

AMENDED IN ASSEMBLY JUNE 25, 2009

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, 27361 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, in addition to the fees charged by the department.

~~This bill instead authorizes would authorize the county clerk to charge a fee of \$75 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 refiling 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

1 within the meaning of the Commercial Code, but the notice of lien
2 to which the certificate relates may not be removed from the files;
3 and

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

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

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

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

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

1 pursuant to Section 21104.2 of the Public Resources Code, and
2 other activities protecting those trust resources identified in the
3 review pursuant to the California Environmental Quality Act.

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

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

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

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

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

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

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

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

22 (iii) The Habitat Conservation Fund.

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

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

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

28 (vii) The California Ocean Resource Enhancement Account.

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

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

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

39 (1) For a project that is statutorily or categorically exempt from
40 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 *of seventy-five dollars (\$75) per filing to reimburse the county for*
30 ~~the actual costs of services rendered~~, in addition to the filing fee
31 specified in subdivision (d).

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

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

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

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

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

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

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

27 (1) Subchapter 4 (commencing with Section 13136) of Chapter
28 5 of Division 5.5 of Title 14 of the California Code of Regulations.

29 (2) Subchapter 1 (commencing with Section 13200), Subchapter
30 3 (commencing with Section 13213), Subchapter 3.5 (commencing
31 with Section 13214), Subchapter 4 (commencing with Section
32 13215), Subchapter 4.5 (commencing with Section 13238),
33 Subchapter 5 (commencing with Section 13240), Subchapter 6
34 (commencing with Section 13250), and Subchapter 8 (commencing
35 with Section 13255.0) of Chapter 6 of Division 5.5 of Title 14 of
36 the California Code of Regulations.

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

39 27361. (a) The fee for recording and indexing every
40 instrument, paper, or notice required or permitted by law to be

1 recorded 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~~ *costs of services*
4 *rendered pursuant to this subdivision*, except the recorder may
5 charge additional fees as follows:

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

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

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

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

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

39 (2) A county recorder shall not charge the fee described in
40 paragraph (1) after December 31, 2017, unless the county recorder

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

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

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

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

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

1 numbers or letters shall be considered as an additional mine for
2 fee purposes under this section and shall be so indexed in the index.

3 ~~SEC. 5. Section 27361.8 of the Government Code is amended~~
4 ~~to read:~~

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

12 ~~SEC. 6.~~

13 ~~SEC. 4. Section 54985 of the Government Code is amended~~
14 ~~to read:~~

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

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

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

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

38 (1) Any fee charged or collected by a court clerk pursuant to
39 Chapter 5.5 (commencing with Section 116.110) of Title 1 of Part
40 1 of the Code of Civil Procedure, Title 8 (commencing with Section

68070) of the Government Code, or Section 103470 of the Health and Safety Code, or any other fee or charge that may be assessed, charged, collected, or levied pursuant to law for filing judicial documents or for other judicial functions.

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

(3) Any standby or availability assessment or charge.

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

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

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

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

~~SEC. 7.~~

SEC. 5. Section 987.5 of the Penal Code is amended to read:

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

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

1 (c) No defendant shall be denied the assistance of appointed
2 counsel due solely to a failure to pay the registration fee. An order
3 to pay the registration fee may be enforced in the manner provided
4 for enforcement of civil judgments generally, but may not be
5 enforced by contempt.

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

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

18 ~~SEC. 8.~~

19 *SEC. 6.* Section 1203.1 of the Penal Code is amended to read:

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

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

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

36 (2) The court may, in connection with granting probation,
37 impose either imprisonment in a county jail or a fine, both, or
38 neither.

