

AMENDED IN SENATE APRIL 27, 2010

SENATE BILL

No. 1062

Introduced by Senator Strickland

February 16, 2010

An act to amend Section 7480 of the Government Code, to amend Section 668 of the Harbors and Navigation Code, ~~to amend Section 11370.2 of the Health and Safety Code,~~ to amend Sections ~~171b, 171.5, 245.5, 266h, 266i, 273.6, 626.10~~ 290.06, 786, 1203e, 1233.1, 1328d, 1417.6, ~~11160, 12021, 13540, 13542, and 13821~~ 13821, 13885, 13885.1, 13885.2, 13885.4, 13885.6, and 13885.8 of, and to repeal Chapter 3 (commencing with Section 1228) of Title 8 of Part 2 of, the Penal Code, to amend Section 40000.7 of the Vehicle Code, ~~to amend Sections 12301.6 and 12305.86 of the Welfare and Institutions Code,~~ and to repeal Section 58 of Chapter 28 of the Third Extraordinary Session of the Statutes of 2009, relating to public safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1062, as amended, Strickland. Public safety omnibus bill.

(1) Existing law provides the circumstances in which a local or state government agency may procure the financial records of an individual in the course of a criminal or civil investigation and specifies certain instances where the dissemination of financial records may be required by an order by a judge. Under existing law, a court may order the production of relevant records in the possession of a real estate recordholder upon the ex parte application by a peace officer stating the records are relevant to an ongoing felony fraud investigation.

This bill would state that the provisions of existing law regarding the procurement of financial records by the government do not prohibit the

production of real estate documents upon the ex parte application of a peace officer during the course of the felony fraud investigation.

(2) Under existing law, persons convicted of specified drug offenses are subject to a separate consecutive 3-year term of imprisonment for each prior conviction of an offense in a list of similar drug offenses.

This bill would expand these lists of drug offenses.

~~(3) Under existing law it is a crime to bring a taser into a state or local building, into the secure area of an airport, or to a school. Provisions of existing law also impose various penalties for assaulting someone with a taser. Existing law defines the term “less lethal weapon” as any device that is designed to expel less lethal ammunition for the purpose of incapacitating, immobilizing, or stunning a human being through the infliction of any less than lethal impairment of physical condition, function, or senses, including physical pain or discomfort.~~

~~This bill would replace the term “taser” with the term “less lethal weapon” in various provisions of the Penal Code as provided.~~

(3) Existing law requires every person required to register as a sex offender to be subject to assessment by the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO). Existing law requires probation departments to do a SARATSO assessment on every eligible person for whom it prepares a probation report.

This bill would require probation departments to perform an assessment on eligible persons whether or not it prepares a probation report on that person, and would require that the assessment be done prior to the person’s sentencing. By requiring additional SARATSO assessments by probation departments, this bill would impose a state-mandated local program.

(4) Existing law requires persons placed on probation to be under the supervision of a county probation officer. Existing law requires the probation department to compile a Facts of Offense Sheet, which includes the probationer’s criminal history and the results of his or her SARATSO assessment, for every person who has been referred to the department who has been convicted of an offense that requires registration under the Sex Offender Registration Act. Existing law requires that the Facts of Offense Sheet be included in the probation officer’s report and requires the probation officer to send a copy of the Facts of Offense Sheet to the Department of Justice Sex Offender Tracking Program. Existing law requires that the Facts of Offense Sheet be made part of the registered sex offender’s file maintained by the Department of Justice Sex Offender Tracking Program.

This bill would delete the requirement that the probation officer send a copy of the Facts of Offense Sheet to the Department of Justice Sex Offender Tracking Program and instead require the probation officer to send the Facts of Offense Sheet to the Department of Justice High Risk Sex Offender Program.

~~(4)~~

(5) Under existing law the pimping of, or the pandering of, a minor is a felony. Existing law imposes a higher triad of sentences if the minor is under 16 years of age than if the minor is over 16 years of age but does not specify the possible sentences if the minor is exactly 16 years of age.

This bill would clarify that if the minor victim is exactly 16 years of age or older, the lower triad of sentences applies.

~~(5)~~

(6) Existing law makes it a crime to ~~posses~~ possess a firearm if the person knows he or she is prohibited from doing so by the provisions of specified protective orders.

This bill would apply these provisions to a protective order sought by an officer of a postsecondary educational institution where a student has suffered a credible threat of violence.

~~(6)~~

(7) Two existing provisions of law both enact the California Community Corrections Performance Incentives Act. One of these provisions includes a victim representative on a local advisory panel created by the act.

This bill would repeal the version of the act that does not include the victim representative in its provisions.

(8) *Existing law authorizes each county to establish a Community Corrections Performance Incentives Fund (CCPIF) and authorizes the state to annually allocate money into the State Corrections Performance Incentives Fund to be used for purposes relating to improving local probation supervision practices and capacities. Existing law requires the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, to calculate the amount of money to be appropriated from the state fund into the CCPIF. Under existing law the calculation is based on costs avoided by the Department of Corrections and Rehabilitation because of a reduction in the percentage of adult probationers sent to prison for probation failure. Under existing law*

this calculation includes a statewide probation failure rate, calculated as the total number of adult felony probationers statewide sent to prison in the previous year as a percentage of the statewide adult felony population as of June 30 of the year that the calculation is being performed, and the probation failure rate for each county, calculated as the number of adult probationers sent to prison from each county in the previous year as a percentage of the county's adult felony probation population as of June 30 of the year that the calculation is being performed.

This bill would require that the statewide and county probation failure rates be calculated as the number of adult felony probationers sent to prison statewide, and by each county, in the previous year as a percentage of the statewide or county's average adult felony probation population for that year.

(7)

(9) Under existing law, the service of a subpoena by mail or messenger is effected if and when the recipient acknowledges receipt of the subpoena. Under existing law acknowledgment may be made by telephone, mail, or in person.

This bill would include any form of electronic communication as an acceptable means of acknowledging the receipt of a subpoena for purposes of affecting service.

~~(8) Existing law requires criminal background checks be performed for prospective in-home service providers as a condition of IHSS enrollment. If the applicant or provider is rejected as a result of information contained in the criminal background report, existing law requires that he or she receive a copy of that report from the Department of Justice, that he or she be advised of his or her right to contest the criminal background report, and that he or she be informed of his or her right to submit a claim and proof of indigency for a waiver of the fee for obtaining a copy of a criminal history record.~~

~~This bill would provide that if an applicant or provider is rejected as a result of information contained in the criminal background report, the individual shall receive a copy of the Department of Justice criminal offender record information response from the primary response recipient.~~

(10) Existing law, subject to the availability of funds, establishes the Sexual Habitual Offender Program in the Department of Justice and requires that it evaluate the number of arrests and convictions of sex offenses and the length of sentences for repeat offenders. Existing law

defines a “sexual habitual offender” for purposes of the act as a person who has been convicted of 2 or more violent offenses against a person involving force or violence which include at least one sex offense, or as a person who has committed a crime which requires registration under the Sex Offender Registration Act and who has additional felony or misdemeanor arrests on his or her criminal record, as specified.

This bill would recast the Sexual Habitual Offender Program as the High Risk Sex Offender Program. This bill would delete the requirement that the program evaluate the number of arrests and convictions of sex offenses and the length of sentences for repeat offenders and would instead require the program to receive Facts of Offenses Sheets and use the scores of sex offenders reported on the sheets for identifying, assessing, monitoring, and containing sex offenders at high risk of reoffending. This bill would delete the definition of a “sexual habitual offender” for purposes of the program and replace it with “high risk sex offender” and would define a high risk sex offender as any person who is required to register under the Sex Offender Registration Act and who has been assessed with a score equivalent to “high risk” on the SARATSO, or who has been identified as being at a high risk of reoffending by the Department of Justice based on the person’s SARATSO score when considered in combination with unspecified empirically based risk factors.

(11) Existing law requires the Department of Justice to establish and maintain a comprehensive file of existing information maintained by law enforcement agencies, the Department of Corrections and Rehabilitation, the Department of Motor Vehicles, and the Department of Justice. Existing law allows the Department of Justice to request existing information from these agencies regarding sexual habitual offenders and requires these agencies, when requested, to provide copies of the information.

This bill would expand the requirement that the Department of Justice maintain files of existing information maintained by the above agencies to include the State Department of Mental Health and probation departments. This bill would require the State Department of Mental Health and probation departments, in addition to the agencies already subject to the requirement, to provide existing information to the Department of Justice upon request regarding high risk sex offenders. By requiring probation departments to submit existing information upon the request of the Department of Justice, this bill would impose a state-mandated local program.

(12) Under existing law, the Department of Justice is required to provide a summary profile of a sexual habitual offender to each law enforcement agency when an individual registers in, or moves to, the area in which the law enforcement agency is located.

This bill would delete this requirement and instead require the Department of Justice to provide a bulletin to law enforcement agencies on each high risk sex offender via the California Sex Offender Registry and the California Law Enforcement Web (CLEW).

~~(9)~~

(13) This bill would make various technical corrections.

~~(10)~~

(14) The bill would provide that any section of any ~~other~~ act, other than SB 1330, enacted by the Legislature during the 2010 calendar year that takes effect on or before January 1, 2011, and that affects a provision of this act would prevail over this act.

(15) By imposing additional duties of local probation departments, this bill would impose a state-mandated local program.

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~(11) By expanding the scope of crimes involving the use of a taser to encompass crimes committed with a less lethal weapon, this bill would impose a state-mandated local program.~~

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

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

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

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

1 SECTION 1. Section 7480 of the Government Code, as
2 amended by Section 1 of Chapter 234 of the Statutes of 2008, is
3 amended to read:

4 7480. Nothing in this chapter shall prohibit any of the
5 following:

6 (a) The dissemination of any financial information that is not
7 identified with, or identifiable as being derived from, the financial
8 records of a particular customer.

9 (b) When any police or sheriff's department or district attorney
10 in this state certifies to a bank, credit union, or savings association
11 in writing that a crime report has been filed that involves the
12 alleged fraudulent use of drafts, checks, access cards, or other
13 orders drawn upon any bank, credit union, or savings association
14 in this state, the police or sheriff's department or district attorney,
15 a county adult protective services office when investigating the
16 financial abuse of an elder or dependent adult, or a long-term care
17 ombudsman when investigating the financial abuse of an elder or
18 dependent adult, may request a bank, credit union, or savings
19 association to furnish, and a bank, credit union, or savings
20 association shall furnish, a statement setting forth the following
21 information with respect to a customer account specified by the
22 requesting party for a period 30 days prior to, and up to 30 days
23 following, the date of occurrence of the alleged illegal act involving
24 the account:

- 25 (1) The number of items dishonored.
26 (2) The number of items paid that created overdrafts.
27 (3) The dollar volume of the dishonored items and items paid
28 which created overdrafts and a statement explaining any credit
29 arrangement between the bank, credit union, or savings association
30 and customer to pay overdrafts.
31 (4) The dates and amounts of deposits and debits and the account
32 balance on these dates.
33 (5) A copy of the signature card, including the signature and
34 any addresses appearing on a customer's signature card.
35 (6) The date the account opened and, if applicable, the date the
36 account closed.
37 (7) Surveillance photographs and video recordings of persons
38 accessing the crime victim's financial account via an automated

1 teller machine (ATM) or from within the financial institution for
2 dates on which illegal acts involving the account were alleged to
3 have occurred. Nothing in this paragraph does any of the following:

4 (A) Requires a financial institution to produce a photograph or
5 video recording if it does not possess the photograph or video
6 recording.

7 (B) Affects any existing civil immunities as provided in Section
8 47 of the Civil Code or any other provision of law.

9 (8) A bank, credit union, or savings association that provides
10 the requesting party with copies of one or more complete account
11 statements prepared in the regular course of business shall be
12 deemed to be in compliance with paragraphs (1), (2), (3), and (4).

