervisors
10 electing to establish the registration fee and setting forth the manner
11 in which the funds shall be collected and distributed. Collection
12 procedures, accounting measures, and the distribution of the funds
13 received pursuant to this section shall be within the discretion of
14 the board of supervisors.

15 SEC. 8. Section 1203.1 of the Penal Code is amended to read:

16 1203.1. (a) The court, or judge thereof, in the order granting
17 probation, may suspend the imposing or the execution of the
18 sentence and may direct that the suspension may continue for a
19 period of time not exceeding the maximum possible term of the
20 sentence, except as hereinafter set forth, and upon those terms and
21 conditions as it shall determine. The court, or judge thereof, in the
22 order granting probation and as a condition thereof, may imprison
23 the defendant in a county jail for a period not exceeding the
24 maximum time fixed by law in the case.

25 However, where the maximum possible term of the sentence is
26 five years or less, then the period of suspension of imposition or
27 execution of sentence may, in the discretion of the court, continue
28 for not over five years. The following shall apply to this
29 subdivision:

30 (1) The court may fine the defendant in a sum not to exceed the
31 maximum fine provided by law in the case.

32 (2) The court may, in connection with granting probation,
33 impose either imprisonment in a county jail or a fine, both, or
34 neither.

35 (3) The court shall provide for restitution in proper cases. The
36 restitution order shall be fully enforceable as a civil judgment
37 forthwith and in accordance with Section 1202.4 of the Penal Code.

38 (4) The court may require bonds for the faithful observance and
39 performance of any or all of the conditions of probation.

1 (b) The court shall consider whether the defendant as a condition
2 of probation shall make restitution to the victim or the Restitution
3 Fund. Any restitution payment received by a probation department
4 in the form of cash or money order shall be forwarded to the victim
5 within 30 days from the date the payment is received by the
6 department. Any restitution payment received by a probation
7 department in the form of a check or draft shall be forwarded to
8 the victim within 45 days from the date the payment is received
9 by the department, provided, that payment need not be forwarded
10 to a victim until 180 days from the date the first payment is
11 received, if the restitution payments for that victim received by
12 the probation department total less than fifty dollars (\$50). In cases
13 where the court has ordered the defendant to pay restitution to
14 multiple victims and where the administrative cost of disbursing
15 restitution payments to multiple victims involves a significant cost,
16 any restitution payment received by a probation department shall
17 be forwarded to multiple victims when it is cost effective to do so,
18 but in no event shall restitution disbursements be delayed beyond
19 180 days from the date the payment is received by the probation
20 department.

21 (c) In counties or cities and counties where road camps, farms,
22 or other public work is available the court may place the
23 probationer in the road camp, farm, or other public work instead
24 of in jail. In this case, Section 25359 of the Government Code shall
25 apply to probation and the court shall have the same power to
26 require adult probationers to work, as prisoners confined in the
27 county jail are required to work, at public work. Each county board
28 of supervisors may fix the scale of compensation of the adult
29 probationers in that county.

30 (d) In all cases of probation the court may require as a condition
31 of probation that the probationer go to work and earn money for
32 the support of his or her dependents or to pay any fine imposed or
33 reparation condition, to keep an account of his or her earnings, to
34 report them to the probation officer and apply those earnings as
35 directed by the court.

36 (e) The court shall also consider whether the defendant as a
37 condition of probation shall make restitution to a public agency
38 for the costs of an emergency response pursuant to Article 8
39 (commencing with Section 53150) of Chapter 1 of Part 1 of
40 Division 2 of the Government Code.

(f) In all felony cases in which, as a condition of probation, a judge of the superior court sitting by authority of law elsewhere than at the county seat requires a convicted person to serve his or her sentence at intermittent periods the sentence may be served on the order of the judge at the city jail nearest to the place at which the court is sitting, and the cost of his or her maintenance shall be a county charge.

(g) (1) The court and prosecuting attorney shall consider whether any defendant who has been convicted of a nonviolent or nonserious offense and ordered to participate in community service as a condition of probation shall be required to engage in the removal of graffiti in the performance of the community service. For the purpose of this subdivision, a nonserious offense shall not include the following:

(A) Offenses in violation of the Dangerous Weapons' Control Law (Chapter 1 (commencing with Section 12000) of Title 2 of Part 4).

(B) Offenses involving the use of a dangerous or deadly weapon, including all violations of Section 417.

(C) Offenses involving the use or attempted use of violence against the person of another or involving injury to a victim.

(D) Offenses involving annoying or molesting children.

(2) Notwithstanding subparagraph (A) of paragraph (1), any person who violates Section 12101 shall be ordered to perform not less than 100 hours and not more than 500 hours of community service as a condition of probation.

(3) The court and the prosecuting attorney need not consider a defendant pursuant to paragraph (1) if the following circumstances exist:

(A) The defendant was convicted of any offense set forth in subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7.

(B) The judge believes that the public safety may be endangered if the person is ordered to do community service or the judge believes that the facts or circumstances or facts and circumstances call for imposition of a more substantial penalty.

(h) The probation officer or his or her designated representative shall consider whether any defendant who has been convicted of a nonviolent and nonserious offense and ordered to participate in community service as a condition of probation shall be required

1 to engage in the performance of house repairs or yard services for
2 senior citizens and the performance of repairs to senior centers
3 through contact with local senior service organizations in the
4 performance of the community service.