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

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

6 (b) The court shall consider whether the defendant as a condition
7 of probation shall make restitution to the victim or the Restitution
8 Fund. Any restitution payment received by a probation department
9 in the form of cash or money order shall be forwarded to the victim
10 within 30 days from the date the payment is received by the
11 department. Any restitution payment received by a probation
12 department in the form of a check or draft shall be forwarded to
13 the victim within 45 days from the date the payment is received
14 by the department, provided, that payment need not be forwarded
15 to a victim until 180 days from the date the first payment is
16 received, if the restitution payments for that victim received by
17 the probation department total less than fifty dollars (\$50). In cases
18 where the court has ordered the defendant to pay restitution to
19 multiple victims and where the administrative cost of disbursing
20 restitution payments to multiple victims involves a significant cost,
21 any restitution payment received by a probation department shall
22 be forwarded to multiple victims when it is cost effective to do so,
23 but in no event shall restitution disbursements be delayed beyond
24 180 days from the date the payment is received by the probation
25 department.

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

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

(e) The court shall also consider whether the defendant as a condition of probation shall make restitution to a public agency for the costs of an emergency response pursuant to Article 8 (commencing with Section 53150) of Chapter 1 of Part 1 of 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

1 believes that the facts or circumstances or facts and circumstances
2 call for imposition of a more substantial penalty.

3 (h) The probation officer or his or her designated representative
4 shall consider whether any defendant who has been convicted of
5 a nonviolent and nonserious offense and ordered to participate in
6 community service as a condition of probation shall be required
7 to engage in the performance of house repairs or yard services for
8 senior citizens and the performance of repairs to senior centers
9 through contact with local senior service organizations in the
10 performance of the community service.

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

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

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

1 shall place the defendant or probationer in and under the charge
2 of the probation officer of the court, for the period or term fixed
3 for probation. However, upon the payment of any fine imposed
4 and the fulfillment of all conditions of probation, probation shall
5 cease at the end of the term of probation, or sooner, in the event
6 of modification. In counties and cities and counties in which there
7 are facilities for taking fingerprints, those of each probationer shall
8 be taken and a record of them kept and preserved.

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

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

25 ~~SEC. 9.~~

26 *SEC. 7.* Section 1203.1b of the Penal Code is amended to read:

27 1203.1b. (a) In any case in which a defendant is convicted of
28 an offense and is the subject of any preplea or presentence
29 investigation and report, whether or not probation supervision is
30 ordered by the court, and in any case in which a defendant is
31 granted probation or given a conditional sentence, the probation
32 officer, or his or her authorized representative, taking into account
33 any amount that the defendant is ordered to pay in fines,
34 assessments, and restitution, shall make a determination of the
35 ability of the defendant to pay all or a portion of the reasonable
36 cost of any probation supervision or a conditional sentence, of
37 conducting any preplea investigation and preparing any preplea
38 report pursuant to Section 1203.7, of conducting any presentence
39 investigation and preparing any presentence report made pursuant
40 to Section 1203, and of processing a jurisdictional transfer pursuant

1 to Section 1203.9 or of processing a request for interstate compact
2 supervision pursuant to Sections 11175 to 11179, inclusive,
3 whichever applies. The reasonable cost of these services and of
4 probation supervision or a conditional sentence shall not exceed
5 the amount determined to be the actual average cost thereof. A
6 payment schedule for the reimbursement of the costs of preplea
7 or presentence investigations based on income shall be developed
8 by the probation department of each county and approved by the
9 presiding judge of the superior court. The court shall order the
10 defendant to appear before the probation officer, or his or her
11 authorized representative, to make an inquiry into the ability of
12 the defendant to pay all or a portion of these costs. The probation
13 officer, or his or her authorized representative, shall determine the
14 amount of payment and the manner in which the payments shall
15 be made to the county, based upon the defendant's ability to pay.
16 The probation officer shall inform the defendant that the defendant
17 is entitled to a hearing, that includes the right to counsel, in which
18 the court shall make a determination of the defendant's ability to
19 pay and the payment amount. The defendant must waive the right
20 to a determination by the court of his or her ability to pay and the
21 payment amount by a knowing and intelligent waiver.

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

32 (1) At the hearing, the defendant shall be entitled to have, but
33 shall not be limited to, the opportunity to be heard in person, to
34 present witnesses and other documentary evidence, and to confront
35 and cross-examine adverse witnesses, and to disclosure of the
36 evidence against the defendant, and a written statement of the
37 findings of the court or the probation officer, or his or her
38 authorized representative.