13 (c) When any police or sheriff’s department or district attorney
14 in this state certifies to a bank, credit union, or savings association
15 in writing that a crime report has been filed that involves the
16 alleged fraudulent use of drafts, checks, access cards, or other
17 orders drawn upon any bank, credit union, or savings association
18 doing business in this state, the police or sheriff’s department or
19 district attorney, a county adult protective services office when
20 investigating the financial abuse of an elder or dependent adult,
21 or a long-term care ombudsman when investigating the financial
22 abuse of an elder or dependent adult, may request, with the consent
23 of the accountholder, the bank, credit union, or savings association
24 to furnish, and the bank, credit union, or savings association shall
25 furnish, a statement setting forth the following information with
26 respect to a customer account specified by the requesting party for
27 a period 30 days prior to, and up to 30 days following, the date of
28 occurrence of the alleged illegal act involving the account:

- 29 (1) The number of items dishonored.
- 30 (2) The number of items paid that created overdrafts.
- 31 (3) The dollar volume of the dishonored items and items paid
32 which created overdrafts and a statement explaining any credit
33 arrangement between the bank, credit union, or savings association
34 and customer to pay overdrafts.
- 35 (4) The dates and amounts of deposits and debits and the account
36 balance on these dates.
- 37 (5) A copy of the signature card, including the signature and
38 any addresses appearing on a customer’s signature card.
- 39 (6) The date the account opened and, if applicable, the date the
40 account closed.

1 (7) Surveillance photographs and video recordings of persons
2 accessing the crime victim’s financial account via an automated
3 teller machine (ATM) or from within the financial institution for
4 dates on which illegal acts involving this account were alleged to
5 have occurred. Nothing in this paragraph does any of the following:

6 (A) Requires a financial institution to produce a photograph or
7 video recording if it does not possess the photograph or video
8 recording.

9 (B) Affects any existing civil immunities as provided in Section
10 47 of the Civil Code or any other provision of law.

11 (8) A bank, credit union, or savings association doing business
12 in this state that provides the requesting party with copies of one
13 or more complete account statements prepared in the regular course
14 of business shall be deemed to be in compliance with paragraphs
15 (1), (2), (3), and (4).

16 (d) For purposes of subdivision (c), consent of the accountholder
17 shall be satisfied if an accountholder provides to the financial
18 institution and the person or entity seeking disclosure, a signed
19 and dated statement containing all of the following:

20 (1) Authorization of the disclosure for the period specified in
21 subdivision (c).

22 (2) The name of the agency or department to which disclosure
23 is authorized and, if applicable, the statutory purpose for which
24 the information is to be obtained.

25 (3) A description of the financial records that are authorized to
26 be disclosed.

27 (e) (1) The Attorney General, a supervisory agency, the
28 Franchise Tax Board, the State Board of Equalization, the
29 Employment Development Department, the Controller or an
30 inheritance tax referee when administering the Prohibition of Gift
31 and Death Taxes (Part 8 (commencing with Section 13301) of
32 Division 2 of the Revenue and Taxation Code), a police or sheriff’s
33 department or district attorney, a county adult protective services
34 office when investigating the financial abuse of an elder or
35 dependent adult, a long-term care ombudsman when investigating
36 the financial abuse of an elder or dependent adult, a county welfare
37 department when investigating welfare fraud, a county
38 auditor-controller or director of finance when investigating fraud
39 against the county, or the Department of Corporations when
40 conducting investigations in connection with the enforcement of

1 laws administered by the Commissioner of Corporations, from
2 requesting of an office or branch of a financial institution, and the
3 office or branch from responding to a request, as to whether a
4 person has an account or accounts at that office or branch and, if
5 so, any identifying numbers of the account or accounts.

6 (2) No additional information beyond that specified in this
7 section shall be released to a county welfare department without
8 either the accountholder's written consent or a judicial writ, search
9 warrant, subpoena, or other judicial order.

10 (3) A county auditor-controller or director of finance who
11 unlawfully discloses information he or she is authorized to request
12 under this subdivision is guilty of the unlawful disclosure of
13 confidential data, a misdemeanor, which shall be punishable as
14 set forth in Section 7485.

15 (f) The examination by, or disclosure to, any supervisory agency
16 of financial records that relate solely to the exercise of its
17 supervisory function. The scope of an agency's supervisory
18 function shall be determined by reference to statutes that grant
19 authority to examine, audit, or require reports of financial records
20 or financial institutions as follows:

21 (1) With respect to the Commissioner of Financial Institutions
22 by reference to Division 1 (commencing with Section 99), Division
23 1.5 (commencing with Section 4800), Division 2 (commencing
24 with Section 5000), Division 5 (commencing with Section 14000),
25 Division 7 (commencing with Section 18000), Division 15
26 (commencing with Section 31000), and Division 16 (commencing
27 with Section 33000), of the Financial Code.

28 (2) With respect to the Controller by reference to Title 10
29 (commencing with Section 1300) of Part 3 of the Code of Civil
30 Procedure.

31 (3) With respect to the Administrator of Local Agency Security
32 by reference to Article 2 (commencing with Section 53630) of
33 Chapter 4 of Part 1 of Division 2 of Title 5 of the Government
34 Code.

35 (g) The disclosure to the Franchise Tax Board of (1) the amount
36 of any security interest that a financial institution has in a specified
37 asset of a customer or (2) financial records in connection with the
38 filing or audit of a tax return or tax information return that are
39 required to be filed by the financial institution pursuant to Part 10
40 (commencing with Section 17001), Part 11 (commencing with

1 Section 23001), or Part 18 (commencing with Section 38001), of
2 the Revenue and Taxation Code.

3 (h) The disclosure to the State Board of Equalization of any of
4 the following:

5 (1) The information required by Sections 6702, 6703, 8954,
6 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155,
7 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404,
8 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the
9 Revenue and Taxation Code.

10 (2) The financial records in connection with the filing or audit
11 of a tax return required to be filed by the financial institution
12 pursuant to Part 1 (commencing with Section 6001), Part 2
13 (commencing with Section 7301), Part 3 (commencing with Section
14 8601), Part 13 (commencing with Section 30001), Part 14
15 (commencing with Section 32001), and Part 17 (commencing with
16 Section 37001), of Division 2 of the Revenue and Taxation Code.

17 (3) The amount of any security interest a financial institution
18 has in a specified asset of a customer, if the inquiry is directed to
19 the branch or office where the interest is held.

20 (i) The disclosure to the Controller of the information required
21 by Section 7853 of the Revenue and Taxation Code.

22 (j) The disclosure to the Employment Development Department
23 of the amount of any security interest a financial institution has in
24 a specified asset of a customer, if the inquiry is directed to the
25 branch or office where the interest is held.

26 (k) The disclosure by a construction lender, as defined in Section
27 3087 of the Civil Code, to the Registrar of Contractors, of
28 information concerning the making of progress payments to a
29 prime contractor requested by the registrar in connection with an
30 investigation under Section 7108.5 of the Business and Professions
31 Code.

32 (l) Upon receipt of a written request from a local child support
33 agency referring to a support order pursuant to Section 17400 of
34 the Family Code, a financial institution shall disclose the following
35 information concerning the account or the person named in the
36 request, whom the local child support agency shall identify,
37 whenever possible, by social security number:

38 (1) If the request states the identifying number of an account at
39 a financial institution, the name of each owner of the account.

1 (2) Each account maintained by the person at the branch to
2 which the request is delivered, and, if the branch is able to make
3 a computerized search, each account maintained by the person at
4 any other branch of the financial institution located in this state.

5 (3) For each account disclosed pursuant to paragraphs (1) and
6 (2), the account number, current balance, street address of the
7 branch where the account is maintained, and, to the extent available
8 through the branch's computerized search, the name and address
9 of any other person listed as an owner.

10 (4) Whenever the request prohibits the disclosure, a financial
11 institution shall not disclose either the request or its response, to
12 an owner of the account or to any other person, except the officers
13 and employees of the financial institution who are involved in
14 responding to the request and to attorneys, employees of the local
15 child support agencies, auditors, and regulatory authorities who
16 have a need to know in order to perform their duties, and except
17 as disclosure may be required by legal process.

18 (5) No financial institution, or any officer, employee, or agent
19 thereof, shall be liable to any person for (A) disclosing information
20 in response to a request pursuant to this subdivision, (B) failing to
21 notify the owner of an account, or complying with a request under
22 this paragraph not to disclose to the owner, the request or disclosure
23 under this subdivision, or (C) failing to discover any account owned
24 by the person named in the request pursuant to a computerized
25 search of the records of the financial institution.

26 (6) The local child support agency may request information
27 pursuant to this subdivision only when the local child support
28 agency has received at least one of the following types of physical
29 evidence:

30 (A) Any of the following, dated within the last three years:

31 (i) Form 599.

32 (ii) Form 1099.

33 (iii) A bank statement.

34 (iv) A check.

35 (v) A bank passbook.

36 (vi) A deposit slip.

37 (vii) A copy of a federal or state income tax return.

38 (viii) A debit or credit advice.

39 (ix) Correspondence that identifies the child support obligor by
40 name, the bank, and the account number.

1 (x) Correspondence that identifies the child support obligor by
2 name, the bank, and the banking services related to the account of
3 the obligor.

4 (xi) An asset identification report from a federal agency.

5 (B) A sworn declaration of the custodial parent during the 12
6 months immediately preceding the request that the person named
7 in the request has had or may have had an account at an office or
8 branch of the financial institution to which the request is made.

9 (7) Information obtained by a local child support agency
10 pursuant to this subdivision shall be used only for purposes that
11 are directly connected with the administration of the duties of the
12 local child support agency pursuant to Section 17400 of the Family
13 Code.

14 (m) (1) As provided in paragraph (1) of subdivision (c) of
15 Section 666 of Title 42 of the United States Code, upon receipt of
16 an administrative subpoena on the current federally approved
17 interstate child support enforcement form, as approved by the
18 federal Office of Management and Budget, a financial institution
19 shall provide the information or documents requested by the
20 administrative subpoena.

21 (2) The administrative subpoena shall refer to the current federal
22 Office of Management and Budget control number and be signed
23 by a person who states that he or she is an authorized agent of a
24 state or county agency responsible for implementing the child
25 support enforcement program set forth in Part D (commencing
26 with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the
27 United States Code. A financial institution may rely on the
28 statements made in the subpoena and has no duty to inquire into
29 the truth of any statement in the subpoena.

30 (3) If the person who signs the administrative subpoena directs
31 a financial institution in writing not to disclose either the subpoena
32 or its response to any owner of an account covered by the subpoena,
33 the financial institution shall not disclose the subpoena or its
34 response to the owner.

35 (4) No financial institution, or any officer, employee, or agent
36 thereof, shall be liable to any person for (A) disclosing information
37 or providing documents in response to a subpoena pursuant to this
38 subdivision, (B) failing to notify any owner of an account covered
39 by the subpoena or complying with a request not to disclose to the
40 owner, the subpoena or disclosure under this subdivision, or (C)

1 failing to discover any account owned by the person named in the
2 subpoena pursuant to a computerized search of the records of the
3 financial institution.

4 (n) The dissemination of financial information and records
5 pursuant to any of the following:

6 (1) Compliance by a financial institution with the requirements
7 of Section 2892 of the Probate Code.

8 (2) Compliance by a financial institution with the requirements
9 of Section 2893 of the Probate Code.

10 (3) An order by a judge upon a written ex parte application by
11 a peace officer showing specific and articulable facts that there
12 are reasonable grounds to believe that the records or information
13 sought are relevant and material to an ongoing investigation of a
14 felony violation of Section 186.10 or of any felony subject to the
15 enhancement set forth in Section 186.11.

16 (A) The ex parte application shall specify with particularity the
17 records to be produced, which shall be only those of the individual
18 or individuals who are the subject of the criminal investigation.

19 (B) The ex parte application and any subsequent judicial order
20 shall be open to the public as a judicial record unless ordered sealed
21 by the court, for a period of 60 days. The sealing of these records
22 may be extended for 60-day periods upon a showing to the court
23 that it is necessary for the continuance of the investigation.
24 Sixty-day extensions may continue for up to one year or until
25 termination of the investigation of the individual or individuals,
26 whichever is sooner.

27 (C) The records ordered to be produced shall be returned to the
28 peace officer applicant or his or her designee within a reasonable
29 time period after service of the order upon the financial institution.