5 (i) (1) Upon conviction of any offense involving child abuse
6 or neglect, the court may require, in addition to any or all of the
7 above-mentioned terms of imprisonment, fine, and other reasonable
8 conditions, that the defendant shall participate in counseling or
9 education programs, or both, including, but not limited to, parent
10 education or parenting programs operated by community colleges,
11 school districts, other public agencies, or private agencies.

12 (2) Upon conviction of any sex offense subjecting the defendant
13 to the registration requirements of Section 290, the court may order
14 as a condition of probation, at the request of the victim or in the
15 court's discretion, that the defendant stay away from the victim
16 and the victim's residence or place of employment, and that the
17 defendant have no contact with the victim in person, by telephone
18 or electronic means, or by mail.

19 (j) The court may impose and require any or all of the
20 above-mentioned terms of imprisonment, fine, and conditions, and
21 other reasonable conditions, as it may determine are fitting and
22 proper to the end that justice may be done, that amends may be
23 made to society for the breach of the law, for any injury done to
24 any person resulting from that breach, and generally and
25 specifically for the reformation and rehabilitation of the
26 probationer, and that should the probationer violate any of the
27 terms or conditions imposed by the court in the matter, it shall
28 have authority to modify and change any and all the terms and
29 conditions and to reimprison the probationer in the county jail
30 within the limitations of the penalty of the public offense involved.
31 Upon the defendant being released from the county jail under the
32 terms of probation as originally granted or any modification
33 subsequently made, and in all cases where confinement in a county
34 jail has not been a condition of the grant of probation, the court
35 shall place the defendant or probationer in and under the charge
36 of the probation officer of the court, for the period or term fixed
37 for probation. However, upon the payment of any fine imposed
38 and the fulfillment of all conditions of probation, probation shall
39 cease at the end of the term of probation, or sooner, in the event
40 of modification. In counties and cities and counties in which there

1 are facilities for taking fingerprints, those of each probationer shall
2 be taken and a record of them kept and preserved.

3 (k) Notwithstanding any other provisions of law to the contrary,
4 except as provided in Section 13967, as operative on or before
5 September 28, 1994, of the Government Code and Section 13967.5
6 of the Government Code and Sections 1202.4, 1463.16, paragraph
7 (1) of subdivision (a) of Section 1463.18, and Section 1464, and
8 Section 1203.04, as operative on or before August 2, 1995, all
9 fines collected by a county probation officer in any of the courts
10 of this state, as a condition of the granting of probation or as a part
11 of the terms of probation, shall be paid into the county treasury
12 and placed in the general fund for the use and benefit of the county.

13 (l) If the court orders restitution to be made to the victim, the
14 board of supervisors may add a fee to cover the actual
15 administrative cost of collecting restitution, but not to exceed 15
16 percent of the total amount ordered to be paid. The fees shall be
17 paid into the general fund of the county treasury for the use and
18 benefit of the county.

19 SEC. 9. Section 1203.1b of the Penal Code is amended to read:

20 1203.1b. (a) In any case in which a defendant is convicted of
21 an offense and is the subject of any preplea or presentence
22 investigation and report, whether or not probation supervision is
23 ordered by the court, and in any case in which a defendant is
24 granted probation or given a conditional sentence, the probation
25 officer, or his or her authorized representative, taking into account
26 any amount that the defendant is ordered to pay in fines,
27 assessments, and restitution, shall make a determination of the
28 ability of the defendant to pay all or a portion of the reasonable
29 cost of any probation supervision or a conditional sentence, of
30 conducting any preplea investigation and preparing any preplea
31 report pursuant to Section 1203.7, of conducting any presentence
32 investigation and preparing any presentence report made pursuant
33 to Section 1203, and of processing a jurisdictional transfer pursuant
34 to Section 1203.9 or of processing a request for interstate compact
35 supervision pursuant to Sections 11175 to 11179, inclusive,
36 whichever applies. The reasonable cost of these services and of
37 probation supervision or a conditional sentence shall not exceed
38 the amount determined to be the actual average cost thereof. A
39 payment schedule for the reimbursement of the costs of preplea
40 or presentence investigations based on income shall be developed

1 by the probation department of each county and approved by the
2 presiding judge of the superior court. The court shall order the
3 defendant to appear before the probation officer, or his or her
4 authorized representative, to make an inquiry into the ability of
5 the defendant to pay all or a portion of these costs. The probation
6 officer, or his or her authorized representative, shall determine the
7 amount of payment and the manner in which the payments shall
8 be made to the county, based upon the defendant's ability to pay.
9 The probation officer shall inform the defendant that the defendant
10 is entitled to a hearing, that includes the right to counsel, in which
11 the court shall make a determination of the defendant's ability to
12 pay and the payment amount. The defendant must waive the right
13 to a determination by the court of his or her ability to pay and the
14 payment amount by a knowing and intelligent waiver.

15 (b) When the defendant fails to waive the right provided in
16 subdivision (a) to a determination by the court of his or her ability
17 to pay and the payment amount, the probation officer shall refer
18 the matter to the court for the scheduling of a hearing to determine
19 the amount of payment and the manner in which the payments
20 shall be made. The court shall order the defendant to pay the
21 reasonable costs if it determines that the defendant has the ability
22 to pay those costs based on the report of the probation officer, or
23 his or her authorized representative. The following shall apply to
24 a hearing conducted pursuant to this subdivision:

25 (1) At the hearing, the defendant shall be entitled to have, but
26 shall not be limited to, the opportunity to be heard in person, to
27 present witnesses and other documentary evidence, and to confront
28 and cross-examine adverse witnesses, and to disclosure of the
29 evidence against the defendant, and a written statement of the
30 findings of the court or the probation officer, or his or her
31 authorized representative.