39 (2) At the hearing, if the court determines that the defendant
40 has the ability to pay all or part of the costs, the court shall set the

1 amount to be reimbursed and order the defendant to pay that sum
2 to the county in the manner in which the court believes reasonable
3 and compatible with the defendant's financial ability.

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

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

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

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

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

30 (1) Present financial position.

31 (2) Reasonably discernible future financial position. In no event
32 shall the court consider a period of more than one year from the
33 date of the hearing for purposes of determining reasonably
34 discernible future financial position.

35 (3) Likelihood that the defendant shall be able to obtain
36 employment within the one-year period from the date of the
37 hearing.

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

1 (f) At any time during the pendency of the judgment rendered
2 according to the terms of this section, a defendant against whom
3 a judgment has been rendered may petition the probation officer
4 for a review of the defendant's financial ability to pay or the
5 rendering court to modify or vacate its previous judgment on the
6 grounds of a change of circumstances with regard to the
7 defendant's ability to pay the judgment. The probation officer and
8 the court shall advise the defendant of this right at the time of
9 rendering of the terms of probation or the judgment.

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

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

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

20 ~~SEC. 10.~~

21 *SEC. 8.* Section 1203.4 of the Penal Code is amended to read:

22 1203.4. (a) In any case in which a defendant has fulfilled the
23 conditions of probation for the entire period of probation, or has
24 been discharged prior to the termination of the period of probation,
25 or in any other case in which a court, in its discretion and the
26 interests of justice, determines that a defendant should be granted
27 the relief available under this section, the defendant shall, at any
28 time after the termination of the period of probation, if he or she
29 is not then serving a sentence for any offense, on probation for
30 any offense, or charged with the commission of any offense, be
31 permitted by the court to withdraw his or her plea of guilty or plea
32 of nolo contendere and enter a plea of not guilty; or, if he or she
33 has been convicted after a plea of not guilty, the court shall set
34 aside the verdict of guilty; and, in either case, the court shall
35 thereupon dismiss the accusations or information against the
36 defendant and except as noted below, he or she shall thereafter be
37 released from all penalties and disabilities resulting from the
38 offense of which he or she has been convicted, except as provided
39 in Section 13555 of the Vehicle Code. The probationer shall be
40 informed, in his or her probation papers, of this right and privilege

1 and his or her right, if any, to petition for a certificate of
2 rehabilitation and pardon. The probationer may make the
3 application and change of plea in person or by attorney, or by the
4 probation officer authorized in writing. However, in any subsequent
5 prosecution of the defendant for any other offense, the prior
6 conviction may be pleaded and proved and shall have the same
7 effect as if probation had not been granted or the accusation or
8 information dismissed. The order shall state, and the probationer
9 shall be informed, that the order does not relieve him or her of the
10 obligation to disclose the conviction in response to any direct
11 question contained in any questionnaire or application for public
12 office, for licensure by any state or local agency, or for contracting
13 with the California State Lottery.

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

18 Dismissal of an accusation or information underlying a
19 conviction pursuant to this section does not permit a person
20 prohibited from holding public office as a result of that conviction
21 to hold public office.

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

24 (b) Subdivision (a) of this section does not apply to any
25 misdemeanor that is within the provisions of subdivision (b) of
26 Section 42001 of the Vehicle Code, to any violation of subdivision
27 (c) of Section 286, Section 288, subdivision (c) of Section 288a,
28 Section 288.5, or subdivision (j) of Section 289, any felony
29 conviction pursuant to subdivision (d) of Section 261.5, or to any
30 infraction.

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

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

(d) A person who petitions for a change of plea or setting aside of a verdict under this section may be required to reimburse the court 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 court, and to reimburse the county 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 county board of supervisors, and to reimburse 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.~~

SEC. 9. 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

1 for an order sealing the record of conviction and other official
2 records in the case, including records of arrests resulting in the
3 criminal proceeding and records relating to other offenses charged
4 in the accusatory pleading, whether defendant was acquitted or
5 charges were dismissed. If the court finds that the person was under
6 the age of 18 at the time of the commission of the misdemeanor,
7 and is eligible for relief under Section 1203.4 or 1203.4a or has
8 previously received that relief, it may issue its order granting the
9 relief prayed for. Thereafter the conviction, arrest, or other
10 proceeding shall be deemed not to have occurred, and the petitioner
11 may answer accordingly any question relating to their occurrence.