30 (D) Nothing in this subdivision shall preclude the financial
31 institution from notifying a customer of the receipt of the order
32 for production of records unless a court orders the financial
33 institution to withhold notification to the customer upon a finding
34 that the notice would impede the investigation.

35 (E) Where a court has made an order pursuant to this paragraph
36 to withhold notification to the customer under this paragraph, the
37 peace officer or law enforcement agency who obtained the financial
38 information shall notify the customer by delivering a copy of the
39 ex parte order to the customer within 10 days of the termination
40 of the investigation.

1 (4) An order by a judge issued pursuant to subdivision (c) of
2 Section 532f of the Penal Code.

3 (5) No financial institution, or any officer, employee, or agent
4 thereof, shall be liable to any person for any of the following:

5 (A) Disclosing information to a probate court pursuant to
6 Sections 2892 and 2893.

7 (B) Disclosing information in response to a court order pursuant
8 to paragraph (3).

9 (C) Complying with a court order under this subdivision not to
10 disclose to the customer, the order, or the dissemination of
11 information pursuant to the court order.

12 (o) Disclosure by a financial institution to a peace officer, as
13 defined in Section 830.1 of the Penal Code, pursuant to the
14 following:

15 (1) Paragraph (1) of subdivision (a) of Section 1748.95 of the
16 Civil Code, provided that the financial institution has first complied
17 with the requirements of paragraph (2) of subdivision (a) and
18 subdivision (b) of Section 1748.95 of the Civil Code.

19 (2) Paragraph (1) of subdivision (a) of Section 4002 of the
20 Financial Code, provided that the financial institution has first
21 complied with the requirements of paragraph (2) of subdivision
22 (a) and subdivision (b) of Section 4002 of the Financial Code.

23 (3) Paragraph (1) of subdivision (a) of Section 22470 of the
24 Financial Code, provided that any financial institution that is a
25 finance lender has first complied with the requirements of
26 paragraph (2) of subdivision (a) and subdivision (b) of Section
27 22470 of the Financial Code.

28 (p) When the governing board of the Public Employees'
29 Retirement System or the State Teachers' Retirement System
30 certifies in writing to a financial institution that a benefit recipient
31 has died and that transfers to the benefit recipient's account at the
32 financial institution from the retirement system occurred after the
33 benefit recipient's date of death, the financial institution shall
34 furnish the retirement system with the name and address of any
35 coowner, cosigner, or any other person who had access to the funds
36 in the account following the date of the benefit recipient's death,
37 or if the account has been closed, the name and address of the
38 person who closed the account.

39 (q) When the retirement board of a retirement system established
40 under the County Employees Retirement Law of 1937 certifies in

1 writing to a financial institution that a retired member or the
2 beneficiary of a retired member has died and that transfers to the
3 account of the retired member or beneficiary of a retired member
4 at the financial institution from the retirement system occurred
5 after the date of death of the retired member or beneficiary of a
6 retired member, the financial institution shall furnish the retirement
7 system with the name and address of any coowner, cosigner, or
8 any other person who had access to the funds in the account
9 following the date of death of the retired member or beneficiary
10 of a retired member, or if the account has been closed, the name
11 and address of the person who closed the account.

12 (r) When the Franchise Tax Board certifies in writing to a
13 financial institution that (1) a taxpayer filed a tax return that
14 authorized a direct deposit refund with an incorrect financial
15 institution account or routing number that resulted in all or a
16 portion of the refund not being received, directly or indirectly, by
17 the taxpayer; (2) the direct deposit refund was not returned to the
18 Franchise Tax Board; and (3) the refund was deposited directly
19 on a specified date into the account of an accountholder of the
20 financial institution who was not entitled to receive the refund,
21 then the financial institution shall furnish to the Franchise Tax
22 Board the name and address of any coowner, cosigner, or any other
23 person who had access to the funds in the account following the
24 date of direct deposit refund, or if the account has been closed, the
25 name and address of the person who closed the account.

26 SEC. 2. Section 7480 of the Government Code, as amended
27 by Section 2 of Chapter 234 of the Statutes of 2008, is amended
28 to read:

29 7480. Nothing in this chapter prohibits any of the following:

30 (a) The dissemination of any financial information that is not
31 identified with, or identifiable as being derived from, the financial
32 records of a particular customer.

33 (b) When any police or sheriff's department or district attorney
34 in this state certifies to a bank, credit union, or savings association
35 in writing that a crime report has been filed that involves the
36 alleged fraudulent use of drafts, checks, or other orders drawn
37 upon any bank, credit union, or savings association in this state,
38 the police or sheriff's department or district attorney, a county
39 adult protective services office when investigating the financial
40 abuse of an elder or dependent adult, or a long-term care

1 ombudsman when investigating the financial abuse of an elder or
2 dependent adult, may request a bank, credit union, or savings
3 association to furnish, and a bank, credit union, or savings
4 association shall furnish, a statement setting forth the following
5 information with respect to a customer account specified by the
6 requesting party for a period 30 days prior to, and up to 30 days
7 following, the date of occurrence of the alleged illegal act involving
8 the account:

9 (1) The number of items dishonored.

10 (2) The number of items paid that created overdrafts.

11 (3) The dollar volume of the dishonored items and items paid
12 which created overdrafts and a statement explaining any credit
13 arrangement between the bank, credit union, or savings association
14 and customer to pay overdrafts.

15 (4) The dates and amounts of deposits and debits and the account
16 balance on these dates.

17 (5) A copy of the signature card, including the signature and
18 any addresses appearing on a customer's signature card.

19 (6) The date the account opened and, if applicable, the date the
20 account closed.

21 (7) A bank, credit union, or savings association that provides
22 the requesting party with copies of one or more complete account
23 statements prepared in the regular course of business shall be
24 deemed to be in compliance with paragraphs (1), (2), (3), and (4).

25 (c) When any police or sheriff's department or district attorney
26 in this state certifies to a bank, credit union, or savings association
27 in writing that a crime report has been filed that involves the
28 alleged fraudulent use of drafts, checks, or other orders drawn
29 upon any bank, credit union, or savings association doing business
30 in this state, the police or sheriff's department or district attorney,
31 a county adult protective services office when investigating the
32 financial abuse of an elder or dependent adult, or a long-term care
33 ombudsman when investigating the financial abuse of an elder or
34 dependent adult, may request, with the consent of the
35 accountholder, the bank, credit union, or savings association to
36 furnish, and the bank, credit union, or savings association shall
37 furnish, a statement setting forth the following information with
38 respect to a customer account specified by the requesting party for
39 a period 30 days prior to, and up to 30 days following, the date of
40 occurrence of the alleged illegal act involving the account:

- 1 (1) The number of items dishonored.
- 2 (2) The number of items paid that created overdrafts.
- 3 (3) The dollar volume of the dishonored items and items paid
- 4 which created overdrafts and a statement explaining any credit
- 5 arrangement between the bank, credit union, or savings association
- 6 and customer to pay overdrafts.
- 7 (4) The dates and amounts of deposits and debits and the account
- 8 balance on these dates.
- 9 (5) A copy of the signature card, including the signature and
- 10 any addresses appearing on a customer's signature card.
- 11 (6) The date the account opened and, if applicable, the date the
- 12 account closed.
- 13 (7) A bank, credit union, or savings association doing business
- 14 in this state that provides the requesting party with copies of one
- 15 or more complete account statements prepared in the regular course
- 16 of business shall be deemed to be in compliance with paragraphs
- 17 (1), (2), (3), and (4).
- 18 (d) For purposes of subdivision (c), consent of the accountholder
- 19 shall be satisfied if an accountholder provides to the financial
- 20 institution and the person or entity seeking disclosure, a signed
- 21 and dated statement containing all of the following:
- 22 (1) Authorization of the disclosure for the period specified in
- 23 subdivision (c).
- 24 (2) The name of the agency or department to which disclosure
- 25 is authorized and, if applicable, the statutory purpose for which
- 26 the information is to be obtained.
- 27 (3) A description of the financial records that are authorized to
- 28 be disclosed.
- 29 (e) (1) The Attorney General, a supervisory agency, the
- 30 Franchise Tax Board, the State Board of Equalization, the
- 31 Employment Development Department, the Controller or an
- 32 inheritance tax referee when administering the Prohibition of Gift
- 33 and Death Taxes (Part 8 (commencing with Section 13301) of
- 34 Division 2 of the Revenue and Taxation Code), a police or sheriff's
- 35 department or district attorney, a county adult protective services
- 36 office when investigating the financial abuse of an elder or
- 37 dependent adult, a long-term care ombudsman when investigating
- 38 the financial abuse of an elder or dependent adult, a county welfare
- 39 department when investigating welfare fraud, a county
- 40 auditor-controller or director of finance when investigating fraud

1 against the county, or the Department of Corporations when
2 conducting investigations in connection with the enforcement of
3 laws administered by the Commissioner of Corporations, from
4 requesting of an office or branch of a financial institution, and the
5 office or branch from responding to a request, as to whether a
6 person has an account or accounts at that office or branch and, if
7 so, any identifying numbers of the account or accounts.

8 (2) No additional information beyond that specified in this
9 section shall be released to a county welfare department without
10 either the accountholder's written consent or a judicial writ, search
11 warrant, subpoena, or other judicial order.

12 (3) A county auditor-controller or director of finance who
13 unlawfully discloses information he or she is authorized to request
14 under this subdivision is guilty of the unlawful disclosure of
15 confidential data, a misdemeanor, which shall be punishable as
16 set forth in Section 7485.

17 (f) The examination by, or disclosure to, any supervisory agency
18 of financial records that relate solely to the exercise of its
19 supervisory function. The scope of an agency's supervisory
20 function shall be determined by reference to statutes that grant
21 authority to examine, audit, or require reports of financial records
22 or financial institutions as follows:

23 (1) With respect to the Commissioner of Financial Institutions
24 by reference to Division 1 (commencing with Section 99), Division
25 1.5 (commencing with Section 4800), Division 2 (commencing
26 with Section 5000), Division 5 (commencing with Section 14000),
27 Division 7 (commencing with Section 18000), Division 15
28 (commencing with Section 31000), and Division 16 (commencing
29 with Section 33000) of the Financial Code.

30 (2) With respect to the Controller by reference to Title 10
31 (commencing with Section 1300) of Part 3 of the Code of Civil
32 Procedure.

33 (3) With respect to the Administrator of Local Agency Security
34 by reference to Article 2 (commencing with Section 53630) of
35 Chapter 4 of Part 1 of Division 2 of Title 5 of the Government
36 Code.

37 (g) The disclosure to the Franchise Tax Board of (1) the amount
38 of any security interest that a financial institution has in a specified
39 asset of a customer or (2) financial records in connection with the
40 filing or audit of a tax return or tax information return that are

1 required to be filed by the financial institution pursuant to Part 10
2 (commencing with Section 17001), Part 11 (commencing with
3 Section 23001), or Part 18 (commencing with Section 38001) of
4 the Revenue and Taxation Code.

5 (h) The disclosure to the State Board of Equalization of any of
6 the following:

7 (1) The information required by Sections 6702, 6703, 8954,
8 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155,
9 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404,
10 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the
11 Revenue and Taxation Code.

12 (2) The financial records in connection with the filing or audit
13 of a tax return required to be filed by the financial institution
14 pursuant to Part 1 (commencing with Section 6001), Part 2
15 (commencing with Section 7301), Part 3 (commencing with Section
16 8601), Part 13 (commencing with Section 30001), Part 14
17 (commencing with Section 32001), and Part 17 (commencing with
18 Section 37001) of Division 2 of the Revenue and Taxation Code.

19 (3) The amount of any security interest a financial institution
20 has in a specified asset of a customer, if the inquiry is directed to
21 the branch or office where the interest is held.

22 (i) The disclosure to the Controller of the information required
23 by Section 7853 of the Revenue and Taxation Code.

24 (j) The disclosure to the Employment Development Department
25 of the amount of any security interest a financial institution has in
26 a specified asset of a customer, if the inquiry is directed to the
27 branch or office where the interest is held.