32 (2) At the hearing, if the court determines that the defendant
33 has the ability to pay all or part of the costs, the court shall set the
34 amount to be reimbursed and order the defendant to pay that sum
35 to the county in the manner in which the court believes reasonable
36 and compatible with the defendant's financial ability.

37 (3) At the hearing, in making a determination of whether a
38 defendant has the ability to pay, the court shall take into account
39 the amount of any fine imposed upon the defendant and any amount
40 the defendant has been ordered to pay in restitution.

1 (4) When the court determines that the defendant's ability to
2 pay is different from the determination of the probation officer,
3 the court shall state on the record the reason for its order.

4 (c) The court may hold additional hearings during the
5 probationary or conditional sentence period to review the
6 defendant's financial ability to pay the amount, and in the manner,
7 as set by the probation officer, or his or her authorized
8 representative, or as set by the court pursuant to this section.

9 (d) If practicable, the court shall order or the probation officer
10 shall set payments pursuant to subdivisions (a) and (b) to be made
11 on a monthly basis. Execution may be issued on the order issued
12 pursuant to this section in the same manner as a judgment in a civil
13 action. The order to pay all or part of the costs shall not be enforced
14 by contempt.

15 (e) The term "ability to pay" means the overall capability of the
16 defendant to reimburse the costs, or a portion of the costs, of
17 conducting the presentence investigation, preparing the preplea or
18 presentence report, processing a jurisdictional transfer pursuant to
19 Section 1203.9, processing requests for interstate compact
20 supervision pursuant to Sections 11175 to 11179, inclusive, and
21 probation supervision or conditional sentence, and shall include,
22 but shall not be limited to, the defendant's:

23 (1) Present financial position.

24 (2) Reasonably discernible future financial position. In no event
25 shall the court consider a period of more than one year from the
26 date of the hearing for purposes of determining reasonably
27 discernible future financial position.

28 (3) Likelihood that the defendant shall be able to obtain
29 employment within the one-year period from the date of the
30 hearing.

31 (4) Any other factor or factors that may bear upon the
32 defendant's financial capability to reimburse the county for the
33 costs.

34 (f) At any time during the pendency of the judgment rendered
35 according to the terms of this section, a defendant against whom
36 a judgment has been rendered may petition the probation officer
37 for a review of the defendant's financial ability to pay or the
38 rendering court to modify or vacate its previous judgment on the
39 grounds of a change of circumstances with regard to the
40 defendant's ability to pay the judgment. The probation officer and

1 the court shall advise the defendant of this right at the time of
2 rendering of the terms of probation or the judgment.

3 (g) All sums paid by a defendant pursuant to this section shall
4 be allocated for the operating expenses of the county probation
5 department.

6 (h) The board of supervisors in any county, by resolution, may
7 establish a fee for the processing of payments made in installments
8 to the probation department pursuant to this section, not to exceed
9 the administrative and clerical costs of the collection of those
10 installment payments as determined by the board of supervisors.

11 (i) This section shall be operative in a county upon the adoption
12 of an ordinance to that effect by the board of supervisors.

13 SEC. 10. Section 1203.4 of the Penal Code is amended to read:

14 1203.4. (a) In any case in which a defendant has fulfilled the
15 conditions of probation for the entire period of probation, or has
16 been discharged prior to the termination of the period of probation,
17 or in any other case in which a court, in its discretion and the
18 interests of justice, determines that a defendant should be granted
19 the relief available under this section, the defendant shall, at any
20 time after the termination of the period of probation, if he or she
21 is not then serving a sentence for any offense, on probation for
22 any offense, or charged with the commission of any offense, be
23 permitted by the court to withdraw his or her plea of guilty or plea
24 of nolo contendere and enter a plea of not guilty; or, if he or she
25 has been convicted after a plea of not guilty, the court shall set
26 aside the verdict of guilty; and, in either case, the court shall
27 thereupon dismiss the accusations or information against the
28 defendant and except as noted below, he or she shall thereafter be
29 released from all penalties and disabilities resulting from the
30 offense of which he or she has been convicted, except as provided
31 in Section 13555 of the Vehicle Code. The probationer shall be
32 informed, in his or her probation papers, of this right and privilege
33 and his or her right, if any, to petition for a certificate of
34 rehabilitation and pardon. The probationer may make the
35 application and change of plea in person or by attorney, or by the
36 probation officer authorized in writing. However, in any subsequent
37 prosecution of the defendant for any other offense, the prior
38 conviction may be pleaded and proved and shall have the same
39 effect as if probation had not been granted or the accusation or
40 information dismissed. The order shall state, and the probationer

1 shall be informed, that the order does not relieve him or her of the
2 obligation to disclose the conviction in response to any direct
3 question contained in any questionnaire or application for public
4 office, for licensure by any state or local agency, or for contracting
5 with the California State Lottery.

6 Dismissal of an accusation or information pursuant to this section
7 does not permit a person to own, possess, or have in his or her
8 custody or control any firearm or prevent his or her conviction
9 under Section 12021.

10 Dismissal of an accusation or information underlying a
11 conviction pursuant to this section does not permit a person
12 prohibited from holding public office as a result of that conviction
13 to hold public office.

14 This subdivision shall apply to all applications for relief under
15 this section which are filed on or after November 23, 1970.