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

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

20 (d) This section does not apply to a person convicted of more
21 than one offense, whether the second or additional convictions
22 occurred in the same action in which the conviction as to which
23 relief is sought occurred or in another action, except in the
24 following cases:

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

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

27 (A) Misdemeanor violations of Chapters 1 (commencing with
28 Section 21000) to 9 (commencing with Section 22500), inclusive,
29 Chapter 12 (commencing with Section 23100), or Chapter 13
30 (commencing with Section 23250) of Division 11 of the Vehicle
31 Code, other than Section 23103, 23104, 23105, 23152, 23153, or
32 23220.

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

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

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

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

SEC. 10. 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

1 held in custody, at the rate specified in the judgment. When the
2 defendant has been convicted of a misdemeanor, a judgment that
3 the defendant pay a fine may also direct that he or she pay the fine
4 within a limited time or in installments on specified dates and that
5 in default of payment as therein stipulated he or she be imprisoned
6 in the discretion of the court either until the defaulted installment
7 is satisfied or until the fine is satisfied in full; but unless the
8 direction is given in the judgment, the fine shall be payable
9 forthwith.

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

31 (c) This section applies to any violation of any of the codes or
32 statutes of this state punishable by a fine or by a fine and
33 imprisonment.

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

38 (d) The defendant shall pay to the clerk of the court or the
39 collecting agency a fee for the processing of installment accounts.
40 This fee shall equal the administrative and clerical costs, as

determined by the board of supervisors. The Legislature hereby authorizes the establishment of the following program described in this section, to be implemented in any county, upon the adoption of a resolution by the board of supervisors authorizing it. The board of supervisors in any county may establish a fee for the processing of accounts receivable that are not to be paid in installments. The defendant shall pay to the clerk of the court or the collecting agency the fee established for the processing of the accounts. The fee shall equal the administrative and clerical costs, as determined by the board of supervisors, except that the fee shall not exceed thirty dollars (\$30).

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

~~SEC. 13.~~

SEC. 11. Section 13300 of the Penal Code is amended to read:

13300. (a) As used in this section:

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

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

(3) “Local agency” means a local criminal justice agency.

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

(1) The courts of the state.

(2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b),

1 and (j) of Section 830.3, and subdivisions (a), (b), and (c) of
2 Section 830.5.

3 (3) District attorneys of the state.

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

5 (5) City attorneys pursuing civil gang injunctions pursuant to
6 Section 186.22a, or drug abatement actions pursuant to Section
7 3479 or 3480 of the Civil Code, or Section 11571 of the Health
8 and Safety Code.

9 (6) Probation officers of the state.

10 (7) Parole officers of the state.

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

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

17 (10) Any agency, officer, or official of the state when the local
18 summary criminal history information is required to implement a
19 statute, regulation, or ordinance that expressly refers to specific
20 criminal conduct applicable to the subject person of the local
21 summary criminal history information, and contains requirements
22 or exclusions, or both, expressly based upon the specified criminal
23 conduct.

24 (11) Any city, county, city and county, or district, or any officer
25 or official thereof, when access is needed in order to assist the
26 agency, officer, or official in fulfilling employment, certification,
27 or licensing duties, and when the access is specifically authorized
28 by the city council, board of supervisors, or governing board of
29 the city, county, or district when the local summary criminal history
30 information is required to implement a statute, regulation, or
31 ordinance that expressly refers to specific criminal conduct
32 applicable to the subject person of the local summary criminal
33 history information, and contains requirements or exclusions, or
34 both, expressly based upon the specified criminal conduct.

35 (12) The subject of the local summary criminal history
36 information.