28 (k) The disclosure by a construction lender, as defined in Section
29 3087 of the Civil Code, to the Registrar of Contractors, of
30 information concerning the making of progress payments to a
31 prime contractor requested by the registrar in connection with an
32 investigation under Section 7108.5 of the Business and Professions
33 Code.

34 (l) Upon receipt of a written request from a local child support
35 agency referring to a support order pursuant to Section 17400 of
36 the Family Code, a financial institution shall disclose the following
37 information concerning the account or the person named in the
38 request, whom the local child support agency shall identify,
39 whenever possible, by social security number:

1 (1) If the request states the identifying number of an account at
2 a financial institution, the name of each owner of the account.

3 (2) Each account maintained by the person at the branch to
4 which the request is delivered, and, if the branch is able to make
5 a computerized search, each account maintained by the person at
6 any other branch of the financial institution located in this state.

7 (3) For each account disclosed pursuant to paragraphs (1) and
8 (2), the account number, current balance, street address of the
9 branch where the account is maintained, and, to the extent available
10 through the branch's computerized search, the name and address
11 of any other person listed as an owner.

12 (4) Whenever the request prohibits the disclosure, a financial
13 institution shall not disclose either the request or its response, to
14 an owner of the account or to any other person, except the officers
15 and employees of the financial institution who are involved in
16 responding to the request and to attorneys, employees of the local
17 child support agencies, auditors, and regulatory authorities who
18 have a need to know in order to perform their duties, and except
19 as disclosure may be required by legal process.

20 (5) No financial institution, or any officer, employee, or agent
21 thereof, shall be liable to any person for (A) disclosing information
22 in response to a request pursuant to this subdivision, (B) failing to
23 notify the owner of an account, or complying with a request under
24 this paragraph not to disclose to the owner, the request or disclosure
25 under this subdivision, or (C) failing to discover any account owned
26 by the person named in the request pursuant to a computerized
27 search of the records of the financial institution.

28 (6) The local child support agency may request information
29 pursuant to this subdivision only when the local child support
30 agency has received at least one of the following types of physical
31 evidence:

32 (A) Any of the following, dated within the last three years:

33 (i) Form 599.

34 (ii) Form 1099.

35 (iii) A bank statement.

36 (iv) A check.

37 (v) A bank passbook.

38 (vi) A deposit slip.

39 (vii) A copy of a federal or state income tax return.

40 (viii) A debit or credit advice.

- 1 (ix) Correspondence that identifies the child support obligor by
2 name, the bank, and the account number.
- 3 (x) Correspondence that identifies the child support obligor by
4 name, the bank, and the banking services related to the account of
5 the obligor.
- 6 (xi) An asset identification report from a federal agency.
- 7 (B) A sworn declaration of the custodial parent during the 12
8 months immediately preceding the request that the person named
9 in the request has had or may have had an account at an office or
10 branch of the financial institution to which the request is made.
- 11 (7) Information obtained by a local child support agency
12 pursuant to this subdivision shall be used only for purposes that
13 are directly connected with the administration of the duties of the
14 local child support agency pursuant to Section 17400 of the Family
15 Code.
- 16 (m) (1) As provided in paragraph (1) of subdivision (c) of
17 Section 666 of Title 42 of the United States Code, upon receipt of
18 an administrative subpoena on the current federally approved
19 interstate child support enforcement form, as approved by the
20 federal Office of Management and Budget, a financial institution
21 shall provide the information or documents requested by the
22 administrative subpoena.
- 23 (2) The administrative subpoena shall refer to the current federal
24 Office of Management and Budget control number and be signed
25 by a person who states that he or she is an authorized agent of a
26 state or county agency responsible for implementing the child
27 support enforcement program set forth in Part D (commencing
28 with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the
29 United States Code. A financial institution may rely on the
30 statements made in the subpoena and has no duty to inquire into
31 the truth of any statement in the subpoena.
- 32 (3) If the person who signs the administrative subpoena directs
33 a financial institution in writing not to disclose either the subpoena
34 or its response to any owner of an account covered by the subpoena,
35 the financial institution shall not disclose the subpoena or its
36 response to the owner.
- 37 (4) No financial institution, or any officer, employee, or agent
38 thereof, shall be liable to any person for (A) disclosing information
39 or providing documents in response to a subpoena pursuant to this
40 subdivision, (B) failing to notify any owner of an account covered

1 by the subpoena or complying with a request not to disclose to the
2 owner, the subpoena or disclosure under this subdivision, or (C)
3 failing to discover any account owned by the person named in the
4 subpoena pursuant to a computerized search of the records of the
5 financial institution.

6 (n) The dissemination of financial information and records
7 pursuant to any of the following:

8 (1) Compliance by a financial institution with the requirements
9 of Section 2892 of the Probate Code.

10 (2) Compliance by a financial institution with the requirements
11 of Section 2893 of the Probate Code.

12 (3) An order by a judge upon a written ex parte application by
13 a peace officer showing specific and articulable facts that there
14 are reasonable grounds to believe that the records or information
15 sought are relevant and material to an ongoing investigation of a
16 felony violation of Section 186.10 or of any felony subject to the
17 enhancement set forth in Section 186.11.

18 (A) The ex parte application shall specify with particularity the
19 records to be produced, which shall be only those of the individual
20 or individuals who are the subject of the criminal investigation.

21 (B) The ex parte application and any subsequent judicial order
22 shall be open to the public as a judicial record unless ordered sealed
23 by the court, for a period of 60 days. The sealing of these records
24 may be extended for 60-day periods upon a showing to the court
25 that it is necessary for the continuance of the investigation.
26 Sixty-day extensions may continue for up to one year or until
27 termination of the investigation of the individual or individuals,
28 whichever is sooner.

29 (C) The records ordered to be produced shall be returned to the
30 peace officer applicant or his or her designee within a reasonable
31 time period after service of the order upon the financial institution.

32 (D) Nothing in this subdivision shall preclude the financial
33 institution from notifying a customer of the receipt of the order
34 for production of records unless a court orders the financial
35 institution to withhold notification to the customer upon a finding
36 that the notice would impede the investigation.

37 (E) Where a court has made an order pursuant to this paragraph
38 to withhold notification to the customer under this paragraph, the
39 peace officer or law enforcement agency who obtained the financial
40 information shall notify the customer by delivering a copy of the

1 ex parte order to the customer within 10 days of the termination
2 of the investigation.

3 (4) An order by a judge issued pursuant to subdivision (c) of
4 Section 532f of the Penal Code.

5 (5) No financial institution, or any officer, employee, or agent
6 thereof, shall be liable to any person for any of the following:

7 (A) Disclosing information to a probate court pursuant to
8 Sections 2892 and 2893.

9 (B) Disclosing information in response to a court order pursuant
10 to paragraph (3).

11 (C) Complying with a court order under this subdivision not to
12 disclose to the customer, the order, or the dissemination of
13 information pursuant to the court order.

14 (o) Disclosure by a financial institution to a peace officer, as
15 defined in Section 830.1 of the Penal Code, pursuant to the
16 following:

17 (1) Paragraph (1) of subdivision (a) of Section 1748.95 of the
18 Civil Code, provided that the financial institution has first complied
19 with the requirements of paragraph (2) of subdivision (a) and
20 subdivision (b) of Section 1748.95 of the Civil Code.

21 (2) Paragraph (1) of subdivision (a) of Section 4002 of the
22 Financial Code, provided that the financial institution has first
23 complied with the requirements of paragraph (2) of subdivision
24 (a) and subdivision (b) of Section 4002 of the Financial Code.

25 (3) Paragraph (1) of subdivision (a) of Section 22470 of the
26 Financial Code, provided that any financial institution that is a
27 finance lender has first complied with the requirements of
28 paragraph (2) of subdivision (a) and subdivision (b) of Section
29 22470 of the Financial Code.

30 (p) When the governing board of the Public Employees'
31 Retirement System or the State Teachers' Retirement System
32 certifies in writing to a financial institution that a benefit recipient
33 has died and that transfers to the benefit recipient's account at the
34 financial institution from the retirement system occurred after the
35 benefit recipient's date of death, the financial institution shall
36 furnish the retirement system the name and address of any coowner,
37 cosigner, or any other person who had access to the funds in the
38 account following the date of the benefit recipient's death, or if
39 the account has been closed, the name and address of the person
40 who closed the account.

1 (q) When the retirement board of a retirement system established
2 under the County Employees Retirement Law of 1937 certifies in
3 writing to a financial institution that a retired member or the
4 beneficiary of a retired member has died and that transfers to the
5 account of the retired member or beneficiary of a retired member
6 at the financial institution from the retirement system occurred
7 after the date of death of the retired member or beneficiary of a
8 retired member, the financial institution shall furnish the retirement
9 system the name and address of any coowner, cosigner, or any
10 other person who had access to the funds in the account following
11 the date of death of the retired member or beneficiary of a retired
12 member, or if the account has been closed, the name and address
13 of the person who closed the account.

14 (r) When the Franchise Tax Board certifies in writing to a
15 financial institution that (1) a taxpayer filed a tax return that
16 authorized a direct deposit refund with an incorrect financial
17 institution account or routing number that resulted in all or a
18 portion of the refund not being received, directly or indirectly, by
19 the taxpayer; (2) the direct deposit refund was not returned to the
20 Franchise Tax Board; and (3) the refund was deposited directly
21 on a specified date into the account of an accountholder of the
22 financial institution who was not entitled to receive the refund,
23 then the financial institution shall furnish to the Franchise Tax
24 Board the name and address of any coowner, cosigner, or any other
25 person who had access to the funds in the account following the
26 date of direct deposit refund, or if the account has been closed, the
27 name and address of the person who closed the account.

28 (s) This section shall become operative on January 1, 2013.

29 SEC. 3. Section 668 of the Harbors and Navigation Code is
30 amended to read:

31 668. (a) Any person who violates subdivision (c) of Section
32 652, Section 654, 654.05, 654.06, 655.7, 658.3, 659, 673, 674, or
33 754, or any regulations adopted pursuant thereto, or any regulation
34 adopted pursuant to Section 655.3 relating to vessel equipment
35 requirements, is guilty of an infraction, punishable by a fine of not
36 more than two hundred fifty dollars (\$250).

37 (b) (1) Any person who violates Section 655.2, or any regulation
38 adopted pursuant thereto, or, except as provided in subdivision
39 (a), any regulation adopted pursuant to Section 655.3, is guilty of
40 a misdemeanor and shall be punished by a fine of not more than

1 one hundred dollars (\$100) or imprisonment in the county jail for
2 not more than five days, or by both that fine and imprisonment,
3 for each violation.

4 (2) Any person who violates subdivision (a) or (b) of Section
5 658 is guilty of a misdemeanor and shall be punished by a fine of
6 not more than two hundred dollars (\$200) for each violation.

7 (3) Any person who violates subdivision (d) of Section 652,
8 Section 652.5, subdivision (a) of Section 655, Section 655.05, 656,
9 or 656.1, subdivision (d) or (e) of Section 658, Section 663.6 or
10 665, or any rules and regulations adopted pursuant to subdivision
11 (b) or (c) of Section 660, is guilty of a misdemeanor and shall be
12 punished by a fine of not more than one thousand dollars (\$1,000)
13 or imprisonment in the county jail for not more than six months,
14 or by both that fine and imprisonment, for each violation.

15 (c) (1) Any person convicted of a violation of Section 656.2 or
16 656.3 shall be punished by a fine of not less than one thousand
17 dollars (\$1,000) or more than ten thousand dollars (\$10,000), or
18 by imprisonment in the state prison or in the county jail for not
19 more than one year, or by both that fine and imprisonment.

20 (2) In imposing the minimum fine required by this subdivision,
21 the court shall take into consideration the defendant's ability to
22 pay the fine and, in the interest of justice for reasons stated in the
23 record, may reduce the amount of that minimum fine to less than
24 the amount otherwise required by this subdivision.

25 (d) Any person convicted of a violation of Section 658.5 shall
26 be punished by a fine of not more than one hundred dollars (\$100).