16 (b) Subdivision (a) of this section does not apply to any
17 misdemeanor that is within the provisions of subdivision (b) of
18 Section 42001 of the Vehicle Code, to any violation of subdivision
19 (c) of Section 286, Section 288, subdivision (c) of Section 288a,
20 Section 288.5, or subdivision (j) of Section 289, any felony
21 conviction pursuant to subdivision (d) of Section 261.5, or to any
22 infraction.

23 (c) (1) Except as provided in paragraph (2), subdivision (a)
24 does not apply to a person who receives a notice to appear or is
25 otherwise charged with a violation of an offense described in
26 subdivisions (a) to (e), inclusive, of Section 12810 of the Vehicle
27 Code.

28 (2) If a defendant who was convicted of a violation listed in
29 paragraph (1) petitions the court, the court in its discretion and in
30 the interests of justice, may order the relief provided pursuant to
31 subdivision (a) to that defendant.

32 (d) A person who petitions for a change of plea or setting aside
33 of a verdict under this section may be required to reimburse the
34 court for the actual costs of services rendered, whether or not the
35 petition is granted and the records are sealed or expunged, at a rate
36 to be determined by the court, and to reimburse the county for the
37 actual costs of services rendered, whether or not the petition is
38 granted and the records are sealed or expunged, at a rate to be
39 determined by the county board of supervisors, and to reimburse
40 any city for the actual costs of services rendered, whether or not

the petition is granted and the records are sealed or expunged, at a rate to be determined by the city council. Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the costs for services established pursuant to this subdivision.

(e) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(f) If, after receiving notice pursuant to subdivision (e), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

(g) Notwithstanding the above provisions or any other provision of law, the Governor shall have the right to pardon a person convicted of a violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, if there are extraordinary circumstances.

SEC. 11. Section 1203.45 of the Penal Code is amended to read:

1203.45. (a) In a case in which a person was under the age of 18 years at the time of commission of a misdemeanor and is eligible for, or has previously received, the relief provided by Section 1203.4 or 1203.4a, that person, in a proceeding under Section 1203.4 or 1203.4a, or a separate proceeding, may petition the court for an order sealing the record of conviction and other official records in the case, including records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether defendant was acquitted or charges were dismissed. If the court finds that the person was under the age of 18 at the time of the commission of the misdemeanor, and is eligible for relief under Section 1203.4 or 1203.4a or has previously received that relief, it may issue its order granting the relief prayed for. Thereafter the conviction, arrest, or other

1 proceeding shall be deemed not to have occurred, and the petitioner
2 may answer accordingly any question relating to their occurrence.

3 (b) This section applies to convictions that occurred before, as
4 well as those that occur after, the effective date of this section.

5 (c) This section shall not apply to offenses for which registration
6 is required under Section 290, to violations of Division 10
7 (commencing with Section 11000) of the Health and Safety Code,
8 or to misdemeanor violations of the Vehicle Code relating to
9 operation of a vehicle or of a local ordinance relating to operation,
10 standing, stopping, or parking of a motor vehicle.

11 (d) This section does not apply to a person convicted of more
12 than one offense, whether the second or additional convictions
13 occurred in the same action in which the conviction as to which
14 relief is sought occurred or in another action, except in the
15 following cases:

16 (1) One of the offenses includes the other or others.

17 (2) The other conviction or convictions were for the following:

18 (A) Misdemeanor violations of Chapters 1 (commencing with
19 Section 21000) to 9 (commencing with Section 22500), inclusive,
20 Chapter 12 (commencing with Section 23100), or Chapter 13
21 (commencing with Section 23250) of Division 11 of the Vehicle
22 Code, other than Section 23103, 23104, 23105, 23152, 23153, or
23 23220.

24 (B) Violation of a local ordinance relating to the operation,
25 stopping, standing, or parking of a motor vehicle.

26 (3) The other conviction or convictions consisted of any
27 combination of paragraphs (1) and (2).

28 (e) This section shall apply in a case in which a person was
29 under the age of 21 at the time of the commission of an offense as
30 to which this section is made applicable if that offense was
31 committed prior to March 7, 1973.

32 (f) In an action or proceeding based upon defamation, a court,
33 upon a showing of good cause, may order the records sealed under
34 this section to be opened and admitted into evidence. The records
35 shall be confidential and shall be available for inspection only by
36 the court, jury, parties, counsel for the parties, and any other person
37 who is authorized by the court to inspect them. Upon the judgment
38 in the action or proceeding becoming final, the court shall order
39 the records sealed.

(g) A person who petitions for an order sealing a record under this section may be required to reimburse the court for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the court, and to reimburse the county for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors, and to reimburse any city for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the city council. Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in a case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

SEC. 12. Section 1205 of the Penal Code is amended to read:

1205. (a) A judgment that the defendant pay a fine, with or without other punishment, may also direct that he or she be imprisoned until the fine is satisfied and may further direct that the imprisonment begin at and continue after the expiration of any imprisonment imposed as a part of the punishment or of any other imprisonment to which he or she may theretofore have been sentenced. Each of these judgments shall specify the extent of the imprisonment for nonpayment of the fine, which shall not be more than one day for each thirty dollars (\$30) of the fine, nor exceed in any case the term for which the defendant might be sentenced to imprisonment for the offense of which he or she has been convicted. A defendant held in custody for nonpayment of a fine shall be entitled to credit on the fine for each day he or she is so held in custody, at the rate specified in the judgment. When the defendant has been convicted of a misdemeanor, a judgment that the defendant pay a fine may also direct that he or she pay the fine within a limited time or in installments on specified dates and that in default of payment as therein stipulated he or she be imprisoned in the discretion of the court either until the defaulted installment is satisfied or until the fine is satisfied in full; but unless the direction is given in the judgment, the fine shall be payable forthwith.