37 (13) Any person or entity when access is expressly authorized
38 by statute when the local summary criminal history information
39 is required to implement a statute, regulation, or ordinance that
40 expressly refers to specific criminal conduct applicable to the

1 subject person of the local summary criminal history information,
2 and contains requirements or exclusions, or both, expressly based
3 upon the specified criminal conduct.

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

6 (15) Local child support agencies established by Section 17304
7 of the Family Code. When a local child support agency closes a
8 support enforcement case containing summary criminal history
9 information, the agency shall delete or purge from the file and
10 destroy any documents or information concerning or arising from
11 offenses for or of which the parent has been arrested, charged, or
12 convicted, other than for offenses related to the parents having
13 failed to provide support for the minor children, consistent with
14 Section 17531 of the Family Code.

15 (16) County child welfare agency personnel who have been
16 delegated the authority of county probation officers to access state
17 summary criminal information pursuant to Section 272 of the
18 Welfare and Institutions Code for the purposes specified in Section
19 16504.5 of the Welfare and Institutions Code.

20 (c) The local agency may furnish local summary criminal history
21 information, upon a showing of a compelling need, to any of the
22 following, provided that when information is furnished to assist
23 an agency, officer, or official of state or local government, a public
24 utility, or any entity, in fulfilling employment, certification, or
25 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
26 432.7 of the Labor Code shall apply:

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

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

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

36 (4) To public officers, other than peace officers, of the United
37 States, other states, or possessions or territories of the United
38 States, provided that access to records similar to local summary
39 criminal history information is expressly authorized by a statute
40 of the United States, other states, or possessions or territories of

1 the United States when this information is needed for the
2 performance of their official duties.

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

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

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

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

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

21 If the local agency supplies the information pursuant to this
22 paragraph, it shall furnish a copy of the information to the person
23 to whom the information relates.

24 Any information obtained from the local summary criminal
25 history is confidential and the receiving public utility shall not
26 disclose its contents, other than for the purpose for which it was
27 acquired. The local summary criminal history information in the
28 possession of the public utility and all copies made from it shall
29 be destroyed 30 days after employment is denied or granted,
30 including any appeal periods, except for those cases where an
31 employee or applicant is out on bail or on his or her own
32 recognizance pending trial, in which case the state summary
33 criminal history information and all copies shall be destroyed 30
34 days after the case is resolved, including any appeal periods.

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

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

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

7 (10) Any city, county, city and county, or district, or any officer
8 or official thereof, if a written request is made to a local law
9 enforcement agency and the information is needed to assist in the
10 screening of a prospective concessionaire, and any affiliate or
11 associate thereof, as these terms are defined in subdivision (k) of
12 Section 432.7 of the Labor Code, for the purposes of consenting
13 to, or approving of, the prospective concessionaire’s application
14 for, or acquisition of, any beneficial interest in a concession, lease,
15 or other property interest.

16 Any local government’s request for local summary criminal
17 history information for purposes of screening a prospective
18 concessionaire and their affiliates or associates before approving
19 or denying an application for, or acquisition of, any beneficial
20 interest in a concession, lease, or other property interest is deemed
21 a “compelling need” as required by this subdivision. However,
22 only local summary criminal history information pertaining to
23 criminal convictions may be obtained pursuant to this paragraph.

24 Any information obtained from the local summary criminal
25 history is confidential and the receiving local government shall
26 not disclose its contents, other than for the purpose for which it
27 was acquired. The local summary criminal history information in
28 the possession of the local government and all copies made from
29 it shall be destroyed not more than 30 days after the local
30 government’s final decision to grant or deny consent to, or approval
31 of, the prospective concessionaire’s application for, or acquisition
32 of, a beneficial interest in a concession, lease, or other property
33 interest. Nothing in this section shall be construed as imposing
34 any duty upon a local government, or any officer or official thereof,
35 to request local summary criminal history information on any
36 current or prospective concessionaire or their affiliates or
37 associates.

38 (d) Whenever an authorized request for local summary criminal
39 history information pertains to a person whose fingerprints are on
40 file with the local agency and the local agency has no criminal

1 history of that person, and the information is to be used for
2 employment, licensing, or certification purposes, the fingerprint
3 card accompanying the request for information, if any, may be
4 stamped “no criminal record” and returned to the person or entity
5 making the request.