27 (e) Any person convicted of a first violation of subdivision (b),
28 (c), (d), or (e) of Section 655, or of a violation of Section 655.4,
29 shall be punished by a fine of not more than one thousand dollars
30 (\$1,000) or imprisonment in the county jail for not more than six
31 months, or by both that fine and imprisonment. If probation is
32 granted, the court, as a condition of probation, may require the
33 person to participate in, and successfully complete, an alcohol or
34 drug education, training, or treatment program, in addition to
35 imposing any penalties required by this code. In order to enable
36 all persons to participate in licensed programs, every person
37 referred to a program licensed pursuant to Section 11836 of the
38 Health and Safety Code shall pay that program's costs
39 commensurate with that person's ability to pay as determined by
40 Section 11837.4 of the Health and Safety Code.

1 (f) Any person convicted of a second or subsequent violation
2 of subdivision (b), (c), (d), or (e) of Section 655 within seven years
3 of the first conviction of any of those subdivisions or subdivision
4 (f) of Section 655, or any person convicted of a violation of
5 subdivision (b), (c), (d), or (e) of Section 655 within seven years
6 of a separate conviction of subdivision (a) or (b) of Section 192.5
7 of the Penal Code, or a separate conviction of Section 23152 or
8 23153 of the Vehicle Code or Section 191.5 or subdivision (a) of
9 Section 192.5 of the Penal Code, when the separate conviction
10 resulted from the operation of a motor vehicle, shall be punished
11 by a fine of not more than one thousand dollars (\$1,000) or
12 imprisonment in the county jail for not more than one year, or by
13 both that fine and imprisonment. If probation is granted, the court,
14 as a condition of probation, may require the person to do either of
15 the following, if available in the county of the person's residence
16 or employment:

17 (1) Participate, for at least 18 months subsequent to the
18 underlying conviction and in a manner satisfactory to the court,
19 in a program licensed pursuant to Chapter 9 (commencing with
20 Section 11836) of Part 2 of Division 10.5 of the Health and Safety
21 Code, as designated by the court. In order to enable all required
22 persons to participate, each person shall pay the program costs
23 commensurate with the person's ability to pay as determined
24 pursuant to Section 11837.4 of the Health and Safety Code.

25 (2) Participate, for at least 30 months subsequent to the
26 underlying conviction and in a manner satisfactory to the court,
27 in a program licensed pursuant to Chapter 9 (commencing with
28 Section 11836) of Part 2 of Division 10.5 of the Health and Safety
29 Code. A person ordered to treatment pursuant to this paragraph
30 shall apply to the court or to a board of review, as designated by
31 the court, at the conclusion of the program to obtain the court's
32 order of satisfaction. Only upon the granting of that order of
33 satisfaction by the court may the program issue its certificate of
34 successful completion. A failure to obtain an order of satisfaction
35 at the conclusion of the program is a violation of probation. In
36 order to enable all required persons to participate, each person
37 shall pay the program costs commensurate with the person's ability
38 to pay as determined pursuant to Section 11837.4 of the Health
39 and Safety Code. No condition of probation required pursuant to

1 this paragraph is a basis for reducing any other probation
2 requirement.

3 (g) Any person convicted of a violation of subdivision (f) of
4 Section 655 shall be punished by imprisonment in the state prison,
5 or in the county jail for not less than 90 days or more than one
6 year, and by a fine of not less than two hundred fifty dollars (\$250)
7 or more than five thousand dollars (\$5,000). If probation is granted,
8 the court, as a condition of probation, may require the person to
9 participate in, and successfully complete, a program licensed
10 pursuant to Chapter 9 (commencing with Section 11836) of Part
11 2 of Division 10.5 of the Health and Safety Code, if available in
12 the person's county of residence or employment, as designated by
13 the court. In order to enable all required persons to participate,
14 each person shall pay the program costs commensurate with the
15 person's ability to pay as determined pursuant to Section 11837.4
16 of the Health and Safety Code.

17 (h) (1) If any person is convicted of a violation of subdivision
18 (f) of Section 655 within seven years of a separate conviction of
19 a violation of subdivision (b), (c), (d), or (e) of Section 655 and is
20 granted probation, the court shall impose as a condition of
21 probation that the person be confined in the county jail for not less
22 than five days or more than one year and pay a fine of not less than
23 two hundred fifty dollars (\$250) or more than five thousand dollars
24 (\$5,000).

25 (2) If any person is convicted of a violation of subdivision (f)
26 of Section 655 within seven years of a separate conviction of a
27 violation of subdivision (f) of Section 655, of subdivision (a) or
28 (b) of Section 192.5 of the Penal Code, or Section 23152 or 23153
29 of the Vehicle Code or Section 191.5 or subdivision (a) of Section
30 192.5 of the Penal Code, when the separate conviction resulted
31 from the operation of a motor vehicle, and is granted probation,
32 the court shall impose as a condition of probation that the person
33 be confined in the county jail for not less than 90 days or more
34 than one year, and pay a fine of not less than two hundred fifty
35 dollars (\$250) or more than five thousand dollars (\$5,000), and
36 the court, as a condition of probation, may order that the person
37 participate in a manner satisfactory to the court, in a program
38 licensed pursuant to Chapter 9 (commencing with Section 11836)
39 of Part 2 of Division 10.5 of the Health and Safety Code, if
40 available in the county of the person's residence or employment.

1 In order to enable all required persons to participate, each person
2 shall pay the program costs commensurate with the person's ability
3 to pay as determined pursuant to Section 11837.4 of the Health
4 and Safety Code.

5 (i) The court shall not absolve a person who is convicted of a
6 violation of subdivision (f) of Section 655 within seven years of
7 a separate conviction of a violation of subdivision (b), (c), (d), (e),
8 or (f) of Section 655, of subdivision (a) or (b) of Section 192.5 of
9 the Penal Code, or Section 23152 or 23153 of the Vehicle Code
10 or Section 191.5 or subdivision (a) of Section 192.5 of the Penal
11 Code, when the separate conviction resulted from the operation
12 of a motor vehicle, from the minimum time in confinement
13 provided in this section and a fine of at least two hundred fifty
14 dollars (\$250), except as provided in subdivision (h).

15 (j) Except in unusual cases where the interests of justice demand
16 an exception, the court shall not strike a separate conviction of an
17 offense under subdivision (b), (c), (d), (e), or (f) of Section 655 or
18 of subdivision (a) or (b) of Section 192.5 of the Penal Code, or
19 Section 23152 or 23153 of the Vehicle Code or Section 191.5 or
20 subdivision (a) of Section 192.5 of the Penal Code, when the
21 separate conviction resulted from the operation of a motor vehicle,
22 for purposes of sentencing in order to avoid imposing, as part of
23 the sentence or as a term of probation, the minimum time in
24 confinement and the minimum fine, as provided in this section.
25 When a separate conviction is stricken by the court for purposes
26 of sentencing, the court shall specify the reason or reasons for the
27 striking order. On appeal by the people from an order striking a
28 separate conviction, it shall be conclusively presumed that the
29 order was made only for the reasons specified in the order, and
30 the order shall be reversed if there is no substantial basis in the
31 record for any of those reasons.

32 (k) A person who flees the scene of the crime after committing
33 a violation of subdivision (a), (b), or (c) of Section 192.5 of the
34 Penal Code shall be subject to subdivision (c) of Section 20001 of
35 the Vehicle Code.

36 (l) Any person who violates Section 654.3 is guilty of an
37 infraction punishable by a fine of not more than five hundred
38 dollars (\$500) for each separate violation.

39 ~~SEC. 4. Section 11370.2 of the Health and Safety Code is~~
40 ~~amended to read:~~

1 ~~11370.2. (a) Any person convicted of a violation of, or of a~~
2 ~~conspiracy to violate, Section 11351, 11351.5, or 11352 shall~~
3 ~~receive, in addition to any other punishment authorized by law,~~
4 ~~including Section 667.5 of the Penal Code, a full, separate, and~~
5 ~~consecutive three-year term for each prior felony conviction of,~~
6 ~~or for each prior felony conviction of conspiracy to violate, Section~~
7 ~~11351, 11351.5, 11352, 11378, 11378.5, 11379, 11379.5, 11379.6,~~
8 ~~11380, 11380.5, 11383, 11383.5, 11383.6, or 11383.7, whether or~~
9 ~~not the prior conviction resulted in a term of imprisonment.~~

10 ~~(b) Any person convicted of a violation of, or of a conspiracy~~
11 ~~to violate, Section 11378.5, 11379.5, 11379.6, 11380.5, 11383,~~
12 ~~11383.5, 11383.6, or 11383.7 shall receive, in addition to any other~~
13 ~~punishment authorized by law, including Section 667.5 of the~~
14 ~~Penal Code, a full, separate, and consecutive three-year term for~~
15 ~~each prior felony conviction of, or for each prior felony conviction~~
16 ~~of conspiracy to violate, Section 11351, 11351.5, 11352, 11378,~~
17 ~~11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, 11383,~~
18 ~~11383.5, 11383.6, or 11383.7, whether or not the prior conviction~~
19 ~~resulted in a term of imprisonment.~~

20 ~~(c) Any person convicted of a violation of, or of a conspiracy~~
21 ~~to violate, Section 11378 or 11379 with respect to any substance~~
22 ~~containing a controlled substance specified in paragraph (1) or (2)~~
23 ~~of subdivision (d) of Section 11055 shall receive, in addition to~~
24 ~~any other punishment authorized by law, including Section 667.5~~
25 ~~of the Penal Code, a full, separate, and consecutive three-year term~~
26 ~~for each prior felony conviction of, or for each prior felony~~
27 ~~conviction of conspiracy to violate, Section 11351, 11351.5, 11352,~~
28 ~~11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, 11383,~~
29 ~~11383.5, 11383.6, or 11383.7, whether or not the prior conviction~~
30 ~~resulted in a term of imprisonment.~~

31 ~~(d) The enhancements provided for in this section shall be~~
32 ~~pleaded and proven as provided by law.~~

33 ~~(e) The conspiracy enhancements provided for in this section~~
34 ~~shall not be imposed unless the trier of fact finds that the defendant~~
35 ~~conspirator was substantially involved in the planning, direction,~~
36 ~~execution, or financing of the underlying offense.~~

37 ~~(f) Prior convictions from another jurisdiction qualify for use~~
38 ~~under this section pursuant to Section 668.~~

39 ~~SEC. 5. Section 171b of the Penal Code is amended to read:~~

1 171b. (a) ~~Any person who brings or possesses within any state~~
2 ~~or local public building or at any meeting required to be open to~~
3 ~~the public pursuant to Chapter 9 (commencing with Section 54950)~~
4 ~~of Part 1 of Division 2 of Title 5 of, or Article 9 (commencing~~
5 ~~with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title~~
6 ~~2 of, the Government Code, any of the following is guilty of a~~
7 ~~public offense punishable by imprisonment in a county jail for not~~
8 ~~more than one year, or in the state prison:~~

- 9 (1) ~~Any firearm.~~
- 10 (2) ~~Any deadly weapon described in Section 653k or 12020.~~
- 11 (3) ~~Any knife with a blade length in excess of four inches, the~~
12 ~~blade of which is fixed or is capable of being fixed in an unguarded~~
13 ~~position by the use of one or two hands.~~
- 14 (4) ~~Any unauthorized tear gas weapon.~~
- 15 (5) ~~Any less lethal weapon, as defined in Section 12601, or stun~~
16 ~~gun, as defined in Section 244.5.~~
- 17 (6) ~~Any instrument that expels a metallic projectile, such as a~~
18 ~~BB or pellet, through the force of air pressure, CO₂ pressure, or~~
19 ~~spring action, or any spot marker gun or paint gun.~~

20 (b) ~~Subdivision (a) shall not apply to, or affect, any of the~~
21 ~~following:~~