1 (b) Except as otherwise provided in case of fines imposed,
2 including restitution fines or restitution orders, as conditions of
3 probation, the defendant shall pay the fine to the clerk of the court,
4 or to the judge thereof if there is no clerk, unless the defendant is
5 taken into custody for nonpayment of the fine, in which event
6 payments made while he or she is in custody shall be made to the
7 officer who holds him or her in custody and all amounts so paid
8 shall be forthwith paid over by the officer to the court which
9 rendered the judgment. The clerk shall report to the court every
10 default in payment of a fine or any part thereof, or if there is no
11 clerk, the court shall take notice of the default. If time has been
12 given for payment of a fine or it has been made payable in
13 installments, the court shall, upon any default in payment,
14 immediately order the arrest of the defendant and order him or her
15 to show cause why he or she should not be imprisoned until the
16 fine or installment thereof, as the case may be, is satisfied in full.
17 If the fine, restitution fine, restitution order, or installment, is
18 payable forthwith and it is not so paid, the court shall without
19 further proceedings, immediately commit the defendant to the
20 custody of the proper officer to be held in custody until the fine
21 or installment thereof, as the case may be, is satisfied in full.

22 (c) This section applies to any violation of any of the codes or
23 statutes of this state punishable by a fine or by a fine and
24 imprisonment.

25 Nothing in this section shall be construed to prohibit the clerk
26 of the court, or the judge thereof if there is no clerk, from turning
27 these accounts over to another county department or a collecting
28 agency for processing and collection.

29 (d) The defendant shall pay to the clerk of the court or the
30 collecting agency a fee for the processing of installment accounts.
31 This fee shall equal the administrative and clerical costs, as
32 determined by the board of supervisors. The Legislature hereby
33 authorizes the establishment of the following program described
34 in this section, to be implemented in any county, upon the adoption
35 of a resolution by the board of supervisors authorizing it. The board
36 of supervisors in any county may establish a fee for the processing
37 of accounts receivable that are not to be paid in installments. The
38 defendant shall pay to the clerk of the court or the collecting agency
39 the fee established for the processing of the accounts. The fee shall
40 equal the administrative and clerical costs, as determined by the

1 board of supervisors, except that the fee shall not exceed thirty
2 dollars (\$30).

3 (e) This section shall only apply to restitution fines and
4 restitution orders if the defendant has defaulted on the payment of
5 other fines.

6 SEC. 13. Section 13300 of the Penal Code is amended to read:

7 13300. (a) As used in this section:

8 (1) "Local summary criminal history information" means the
9 master record of information compiled by any local criminal justice
10 agency pursuant to Chapter 2 (commencing with Section 13100)
11 of Title 3 of Part 4 pertaining to the identification and criminal
12 history of any person, such as name, date of birth, physical
13 description, dates of arrests, arresting agencies and booking
14 numbers, charges, dispositions, and similar data about the person.

15 (2) "Local summary criminal history information" does not
16 refer to records and data compiled by criminal justice agencies
17 other than that local agency, nor does it refer to records of
18 complaints to or investigations conducted by, or records of
19 intelligence information or security procedures of, the local agency.

20 (3) "Local agency" means a local criminal justice agency.

21 (b) A local agency shall furnish local summary criminal history
22 information to any of the following, when needed in the course of
23 their duties, provided that when information is furnished to assist
24 an agency, officer, or official of state or local government, a public
25 utility, or any entity, in fulfilling employment, certification, or
26 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
27 432.7 of the Labor Code shall apply:

28 (1) The courts of the state.

29 (2) Peace officers of the state, as defined in Section 830.1,
30 subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b),
31 and (j) of Section 830.3, and subdivisions (a), (b), and (c) of
32 Section 830.5.

33 (3) District attorneys of the state.

34 (4) Prosecuting city attorneys of any city within the state.

35 (5) City attorneys pursuing civil gang injunctions pursuant to
36 Section 186.22a, or drug abatement actions pursuant to Section
37 3479 or 3480 of the Civil Code, or Section 11571 of the Health
38 and Safety Code.

39 (6) Probation officers of the state.

40 (7) Parole officers of the state.

1 (8) A public defender or attorney of record when representing
2 a person in proceedings upon a petition for a certificate of
3 rehabilitation and pardon pursuant to Section 4852.08.

4 (9) A public defender or attorney of record when representing
5 a person in a criminal case and when authorized access by statutory
6 or decisional law.

7 (10) Any agency, officer, or official of the state when the local
8 summary criminal history information is required to implement a
9 statute, regulation, or ordinance that expressly refers to specific
10 criminal conduct applicable to the subject person of the local
11 summary criminal history information, and contains requirements
12 or exclusions, or both, expressly based upon the specified criminal
13 conduct.

14 (11) Any city, county, city and county, or district, or any officer
15 or official thereof, when access is needed in order to assist the
16 agency, officer, or official in fulfilling employment, certification,
17 or licensing duties, and when the access is specifically authorized
18 by the city council, board of supervisors, or governing board of
19 the city, county, or district when the local summary criminal history
20 information is required to implement a statute, regulation, or
21 ordinance that expressly refers to specific criminal conduct
22 applicable to the subject person of the local summary criminal
23 history information, and contains requirements or exclusions, or
24 both, expressly based upon the specified criminal conduct.