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

10 (f) Whenever local summary criminal history information
11 furnished pursuant to this section is to be used for employment,
12 licensing, or certification purposes, the local agency shall charge
13 the person or entity making the request a fee which it determines
14 to be sufficient to reimburse the local agency for the cost of
15 furnishing the information, provided that no fee shall be charged
16 to any public law enforcement agency for local summary criminal
17 history information furnished to assist it in employing, licensing,
18 or certifying a person who is applying for employment with the
19 agency as a peace officer or criminal investigator. Any state agency
20 required to pay a fee to the local agency for information received
21 under this section may charge the applicant a fee sufficient to
22 reimburse the agency for the expense.

23 (g) Whenever there is a conflict, the processing of criminal
24 fingerprints shall take priority over the processing of applicant
25 fingerprints.

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

29 (i) It is not a violation of this article to include information
30 obtained from a record in (1) a transcript or record of a judicial or
31 administrative proceeding or (2) any other public record when the
32 inclusion of the information in the public record is authorized by
33 a court, statute, or decisional law.

34 (j) Notwithstanding any other law, a public prosecutor may, in
35 response to a written request made pursuant to Section 6253 of
36 the Government Code, provide information from a local summary
37 criminal history, if release of the information would enhance public
38 safety, the interest of justice, or the public’s understanding of the
39 justice system and the person making the request declares that the
40 request is made for a scholarly or journalistic purpose. If a person

1 in a declaration required by this subdivision willfully states as true
2 any material fact that he or she knows to be false, he or she shall
3 be subject to a civil penalty not exceeding ten thousand dollars
4 (\$10,000). The requestor shall be informed in writing of this
5 penalty. An action to impose a civil penalty under this subdivision
6 may be brought by any public prosecutor and shall be enforced as
7 a civil judgment.

8 (k) Notwithstanding any other law, the Department of Justice
9 or any state or local law enforcement agency may require the
10 submission of fingerprints for the purpose of conducting summary
11 criminal history information record checks which are authorized
12 by law.

13 (l) Any local criminal justice agency may release, within five
14 years of the arrest, information concerning an arrest or detention
15 of a peace officer or applicant for a position as a peace officer, as
16 defined in Section 830, which did not result in conviction, and for
17 which the person did not complete a postarrest diversion program
18 or a deferred entry of judgment program, to a government agency
19 employer of that peace officer or applicant.

20 (m) Any local criminal justice agency may release information
21 concerning an arrest of a peace officer or applicant for a position
22 as a peace officer, as defined in Section 830, which did not result
23 in conviction but for which the person completed a postarrest
24 diversion program or a deferred entry of judgment program, or
25 information concerning a referral to and participation in any
26 postarrest diversion program or a deferred entry of judgment
27 program to a government agency employer of that peace officer
28 or applicant.

29 (n) Notwithstanding subdivision (l) or (m), a local criminal
30 justice agency shall not release information under the following
31 circumstances:

32 (1) Information concerning an arrest for which diversion or a
33 deferred entry of judgment program has been ordered without
34 attempting to determine whether diversion or a deferred entry of
35 judgment program has been successfully completed.

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

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

4 ~~SEC. 14.~~

5 *SEC. 12.* Section 903 of the Welfare and Institutions Code is
6 amended to read:

7 903. (a) The father, mother, spouse, or other person liable for
8 the support of a minor, the estate of that person, and the estate of
9 the minor, shall be liable for the reasonable costs of support of the
10 minor while the minor is placed, or detained in, or committed to,
11 any institution or other place pursuant to Section 625 or pursuant
12 to an order of the juvenile court. However, a county shall not levy
13 charges for the costs of support of a minor detained pursuant to
14 Section 625 unless, at the detention hearing, the juvenile court
15 determines that detention of the minor should be continued, the
16 petition for the offense for which the minor is detained is
17 subsequently sustained, or the minor agrees to a program of
18 supervision pursuant to Section 654. The liability of these persons
19 and estates shall be a joint and several liability.