- 22 (1) ~~A person who possesses weapons in, or transports weapons~~
23 ~~into, a court of law to be used as evidence.~~
- 24 (2) (A) ~~A duly appointed peace officer as defined in Chapter~~
25 ~~4.5 (commencing with Section 830) of Title 3 of Part 2, a retired~~
26 ~~peace officer with authorization to carry concealed weapons as~~
27 ~~described in subdivision (a) of Section 12027, a full-time paid~~
28 ~~peace officer of another state or the federal government who is~~
29 ~~carrying out official duties while in California, or any person~~
30 ~~summoned by any of these officers to assist in making arrests or~~
31 ~~preserving the peace while he or she is actually engaged in assisting~~
32 ~~the officer.~~
- 33 (B) ~~Notwithstanding subparagraph (A), subdivision (a) shall~~
34 ~~apply to any person who brings or possesses any weapon specified~~
35 ~~therein within any courtroom if he or she is a party to an action~~
36 ~~pending before the court.~~
- 37 (3) ~~A person holding a valid license to carry the firearm pursuant~~
38 ~~to Article 3 (commencing with Section 12050) of Chapter 1 of~~
39 ~~Title 2 of Part 4.~~

1 ~~(4) A person who has permission to possess that weapon granted~~
2 ~~in writing by a duly authorized official who is in charge of the~~
3 ~~security of the state or local government building.~~

4 ~~(5) A person who lawfully resides in, lawfully owns, or is in~~
5 ~~lawful possession of, that building with respect to those portions~~
6 ~~of the building that are not owned or leased by the state or local~~
7 ~~government.~~

8 ~~(6) A person licensed or registered in accordance with, and~~
9 ~~acting within the course and scope of, Chapter 11.5 (commencing~~
10 ~~with Section 7512) or Chapter 11.6 (commencing with Section~~
11 ~~7590) of Division 3 of the Business and Professions Code who~~
12 ~~has been hired by the owner or manager of the building if the~~
13 ~~person has permission pursuant to paragraph (5).~~

14 ~~(7) (A) A person who, for the purpose of sale or trade, brings~~
15 ~~any weapon that may otherwise be lawfully transferred, into a gun~~
16 ~~show conducted pursuant to Sections 12071.1 and 12071.4.~~

17 ~~(B) A person who, for purposes of an authorized public~~
18 ~~exhibition, brings any weapon that may otherwise be lawfully~~
19 ~~possessed, into a gun show conducted pursuant to Sections 12071.1~~
20 ~~and 12071.4.~~

21 ~~(e) As used in this section, “state or local public building” means~~
22 ~~a building that meets all of the following criteria:~~

23 ~~(1) It is a building or part of a building owned or leased by the~~
24 ~~state or local government, if state or local public employees are~~
25 ~~regularly present for the purposes of performing their official~~
26 ~~duties. A state or local public building includes, but is not limited~~
27 ~~to, a building that contains a courtroom.~~

28 ~~(2) It is not a building or facility, or a part thereof, that is referred~~
29 ~~to in Section 171c, 171d, 626.9, 626.95, or 626.10 of this code, or~~
30 ~~in Section 18544 of the Elections Code.~~

31 ~~(3) It is a building not regularly used, and not intended to be~~
32 ~~used, by state or local employees as a place of residence.~~

33 ~~SEC. 6. Section 171.5 of the Penal Code is amended to read:~~
34 ~~171.5. (a) For purposes of this section:~~

35 ~~(1) “Airport” means an airport, with a secured area, that~~
36 ~~regularly serves an air carrier holding a certificate issued by the~~
37 ~~United States Secretary of Transportation.~~

38 ~~(2) “Passenger vessel terminal” means only that portion of a~~
39 ~~harbor or port facility, as described in Section 105.105(a)(2) of~~

1 Title 33 of the Code of Federal Regulations, with a secured area
2 that regularly serves scheduled commuter or passenger operations.

3 (3) “Sterile area” means a portion of an airport defined in the
4 airport security program to which access generally is controlled
5 through the screening of persons and property, as specified in
6 Section 1540.5 of Title 49 of the Code of Federal Regulations, or
7 a portion of any passenger vessel terminal to which, pursuant to
8 the requirements set forth in Sections 105.255(a)(1), 105.255(c)(1),
9 and 105.260(a) of Title 33 of the Code of Federal Regulations,
10 access is generally controlled in a manner consistent with the
11 passenger vessel terminal’s security plan and the MARSEC level
12 in effect at the time.

13 (b) It is unlawful for any person to knowingly possess, within
14 any sterile area of an airport or a passenger vessel terminal, any
15 of the items listed in subdivision (c).

16 (c) The following items are unlawful to possess as provided in
17 subdivision (b):

18 (1) Any firearm.

19 (2) Any knife with a blade length in excess of four inches, the
20 blade of which is fixed, or is capable of being fixed, in an
21 unguarded position by the use of one or two hands.

22 (3) Any box cutter or straight razor.

23 (4) Any metal military practice hand grenade.

24 (5) Any metal replica hand grenade.

25 (6) Any plastic replica hand grenade.

26 (7) Any imitation firearm as defined in Section 417.4.

27 (8) Any frame, receiver, barrel, or magazine of a firearm.

28 (9) Any unauthorized tear gas weapon.

29 (10) Any less lethal weapon, as defined in Section 12601, or
30 stun gun, as defined in Section 244.5.

31 (11) Any instrument that expels a metallic projectile, such as a
32 BB or pellet, through the force of air pressure, CO₂ pressure, or
33 spring action, or any spot marker gun or paint gun.

34 (12) Any ammunition as defined in Section 12316.

35 (d) Subdivision (b) shall not apply to, or affect, any of the
36 following:

37 (1) A duly appointed peace officer, as defined in Chapter 4.5
38 (commencing with Section 830) of Title 3 of Part 2, a retired peace
39 officer with authorization to carry concealed weapons as described
40 in subdivision (a) of Section 12027, a full-time paid peace officer

1 of another state or the federal government who is carrying out
2 official duties while in California, or any person summoned by
3 any of these officers to assist in making arrests or preserving the
4 peace while he or she is actually engaged in assisting the officer.

5 (2) A person who has authorization to possess a weapon
6 specified in subdivision (c), granted in writing by an airport
7 security coordinator who is designated as specified in Section
8 1542.3 of Title 49 of the Code of Federal Regulations, and who is
9 responsible for the security of the airport.

10 (3) A person, including an employee of a licensed contract guard
11 service, who has authorization to possess a weapon specified in
12 subdivision (c) granted in writing by a person discharging the
13 duties of Facility Security Officer or Company Security Officer
14 pursuant to an approved United States Coast Guard facility security
15 plan, and who is responsible for the security of the passenger vessel
16 terminal.

17 (e) A violation of this section is punishable by imprisonment
18 in a county jail for a period not exceeding six months, or by a fine
19 not exceeding one thousand dollars (\$1,000), or by both that fine
20 and imprisonment.

21 (f) The provisions of this section are cumulative, and shall not
22 be construed as restricting the application of any other law.
23 However, an act or omission that is punishable in different ways
24 by this and any other provision of law shall not be punished under
25 more than one provision.

26 (g) Nothing in this section is intended to affect existing state or
27 federal law regarding the transportation of firearms on airplanes
28 in checked luggage, or the possession of the items listed in
29 subdivision (c) in areas that are not “sterile areas.”

30 SEC. 7. Section 245.5 of the Penal Code is amended to read:

31 245.5. (a) Every person who commits an assault with a deadly
32 weapon or instrument, other than a firearm, or by any means likely
33 to produce great bodily injury upon the person of a school
34 employee, and who knows or reasonably should know that the
35 victim is a school employee engaged in the performance of his or
36 her duties, when that school employee is engaged in the
37 performance of his or her duties, shall be punished by
38 imprisonment in the state prison for three, four, or five years, or
39 in a county jail not exceeding one year.

1 ~~(b) Every person who commits an assault with a firearm upon~~
2 ~~the person of a school employee, and who knows or reasonably~~
3 ~~should know that the victim is a school employee engaged in the~~
4 ~~performance of his or her duties, when the school employee is~~
5 ~~engaged in the performance of his or her duties, shall be punished~~
6 ~~by imprisonment in the state prison for four, six, or eight years, or~~
7 ~~in a county jail for not less than six months and not exceeding one~~
8 ~~year.~~

9 ~~(c) Every person who commits an assault upon the person of a~~
10 ~~school employee with a less lethal weapon, as defined in Section~~
11 ~~12601, or a stun gun, as defined in Section 244.5, and who knows~~
12 ~~or reasonably should know that the person is a school employee~~
13 ~~engaged in the performance of his or her duties, when the school~~
14 ~~employee is engaged in the performance of his or her duties, shall~~
15 ~~be punished by imprisonment in a county jail for a term not~~
16 ~~exceeding one year or by imprisonment in the state prison for two,~~
17 ~~three, or four years.~~

18 ~~This subdivision shall not be construed to preclude or in any~~
19 ~~way limit the applicability of Section 245 in any criminal~~
20 ~~prosecution.~~

21 ~~(d) As used in the section, “school employee” means any person~~
22 ~~employed as a permanent or probationary certificated or classified~~
23 ~~employee of a school district on a part-time or full-time basis,~~
24 ~~including a substitute teacher. “School employee,” as used in this~~
25 ~~section, also includes a student teacher, or a school board member.~~
26 ~~“School,” as used in this section, has the same meaning as that~~
27 ~~term is defined in Section 626.~~

28 ~~SEC. 8.~~

29 ~~SEC. 4.~~ Section 266h of the Penal Code is amended to read:

30 266h. (a) Except as provided in subdivision (b), any person
31 who, knowing another person is a prostitute, lives or derives
32 support or maintenance in whole or in part from the earnings or
33 proceeds of the person’s prostitution, or from money loaned or
34 advanced to or charged against that person by any keeper or
35 manager or inmate of a house or other place where prostitution is
36 practiced or allowed, or who solicits or receives compensation for
37 soliciting for the person, is guilty of pimping, a felony, and shall
38 be punishable by imprisonment in the state prison for three, four,
39 or six years.

1 (b) Any person who, knowing another person is a prostitute,
 2 lives or derives support or maintenance in whole or in part from
 3 the earnings or proceeds of the person’s prostitution, or from
 4 money loaned or advanced to or charged against that person by
 5 any keeper or manager or inmate of a house or other place where
 6 prostitution is practiced or allowed, or who solicits or receives
 7 compensation for soliciting for the person, when the prostitute is
 8 a minor, is guilty of pimping a minor, a felony, and shall be
 9 punishable as follows:

10 (1) If the person engaged in prostitution is a minor 16 years of
 11 age or older, the offense is punishable by imprisonment in the state
 12 prison for three, four, or six years.

13 (2) If the person engaged in prostitution is under 16 years of
 14 age, the offense is punishable by imprisonment in the state prison
 15 for three, six, or eight years.

16 ~~SEC. 9.~~

17 *SEC. 5.* Section 266i of the Penal Code is amended to read:

18 266i. (a) Except as provided in subdivision (b), any person
 19 who does any of the following is guilty of pandering, a felony, and
 20 shall be punishable by imprisonment in the state prison for three,
 21 four, or six years:

22 (1) Procures another person for the purpose of prostitution.

23 (2) By promises, threats, violence, or by any device or scheme,
 24 causes, induces, persuades, or encourages another person to become
 25 a prostitute.

26 (3) Procures for another person a place as an inmate in a house
 27 of prostitution or as an inmate of any place in which prostitution
 28 is encouraged or allowed within this state.

29 (4) By promises, threats, violence, or by any device or scheme,
 30 causes, induces, persuades, or encourages an inmate of a house of
 31 prostitution, or any other place in which prostitution is encouraged
 32 or allowed, to remain therein as an inmate.

33 (5) By fraud or artifice, or by duress of person or goods, or by
 34 abuse of any position of confidence or authority, procures another
 35 person for the purpose of prostitution, or to enter any place in
 36 which prostitution is encouraged or allowed within this state, or
 37 to come into this state or leave this state for the purpose of
 38 prostitution.

39 (6) Receives or gives, or agrees to receive or give, any money
 40 or thing of value for procuring, or attempting to procure, another

1 person for the purpose of prostitution, or to come into this state or
2 leave this state for the purpose of prostitution.

3 (b) Any person who does any of the acts described in subdivision
4 (a) with another person who is a minor is guilty of pandering, a
5 felony, and shall be punishable as follows:

6 (1) If the other person is a minor 16 years of age or older, the
7 offense is punishable by imprisonment in the state prison for three,
8 four, or six years.