25 (12) The subject of the local summary criminal history
26 information.

27 (13) Any person or entity when access is expressly authorized
28 by statute when the local summary criminal history information
29 is required to implement a statute, regulation, or ordinance that
30 expressly refers to specific criminal conduct applicable to the
31 subject person of the local summary criminal history information,
32 and contains requirements or exclusions, or both, expressly based
33 upon the specified criminal conduct.

34 (14) Any managing or supervising correctional officer of a
35 county jail or other county correctional facility.

36 (15) Local child support agencies established by Section 17304
37 of the Family Code. When a local child support agency closes a
38 support enforcement case containing summary criminal history
39 information, the agency shall delete or purge from the file and
40 destroy any documents or information concerning or arising from

1 offenses for or of which the parent has been arrested, charged, or
2 convicted, other than for offenses related to the parents having
3 failed to provide support for the minor children, consistent with
4 Section 17531 of the Family Code.

5 (16) County child welfare agency personnel who have been
6 delegated the authority of county probation officers to access state
7 summary criminal information pursuant to Section 272 of the
8 Welfare and Institutions Code for the purposes specified in Section
9 16504.5 of the Welfare and Institutions Code.

10 (c) The local agency may furnish local summary criminal history
11 information, upon a showing of a compelling need, to any of the
12 following, provided that when information is furnished to assist
13 an agency, officer, or official of state or local government, a public
14 utility, or any entity, in fulfilling employment, certification, or
15 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
16 432.7 of the Labor Code shall apply:

17 (1) Any public utility, as defined in Section 216 of the Public
18 Utilities Code, which operates a nuclear energy facility when access
19 is needed to assist in employing persons to work at the facility,
20 provided that, if the local agency supplies the information, it shall
21 furnish a copy of this information to the person to whom the
22 information relates.

23 (2) To a peace officer of the state other than those included in
24 subdivision (b).

25 (3) To a peace officer of another country.

26 (4) To public officers, other than peace officers, of the United
27 States, other states, or possessions or territories of the United
28 States, provided that access to records similar to local summary
29 criminal history information is expressly authorized by a statute
30 of the United States, other states, or possessions or territories of
31 the United States when this information is needed for the
32 performance of their official duties.

33 (5) To any person when disclosure is requested by a probation,
34 parole, or peace officer with the consent of the subject of the local
35 summary criminal history information and for purposes of
36 furthering the rehabilitation of the subject.

37 (6) The courts of the United States, other states, or territories
38 or possessions of the United States.

39 (7) Peace officers of the United States, other states, or territories
40 or possessions of the United States.

1 (8) To any individual who is the subject of the record requested
2 when needed in conjunction with an application to enter the United
3 States or any foreign nation.

4 (9) Any public utility, as defined in Section 216 of the Public
5 Utilities Code, when access is needed to assist in employing
6 persons who will be seeking entrance to private residences in the
7 course of their employment. The information provided shall be
8 limited to the record of convictions and any arrest for which the
9 person is released on bail or on his or her own recognizance
10 pending trial.

11 If the local agency supplies the information pursuant to this
12 paragraph, it shall furnish a copy of the information to the person
13 to whom the information relates.

14 Any information obtained from the local summary criminal
15 history is confidential and the receiving public utility shall not
16 disclose its contents, other than for the purpose for which it was
17 acquired. The local summary criminal history information in the
18 possession of the public utility and all copies made from it shall
19 be destroyed 30 days after employment is denied or granted,
20 including any appeal periods, except for those cases where an
21 employee or applicant is out on bail or on his or her own
22 recognizance pending trial, in which case the state summary
23 criminal history information and all copies shall be destroyed 30
24 days after the case is resolved, including any appeal periods.

25 A violation of any of the provisions of this paragraph is a
26 misdemeanor, and shall give the employee or applicant who is
27 injured by the violation a cause of action against the public utility
28 to recover damages proximately caused by the violation.

29 Nothing in this section shall be construed as imposing any duty
30 upon public utilities to request local summary criminal history
31 information on any current or prospective employee.

32 Seeking entrance to private residences in the course of
33 employment shall be deemed a “compelling need” as required to
34 be shown in this subdivision.

35 (10) Any city, county, city and county, or district, or any officer
36 or official thereof, if a written request is made to a local law
37 enforcement agency and the information is needed to assist in the
38 screening of a prospective concessionaire, and any affiliate or
39 associate thereof, as these terms are defined in subdivision (k) of
40 Section 432.7 of the Labor Code, for the purposes of consenting

1 to, or approving of, the prospective concessionaire's application
2 for, or acquisition of, any beneficial interest in a concession, lease,
3 or other property interest.

4 Any local government's request for local summary criminal
5 history information for purposes of screening a prospective
6 concessionaire and their affiliates or associates before approving
7 or denying an application for, or acquisition of, any beneficial
8 interest in a concession, lease, or other property interest is deemed
9 a "compelling need" as required by this subdivision. However,
10 only local summary criminal history information pertaining to
11 criminal convictions may be obtained pursuant to this paragraph.

12 Any information obtained from the local summary criminal
13 history is confidential and the receiving local government shall
14 not disclose its contents, other than for the purpose for which it
15 was acquired. The local summary criminal history information in
16 the possession of the local government and all copies made from
17 it shall be destroyed not more than 30 days after the local
18 government's final decision to grant or deny consent to, or approval
19 of, the prospective concessionaire's application for, or acquisition
20 of, a beneficial interest in a concession, lease, or other property
21 interest. Nothing in this section shall be construed as imposing
22 any duty upon a local government, or any officer or official thereof,
23 to request local summary criminal history information on any
24 current or prospective concessionaire or their affiliates or
25 associates.