20 (b) The county shall limit the charges it seeks to impose to the
21 reasonable costs of support of the minor and shall exclude any
22 costs of incarceration, treatment, or supervision for the protection
23 of society and the minor and the rehabilitation of the minor. In the
24 event that court-ordered child support paid to the county pursuant
25 to subdivision (a) exceeds the amount of the costs authorized by
26 this subdivision and subdivision (a), the county shall either hold
27 the excess in trust for the minor's future needs pursuant to Section
28 302.52 of Title 45 of the Code of Federal Regulations or, with the
29 approval of the minor's caseworker or probation officer, pay the
30 excess directly to the minor.

31 (c) It is the intent of the Legislature in enacting this subdivision
32 to protect the fiscal integrity of the county, to protect persons
33 against whom the county seeks to impose liability from excessive
34 charges, to ensure reasonable uniformity throughout the state in
35 the level of liability being imposed, and to ensure that liability is
36 imposed only on persons with the ability to pay. In evaluating a
37 family's financial ability to pay under this section, the county shall
38 take into consideration the family's income, the necessary
39 obligations of the family, and the number of persons dependent
40 upon this income. Except as provided in paragraphs (1), (2), (3),

1 and (4), “costs of support” as used in this section means only actual
2 costs incurred by the county for food and food preparation,
3 clothing, personal supplies, and medical expenses, not to exceed
4 a combined maximum cost of forty-five dollars (\$45) per day,
5 except that:

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

11 (2) No cost for medical expenses shall be imposed by the county
12 until the county has first exhausted any eligibility the minor may
13 have under private insurance coverage, standard or medically
14 indigent Medi-Cal coverage, and the Robert W. Crown California
15 Children’s Services Act (Article 2 (commencing with Section 248)
16 of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code).

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

24 (4) For those placements of a minor subject to this section in
25 which an AFDC–FC grant is made, the local child support agency
26 shall, subject to Sections 17550 and 17552 of the Family Code,
27 seek an order pursuant to Section 17400 of the Family Code and
28 the statewide child support guideline in effect in Article 2
29 (commencing with Section 4050) of Chapter 2 of Part 2 of Division
30 9 of the Family Code. For purposes of determining the correct
31 amount of support of a minor subject to this section, the rebuttable
32 presumption set forth in Section 4057 of the Family Code is
33 applicable. This paragraph shall be implemented consistent with
34 subdivision (a) of Section 17415 of the Family Code.

35 (d) Notwithstanding subdivision (a), the father, mother, spouse,
36 or other person liable for the support of the minor, the estate of
37 that person, or the estate of the minor, shall not be liable for the
38 costs described in this section if a petition to declare the minor a
39 dependent child of the court pursuant to Section 300 is dismissed
40 at or before the jurisdictional hearing.

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

~~SEC. 15.~~

SEC. 13. Section 903.3 of the Welfare and Institutions Code is amended to read:

903.3. (a) The father, mother, spouse, or other person liable for the support of a minor person, the person himself or herself if he or she is an adult, or the estates of those persons shall, unless indigent, be liable for the cost to the county and court for any investigation related to the sealing and for the sealing of any juvenile court or arrest records pursuant to Section 781 pertaining to that person. The liability of those persons and estates shall be a joint and several liability.

(b) In the event a petition is filed for an order sealing a record, the father, mother, spouse, or other person liable for the support of a minor, that person if he or she is an adult, or the estate of that person, may be required to reimburse the county and 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 county board of supervisors for the county and by the court for the court. 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 cost for services.

(c) Notwithstanding subdivision (a), the father, mother, spouse, or other person liable for the support of the minor, the person himself or herself if he or she is an adult, the estate of that person, or the estate of the minor, shall not be liable for the costs described in this section if a petition to declare the minor a dependent child

1 of the court pursuant to Section 300 is dismissed at or before the
2 jurisdictional hearing.
3 (d) Any determination of amount made by a court under this
4 section shall be valid only if either (1) made under procedures
5 adopted by the Judicial Council or (2) approved by the Judicial
6 Council.

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