9 (2) If the other person is under 16 years of age, the offense is
10 punishable by imprisonment in the state prison for three, six, or
11 eight years.

12 ~~SEC. 10.~~

13 *SEC. 6.* Section 273.6 of the Penal Code is amended to read:

14 273.6. (a) Any intentional and knowing violation of a
15 protective order, as defined in Section 6218 of the Family Code,
16 or of an order issued pursuant to Section 527.6, 527.8, or 527.85
17 of the Code of Civil Procedure, or Section 15657.03 of the Welfare
18 and Institutions Code, is a misdemeanor punishable by a fine of
19 not more than one thousand dollars (\$1,000), or by imprisonment
20 in a county jail for not more than one year, or by both that fine and
21 imprisonment.

22 (b) In the event of a violation of subdivision (a) that results in
23 physical injury, the person shall be punished by a fine of not more
24 than two thousand dollars (\$2,000), or by imprisonment in a county
25 jail for not less than 30 days nor more than one year, or by both
26 that fine and imprisonment. However, if the person is imprisoned
27 in a county jail for at least 48 hours, the court may, in the interest
28 of justice and for reasons stated on the record, reduce or eliminate
29 the 30-day minimum imprisonment required by this subdivision.
30 In determining whether to reduce or eliminate the minimum
31 imprisonment pursuant to this subdivision, the court shall consider
32 the seriousness of the facts before the court, whether there are
33 additional allegations of a violation of the order during the
34 pendency of the case before the court, the probability of future
35 violations, the safety of the victim, and whether the defendant has
36 successfully completed or is making progress with counseling.

37 (c) Subdivisions (a) and (b) shall apply to the following court
38 orders:

39 (1) Any order issued pursuant to Section 6320 or 6389 of the
40 Family Code.

1 (2) An order excluding one party from the family dwelling or
2 from the dwelling of the other.

3 (3) An order enjoining a party from specified behavior that the
4 court determined was necessary to effectuate the order described
5 in subdivision (a).

6 (4) Any order issued by another state that is recognized under
7 Part 5 (commencing with Section 6400) of Division 10 of the
8 Family Code.

9 (d) A subsequent conviction for a violation of an order described
10 in subdivision (a), occurring within seven years of a prior
11 conviction for a violation of an order described in subdivision (a)
12 and involving an act of violence or “a credible threat” of violence,
13 as defined in subdivision (c) of Section 139, is punishable by
14 imprisonment in a county jail not to exceed one year, or in the
15 state prison.

16 (e) In the event of a subsequent conviction for a violation of an
17 order described in subdivision (a) for an act occurring within one
18 year of a prior conviction for a violation of an order described in
19 subdivision (a) that results in physical injury to a victim, the person
20 shall be punished by a fine of not more than two thousand dollars
21 (\$2,000), or by imprisonment in a county jail for not less than six
22 months nor more than one year, by both that fine and
23 imprisonment, or by imprisonment in the state prison. However,
24 if the person is imprisoned in a county jail for at least 30 days, the
25 court may, in the interest of justice and for reasons stated in the
26 record, reduce or eliminate the six-month minimum imprisonment
27 required by this subdivision. In determining whether to reduce or
28 eliminate the minimum imprisonment pursuant to this subdivision,
29 the court shall consider the seriousness of the facts before the court,
30 whether there are additional allegations of a violation of the order
31 during the pendency of the case before the court, the probability
32 of future violations, the safety of the victim, and whether the
33 defendant has successfully completed or is making progress with
34 counseling.

35 (f) The prosecuting agency of each county shall have the primary
36 responsibility for the enforcement of orders described in
37 subdivisions (a), (b), (d), and (e).

38 (g) (1) Every person who owns, possesses, purchases, or
39 receives a firearm knowing he or she is prohibited from doing so
40 by the provisions of a protective order as defined in Section 136.2

1 of this code, Section 6218 of the Family Code, or Section 527.6,
2 527.8, or 527.85 of the Code of Civil Procedure, or Section
3 15657.03 of the Welfare and Institutions Code, shall be punished
4 under subdivision (g) of Section 12021.

5 (2) Every person subject to a protective order described in
6 paragraph (1) shall not be prosecuted under this section for owning,
7 possessing, purchasing, or receiving a firearm to the extent that
8 firearm is granted an exemption pursuant to subdivision (f) of
9 Section 527.9 of the Code of Civil Procedure, or subdivision (h)
10 of Section 6389 of the Family Code.

11 (h) If probation is granted upon conviction of a violation of
12 subdivision (a), (b), (c), (d), or (e), the court shall impose probation
13 consistent with Section 1203.097, and the conditions of probation
14 may include, in lieu of a fine, one or both of the following
15 requirements:

16 (1) That the defendant make payments to a battered women's
17 shelter or to a shelter for abused elder persons or dependent adults,
18 up to a maximum of five thousand dollars (\$5,000), pursuant to
19 Section 1203.097.

20 (2) That the defendant reimburse the victim for reasonable costs
21 of counseling and other reasonable expenses that the court finds
22 are the direct result of the defendant's offense.

23 (i) For any order to pay a fine, make payments to a battered
24 women's shelter, or pay restitution as a condition of probation
25 under subdivision (e), the court shall make a determination of the
26 defendant's ability to pay. In no event shall any order to make
27 payments to a battered women's shelter be made if it would impair
28 the ability of the defendant to pay direct restitution to the victim
29 or court-ordered child support. Where the injury to a married person
30 is caused in whole or in part by the criminal acts of his or her
31 spouse in violation of this section, the community property may
32 not be used to discharge the liability of the offending spouse for
33 restitution to the injured spouse, required by Section 1203.04, as
34 operative on or before August 2, 1995, or Section 1202.4, or to a
35 shelter for costs with regard to the injured spouse and dependents,
36 required by this section, until all separate property of the offending
37 spouse is exhausted.

38 ~~SEC. 11. Section 626.10 of the Penal Code is amended to read:~~

39 ~~626.10. (a) (1) Any person, except a duly appointed peace~~
40 ~~officer as defined in Chapter 4.5 (commencing with Section 830)~~

1 of Title 3 of Part 2, a full-time paid peace officer of another state
2 or the federal government who is carrying out official duties while
3 in this state, a person summoned by any officer to assist in making
4 arrests or preserving the peace while the person is actually engaged
5 in assisting any officer, or a member of the military forces of this
6 state or the United States who is engaged in the performance of
7 his or her duties, who brings or possesses any dirk, dagger, ice
8 pick, knife having a blade longer than 2½ inches, folding knife
9 with a blade that locks into place, razor with an unguarded blade,
10 less lethal weapon, as defined in Section 12601, or stun gun, as
11 defined in subdivision (a) of Section 244.5, any instrument that
12 expels a metallic projectile such as a BB or a pellet, through the
13 force of air pressure, CO₂ pressure, or spring action, or any spot
14 marker gun, upon the grounds of, or within, any public or private
15 school providing instruction in kindergarten or any of grades 1 to
16 12, inclusive, is guilty of a public offense, punishable by
17 imprisonment in a county jail not exceeding one year, or by
18 imprisonment in the state prison.

19 (2) Any person, except a duly appointed peace officer as defined
20 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
21 2, a full-time paid peace officer of another state or the federal
22 government who is carrying out official duties while in this state,
23 a person summoned by any officer to assist in making arrests or
24 preserving the peace while the person is actually engaged in
25 assisting any officer, or a member of the military forces of this
26 state or the United States who is engaged in the performance of
27 his or her duties, who brings or possesses a razor blade or a box
28 cutter upon the grounds of, or within, any public or private school
29 providing instruction in kindergarten or any of grades 1 to 12,
30 inclusive, is guilty of a public offense, punishable by imprisonment
31 in a county jail not exceeding one year.

32 (b) Any person, except a duly appointed peace officer as defined
33 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
34 2, a full-time paid peace officer of another state or the federal
35 government who is carrying out official duties while in this state,
36 a person summoned by any officer to assist in making arrests or
37 preserving the peace while the person is actually engaged in
38 assisting any officer, or a member of the military forces of this
39 state or the United States who is engaged in the performance of
40 his or her duties, who brings or possesses any dirk, dagger, ice

1 pick, or knife having a fixed blade longer than 2½ inches upon
2 the grounds of, or within, any private university, the University of
3 California, the California State University, or the California
4 Community Colleges is guilty of a public offense, punishable by
5 imprisonment in a county jail not exceeding one year, or by
6 imprisonment in the state prison.

7 (e) ~~Subdivisions (a) and (b) do not apply to any person who~~
8 ~~brings or possesses a knife having a blade longer than 2½ inches,~~
9 ~~a razor with an unguarded blade, a razor blade, or a box cutter~~
10 ~~upon the grounds of, or within, a public or private school providing~~
11 ~~instruction in kindergarten or any of grades 1 to 12, inclusive, or~~
12 ~~any private university, state university, or community college at~~
13 ~~the direction of a faculty member of the private university, state~~
14 ~~university, or community college, or a certificated or classified~~
15 ~~employee of the school for use in a private university, state~~
16 ~~university, community college, or school-sponsored activity or~~
17 ~~class.~~

18 (d) ~~Subdivisions (a) and (b) do not apply to any person who~~
19 ~~brings or possesses an ice pick, a knife having a blade longer than~~
20 ~~2½ inches, a razor with an unguarded blade, a razor blade, or a~~
21 ~~box cutter upon the grounds of, or within, a public or private school~~
22 ~~providing instruction in kindergarten or any of grades 1 to 12,~~
23 ~~inclusive, or any private university, state university, or community~~
24 ~~college for a lawful purpose within the scope of the person's~~
25 ~~employment.~~

26 (e) ~~Subdivision (b) does not apply to any person who brings or~~
27 ~~possesses an ice pick or a knife having a fixed blade longer than~~
28 ~~2½ inches upon the grounds of, or within, any private university,~~
29 ~~state university, or community college for lawful use in or around~~
30 ~~a residence or residential facility located upon those grounds or~~
31 ~~for lawful use in food preparation or consumption.~~

32 (f) ~~Subdivision (a) does not apply to any person who brings an~~
33 ~~instrument that expels a metallic projectile such as a BB or a pellet,~~
34 ~~through the force of air pressure, CO₂ pressure, or spring action,~~
35 ~~or any spot marker gun, or any razor blade or box cutter upon the~~
36 ~~grounds of, or within, a public or private school providing~~
37 ~~instruction in kindergarten or any of grades 1 to 12, inclusive, if~~
38 ~~the person has the written permission of the school principal or~~
39 ~~his or her designee.~~

1 ~~(g) Any certificated or classified employee or school peace~~
2 ~~officer of a public or private school providing instruction in~~
3 ~~kindergarten or any of grades 1 to 12, inclusive, may seize any of~~
4 ~~the weapons described in subdivision (a), and any certificated or~~
5 ~~classified employee or school peace officer of any private~~
6 ~~university, state university, or community college may seize any~~
7 ~~of the weapons described in subdivision (b), from the possession~~
8 ~~of any person upon the grounds of, or within, the school if he or~~
9 ~~she knows, or has reasonable cause to know, the person is~~
10 ~~prohibited from bringing or possessing the weapon upon the~~
11 ~~grounds of, or within, the school.~~

12 ~~(h) As used in this section, “dirk” or “dagger” means a knife or~~
13 ~~other instrument with or without a handguard that is capable of~~
14 ~~ready use as a stabbing weapon that may inflict great bodily injury~~
15 ~~or death.~~

16 ~~(i) Any person who, without the written permission of the~~
17 ~~college or university president or chancellor or his or her designee,~~
18 ~~brings or possesses a less lethal weapon, as defined in Section~~
19 ~~12601, or a stun gun, as defined in Section 12650, upon the grounds~~
20 ~~of or within, a public or private college or university campus is~~
21 ~~guilty of a misdemeanor.~~

22 *SEC. 7. Section 290.06 of the Penal Code is amended to read:*

23 290.06. Effective on or before July 1, 2008, the SARATSO,
24 as set forth in Section 290.04, shall be administered as follows:

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

30 (2) The department shall assess every eligible person who is on
31 parole if the person was not assessed prior to release from state
32 prison. Whenever possible, the assessment shall take place at least
33 four months, but no sooner than 10 months, prior to termination
34 of parole. The department shall record in a database the risk
35 assessment scores of persons assessed pursuant to this paragraph
36 and paragraph (1), and any risk assessment score that was
37 submitted to the department by a probation officer pursuant to
38 Section 1203.