26 (d) Whenever an authorized request for local summary criminal
27 history information pertains to a person whose fingerprints are on
28 file with the local agency and the local agency has no criminal
29 history of that person, and the information is to be used for
30 employment, licensing, or certification purposes, the fingerprint
31 card accompanying the request for information, if any, may be
32 stamped "no criminal record" and returned to the person or entity
33 making the request.

34 (e) A local agency taking fingerprints of a person who is an
35 applicant for licensing, employment, or certification may charge
36 a fee to cover the cost of taking the fingerprints and processing
37 the required documents.

38 (f) Whenever local summary criminal history information
39 furnished pursuant to this section is to be used for employment,
40 licensing, or certification purposes, the local agency shall charge

1 the person or entity making the request a fee which it determines
2 to be sufficient to reimburse the local agency for the cost of
3 furnishing the information, provided that no fee shall be charged
4 to any public law enforcement agency for local summary criminal
5 history information furnished to assist it in employing, licensing,
6 or certifying a person who is applying for employment with the
7 agency as a peace officer or criminal investigator. Any state agency
8 required to pay a fee to the local agency for information received
9 under this section may charge the applicant a fee sufficient to
10 reimburse the agency for the expense.

11 (g) Whenever there is a conflict, the processing of criminal
12 fingerprints shall take priority over the processing of applicant
13 fingerprints.

14 (h) It is not a violation of this article to disseminate statistical
15 or research information obtained from a record, provided that the
16 identity of the subject of the record is not disclosed.

17 (i) It is not a violation of this article to include information
18 obtained from a record in (1) a transcript or record of a judicial or
19 administrative proceeding or (2) any other public record when the
20 inclusion of the information in the public record is authorized by
21 a court, statute, or decisional law.

22 (j) Notwithstanding any other law, a public prosecutor may, in
23 response to a written request made pursuant to Section 6253 of
24 the Government Code, provide information from a local summary
25 criminal history, if release of the information would enhance public
26 safety, the interest of justice, or the public's understanding of the
27 justice system and the person making the request declares that the
28 request is made for a scholarly or journalistic purpose. If a person
29 in a declaration required by this subdivision willfully states as true
30 any material fact that he or she knows to be false, he or she shall
31 be subject to a civil penalty not exceeding ten thousand dollars
32 (\$10,000). The requestor shall be informed in writing of this
33 penalty. An action to impose a civil penalty under this subdivision
34 may be brought by any public prosecutor and shall be enforced as
35 a civil judgment.

36 (k) Notwithstanding any other law, the Department of Justice
37 or any state or local law enforcement agency may require the
38 submission of fingerprints for the purpose of conducting summary
39 criminal history information record checks which are authorized
40 by law.

1 (l) Any local criminal justice agency may release, within five
2 years of the arrest, information concerning an arrest or detention
3 of a peace officer or applicant for a position as a peace officer, as
4 defined in Section 830, which did not result in conviction, and for
5 which the person did not complete a postarrest diversion program
6 or a deferred entry of judgment program, to a government agency
7 employer of that peace officer or applicant.

8 (m) Any local criminal justice agency may release information
9 concerning an arrest of a peace officer or applicant for a position
10 as a peace officer, as defined in Section 830, which did not result
11 in conviction but for which the person completed a postarrest
12 diversion program or a deferred entry of judgment program, or
13 information concerning a referral to and participation in any
14 postarrest diversion program or a deferred entry of judgment
15 program to a government agency employer of that peace officer
16 or applicant.

17 (n) Notwithstanding subdivision (l) or (m), a local criminal
18 justice agency shall not release information under the following
19 circumstances:

20 (1) Information concerning an arrest for which diversion or a
21 deferred entry of judgment program has been ordered without
22 attempting to determine whether diversion or a deferred entry of
23 judgment program has been successfully completed.

24 (2) Information concerning an arrest or detention followed by
25 a dismissal or release without attempting to determine whether the
26 individual was exonerated.

27 (3) Information concerning an arrest without a disposition
28 without attempting to determine whether diversion has been
29 successfully completed or the individual was exonerated.

30 SEC. 14. Section 903 of the Welfare and Institutions Code is
31 amended to read:

32 903. (a) The father, mother, spouse, or other person liable for
33 the support of a minor, the estate of that person, and the estate of
34 the minor, shall be liable for the reasonable costs of support of the
35 minor while the minor is placed, or detained in, or committed to,
36 any institution or other place pursuant to Section 625 or pursuant
37 to an order of the juvenile court. However, a county shall not levy
38 charges for the costs of support of a minor detained pursuant to
39 Section 625 unless, at the detention hearing, the juvenile court
40 determines that detention of the minor should be continued, the

1 petition for the offense for which the minor is detained is
2 subsequently sustained, or the minor agrees to a program of
3 supervision pursuant to Section 654. The liability of these persons
4 and estates shall be a joint and several liability.

5 (b) The county shall limit the charges it seeks to impose to the
6 reasonable costs of support of the minor and shall exclude any
7 costs of incarceration, treatment, or supervision for the protection
8 of society and the minor and the rehabilitation of the minor. In the
9 event that court-ordered child support paid to the county pursuant
10 to subdivision (a) exceeds the amount of the costs authorized by
11 this subdivision and subdivision (a), the county shall either hold
12 the excess in trust for the minor's future needs pursuant to Section
13 302.52 of Title 45 of the Code of Federal Regulations or, with the
14 approval of the minor's caseworker or probation officer, pay the
15 excess directly to the minor.

16 (c) It is the intent of the Legislature in enacting this subdivision
17 to protect the fiscal integrity of the county, to protect persons
18 against whom the county seeks to impose liability from excessive
19 charges, to ensure reasonable uniformity throughout the state in
20 the level of liability being imposed, and to ensure that liability is
21 imposed only on persons with the ability to pay. In evaluating a
22 family's financial ability to pay under this section, the county shall
23 take into consideration the family's income, the necessary
24 obligations of the family, and the number of persons dependent
25 upon this income. Except as provided in paragraphs (1), (2), (3),
26 and (4), "costs of support" as used in this section means only actual
27 costs incurred by the county for food and food preparation,
28 clothing, personal supplies, and medical expenses, not to exceed
29 a combined maximum cost of forty-five dollars (\$45) per day,
30 except that:

31 (1) The maximum cost of forty-five dollars (\$45) per day shall
32 be adjusted every third year beginning January 1, 1988, to reflect
33 the percentage change in the calendar year annual average of the
34 California Consumer Price Index, All Urban Consumers, published
35 by the Department of Industrial Relations, for the three-year period.

36 (2) No cost for medical expenses shall be imposed by the county
37 until the county has first exhausted any eligibility the minor may
38 have under private insurance coverage, standard or medically
39 indigent Medi-Cal coverage, and the Robert W. Crown California

1 Children's Services Act (Article 2 (commencing with Section 248)
2 of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code).

3 (3) In calculating the cost of medical expenses, the county shall
4 not charge in excess of 100 percent of the AFDC fee-for-service
5 average Medi-Cal payment for that county for that fiscal year as
6 calculated by the State Department of Health Services; however,
7 if a minor has extraordinary medical or dental costs that are not
8 met under any of the coverages listed in paragraph (2), the county
9 may impose these additional costs.

10 (4) For those placements of a minor subject to this section in
11 which an AFDC-FC grant is made, the local child support agency
12 shall, subject to Sections 17550 and 17552 of the Family Code,
13 seek an order pursuant to Section 17400 of the Family Code and
14 the statewide child support guideline in effect in Article 2
15 (commencing with Section 4050) of Chapter 2 of Part 2 of Division
16 9 of the Family Code. For purposes of determining the correct
17 amount of support of a minor subject to this section, the rebuttable
18 presumption set forth in Section 4057 of the Family Code is
19 applicable. This paragraph shall be implemented consistent with
20 subdivision (a) of Section 17415 of the Family Code.

21 (d) Notwithstanding subdivision (a), the father, mother, spouse,
22 or other person liable for the support of the minor, the estate of
23 that person, or the estate of the minor, shall not be liable for the
24 costs described in this section if a petition to declare the minor a
25 dependent child of the court pursuant to Section 300 is dismissed
26 at or before the jurisdictional hearing.

27 (e) Notwithstanding subdivision (a), the father, mother, spouse,
28 or other person liable for the support of a minor shall not be liable
29 for the costs of support of that minor while the minor is temporarily
30 placed or detained in any institution or other place pursuant to
31 Section 625 or is committed to any institution or other place
32 pursuant to an order of the juvenile court, if the minor is placed
33 or detained because he or she is found by a court to have committed
34 a crime against that person. Nothing in this subdivision shall be
35 construed to extinguish a child support obligation between private
36 parties.

37 SEC. 15. Section 903.3 of the Welfare and Institutions Code
38 is amended to read:

39 903.3. (a) The father, mother, spouse, or other person liable
40 for the support of a minor person, the person himself or herself if

1 he or she is an adult, or the estates of those persons shall, unless
2 indigent, be liable for the cost to the county and court for any
3 investigation related to the sealing and for the sealing of any
4 juvenile court or arrest records pursuant to Section 781 pertaining
5 to that person. The liability of those persons and estates shall be
6 a joint and several liability.

7 (b) In the event a petition is filed for an order sealing a record,
8 the father, mother, spouse, or other person liable for the support
9 of a minor, that person if he or she is an adult, or the estate of that
10 person, may be required to reimburse the county and court for the
11 actual cost of services rendered, whether or not the petition is
12 granted and the records are sealed or expunged, at a rate to be
13 determined by the county board of supervisors for the county and
14 by the court for the court. Ability to make this reimbursement shall
15 be determined by the court using the standards set forth in
16 paragraph (2) of subdivision (g) of Section 987.8 and shall not be
17 a prerequisite to a person's eligibility under this section. The court
18 may order reimbursement in any case in which the petitioner
19 appears to have the ability to pay, without undue hardship, all or
20 any portion of the cost for services.

21 (c) Notwithstanding subdivision (a), the father, mother, spouse,
22 or other person liable for the support of the minor, the person
23 himself or herself if he or she is an adult, the estate of that person,
24 or the estate of the minor, shall not be liable for the costs described
25 in this section if a petition to declare the minor a dependent child
26 of the court pursuant to Section 300 is dismissed at or before the
27 jurisdictional hearing.

28 (d) Any determination of amount made by a court under this
29 section shall be valid only if either (1) made under procedures
30 adopted by the Judicial Council or (2) approved by the Judicial
31 Council.