39 (3) The State Department of Mental Health shall assess every
40 eligible person who is committed to that department. Whenever

1 possible, the assessment shall take place at least four months, but
2 no sooner than 10 months, prior to release from commitment. The
3 State Department of Mental Health shall record in a database the
4 risk assessment scores of persons assessed pursuant to this
5 paragraph and any risk assessment score that was submitted to the
6 department by a probation officer pursuant to Section 1203.

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

16 (5) Each probation department shall, *prior to sentencing*, assess
17 every eligible person for whom it prepares as defined in subdivision
18 (d), *whether or not a report is prepared* pursuant to Section 1203.

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

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

25 (1) Upon request of the law enforcement agency in the
26 jurisdiction in which the person is registered pursuant to Sections
27 290 to 290.023, inclusive, the person shall be assessed. The law
28 enforcement agency may enter into a memorandum of
29 understanding with a probation department to perform the
30 assessment. In the alternative, the law enforcement agency may
31 arrange to have personnel trained to perform the risk assessment
32 in accordance with subdivision (d) of Section 290.05.

33 (2) Eligible persons not assessed pursuant to subdivision (a)
34 may request that a risk assessment be performed. A request form
35 shall be available at registering law enforcement agencies. The
36 person requesting the assessment shall pay a fee for the assessment
37 that shall be sufficient to cover the cost of the assessment. The risk
38 assessment so requested shall be performed either by the probation
39 department, if a memorandum of understanding is established
40 between the law enforcement agency and the probation department,

1 or by personnel who have been trained to perform risk assessment
2 in accordance with subdivision (d) of Section 290.05.

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

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

21 (e) Persons authorized to perform risk assessments pursuant to
22 this section, Section 1203, and Section 706 of the Welfare and
23 Institutions Code shall be immune from liability for good faith
24 conduct under this act.

25 ~~SEC. 12.~~

26 *SEC. 8.* Section 786 of the Penal Code is amended to read:

27 786. (a) When property taken in one jurisdictional territory
28 by burglary, carjacking, robbery, theft, or embezzlement has been
29 brought into another, or when property is received in one
30 jurisdictional territory with the knowledge that it has been stolen
31 or embezzled and the property was stolen or embezzled in another
32 jurisdictional territory, the jurisdiction of the offense is in any
33 competent court within either jurisdictional territory, or any
34 contiguous jurisdictional territory if the arrest is made within the
35 contiguous territory, the prosecution secures on the record the
36 defendant's knowing, voluntary, and intelligent waiver of the right
37 of vicinage, and the defendant is charged with one or more property
38 crimes in the arresting territory.

39 (b) (1) The jurisdiction of a criminal action for unauthorized
40 use, retention, or transfer of personal identifying information, as

1 defined in subdivision (b) of Section 530.55, shall also include the
2 county where the theft of the personal identifying information
3 occurred, the county in which the victim resided at the time the
4 offense was committed, or the county where the information was
5 used for an illegal purpose. If multiple offenses of unauthorized
6 use of personal identifying information, either all involving the
7 same defendant or defendants and the same personal identifying
8 information belonging to the one person, or all involving the same
9 defendant or defendants and the same scheme or substantially
10 similar activity, occur in multiple jurisdictions, then any of those
11 jurisdictions is a proper jurisdiction for all of the offenses.
12 Jurisdiction also extends to all associated offenses connected
13 together in their commission to the underlying identity theft offense
14 or identity theft offenses.

15 (2) When charges alleging multiple offenses of unauthorized
16 use of personal identifying information occurring in multiple
17 territorial jurisdictions are filed in one county pursuant to this
18 section, the court shall hold a hearing to consider whether the
19 matter should proceed in the county of filing, or whether one or
20 more counts should be severed. The district attorney filing the
21 complaint shall present evidence to the court that the district
22 attorney in each county where any of the charges could have been
23 filed has agreed that the matter should proceed in the county of
24 filing. In determining whether all counts in the complaint should
25 be joined in one county for prosecution, the court shall consider
26 the location and complexity of the likely evidence, where the
27 majority of the offenses occurred, whether or not the offenses
28 involved substantially similar activity or the same scheme, the
29 rights of the defendant and the people, and the convenience of, or
30 hardship to, the victim and witnesses.

31 (3) When an action for unauthorized use, retention, or transfer
32 of personal identifying information is filed in the county in which
33 the victim resided at the time the offense was committed, and no
34 other basis for the jurisdiction applies, the court, upon its own
35 motion or the motion of the defendant, shall hold a hearing to
36 determine whether the county of the victim's residence is the proper
37 venue for trial of the case. In ruling on the matter, the court shall
38 consider the rights of the parties, the access of the parties to
39 evidence, the convenience to witnesses, and the interests of justice.

1 (c) This section shall not be interpreted to alter victims' rights
2 under Section 530.6.

3 *SEC. 9. Section 1203e of the Penal Code is amended to read:*

4 1203e. (a) Commencing June 1, 2010, the probation
5 department shall compile a Facts of Offense Sheet for every person
6 convicted of an offense that requires him or her to register as a sex
7 offender pursuant to Section 290 who is referred to the department
8 pursuant to Section 1203. The Facts of Offense Sheet shall contain
9 the following information concerning the offender: name; CII
10 number; criminal history, including all arrests and convictions for
11 any registerable sex offenses or any violent offense; circumstances
12 of the offense for which registration is required, including, but not
13 limited to, weapons used and victim pattern; and results of the
14 State-Authorized Risk Assessment Tool for Sex Offenders
15 (SARATSO), as set forth in Section 290.04, if required. The Facts
16 of Offense Sheet shall be included in the probation officer's report.

17 (b) The defendant may move the court to correct the Facts of
18 Offense Sheet. Any corrections to that sheet shall be made
19 consistent with procedures set forth in Section 1204.

20 (c) The probation officer shall send a copy of the Facts of
21 Offense Sheet to the Department of Justice ~~Sex Offender Tracking~~
22 *High Risk Sex Offender* Program within 30 days of the person's
23 sex offense conviction, and it shall be made part of the registered
24 sex offender's file maintained by the Sex Offender Tracking
25 Program. The Facts of Offense Sheet shall thereafter be made
26 available to law enforcement by the Department of Justice, which
27 shall post it with the offender's record on the Department of Justice
28 Internet Web site maintained pursuant to Section 290.46, and shall
29 be accessible only to law enforcement.

30 (d) If the registered sex offender is sentenced to a period of
31 incarceration, at either the state prison or a county jail, the Facts
32 of Offense Sheet shall be sent by the Department of Corrections
33 and Rehabilitation or the county sheriff to the registering law
34 enforcement agency in the jurisdiction where the registered sex
35 offender will be paroled or will live on release, within three days
36 of the person's release. If the registered sex offender is committed
37 to the Department of Mental Health, the Facts of Offense Sheet
38 shall be sent by the Department of Mental Health to the registering
39 law enforcement agency in the jurisdiction where the person will
40 live on release, within three days of release.

1 ~~SEC. 13.~~

2 ~~SEC. 10.~~ Chapter 3 (commencing with Section 1228) of Title
3 8 of Part 2 of the Penal Code, as added by Section 36 of Chapter
4 28 of the 3rd Extraordinary Session of the Statutes of 2009, is
5 repealed.

6 ~~SEC. 11.~~ *Section 1233.1 of the Penal Code, as added by Section*
7 *2 of Chapter 608 of the Statutes of 2009, is amended to read:*

8 1233.1. After the conclusion of each calendar year following
9 the enactment of this section, the Director of Finance, in
10 consultation with the Department of Corrections and Rehabilitation,
11 the Joint Legislative Budget Committee, the Chief Probation
12 Officers of California, and the Administrative Office of the Courts,
13 shall calculate the following for that calendar year:

14 (a) The cost to the state to incarcerate in prison and supervise
15 on parole a probationer sent to prison. This calculation shall take
16 into consideration factors, including, but not limited to, the average
17 length of stay in prison and on parole for probationers, as well as
18 the associated parole revocation rates, and revocation costs.

19 (b) The statewide probation failure rate. The statewide probation
20 failure rate shall be calculated as the total number of adult felony
21 probationers statewide sent to prison in the previous year as a
22 percentage of the *average* statewide adult felony probation
23 population ~~as of June 30 of~~ *for* that year.

24 (c) A probation failure rate for each county. Each county's
25 probation failure rate shall be calculated as the number of adult
26 felony probationers sent to prison from that county in the previous
27 year as a percentage of the county's *average* adult felony probation
28 population ~~as of June 30 of~~ *for* that year.

29 (d) An estimate of the number of adult felony probationers each
30 county successfully prevented from being sent to prison. For each
31 county, this estimate shall be calculated based on the reduction in
32 the county's probation failure rate as calculated annually pursuant
33 to subdivision (c) of this section and the county's baseline
34 probation failure rate as calculated pursuant to Section 1233. In
35 making this estimate, the Director of Finance, in consultation with
36 the Department of Corrections and Rehabilitation, the Joint
37 Legislative Budget Committee, the Chief Probation Officers of
38 California, and the Administrative Office of the Courts, shall adjust
39 the calculations to account for changes in each county's adult
40 felony probation caseload in the most recent completed calendar

1 year as compared to the county's adult felony probation population
2 during the period 2006 to 2008, inclusive.

3 (e) In calculating probation failure rates for the state and
4 individual counties, the number of adult felony probationers sent
5 to prison shall include those adult felony probationers sent to state
6 prison for a revocation of probation, as well as adult felony
7 probationers sent to state prison for a conviction of a new felony
8 offense. The calculation shall also include adult felony probationers
9 who are sent to prison for conviction of a new crime and who
10 simultaneously have their probation terms terminated.

11 ~~SEC. 14.~~

12 *SEC. 12.* Section 1328d of the Penal Code is amended to read:

13 1328d. Notwithstanding Section 1328, a subpoena may be
14 delivered by mail or messenger. Service shall be effected when
15 the witness acknowledges receipt of the subpoena to the sender,
16 by telephone, by mail, by any form of electronic communication,
17 including the Internet, or in person, and identifies himself or herself
18 by reference to his or her date of birth and his or her driver's license
19 number or Department of Motor Vehicles identification card
20 number. The sender shall make a written notation of the identifying
21 information obtained during any acknowledgment by telephone
22 or in person. A subpoena issued and acknowledged pursuant to
23 this section shall have the same force and effect as a subpoena
24 personally served. Failure to comply with a subpoena issued and
25 acknowledged pursuant to this section may be punished as a
26 contempt and the subpoena may so state; provided, that a warrant
27 of arrest or a body attachment may not be issued based upon a
28 failure to appear after being subpoenaed pursuant to this section.

29 A party requesting a continuance based upon the failure of a
30 witness to appear in court at the time and place required for his or
31 her appearance or testimony pursuant to a subpoena, shall prove
32 to the court that the party has complied with the provisions of this
33 section. Such a continuance shall only be granted for a period of
34 time which would allow personal service of the subpoena and in
35 no event longer than that allowed by law, including the
36 requirements of Sections 861 and 1382.

37 ~~SEC. 15.~~

38 *SEC. 13.* Section 1417.6 of the Penal Code is amended to read:

39 1417.6. (a) The provisions of Section 1417.5 shall not apply
40 to any dangerous or deadly weapons, narcotic or poisonous drugs,

1 explosives, or any property of any kind or character whatsoever
2 the possession of which is prohibited by law and that was used by
3 a defendant in the commission of the crime of which the defendant
4 was convicted, or with which the defendant was armed or that the
5 defendant had upon his or her person at the time of the defendant's
6 arrest.

7 Any of this property introduced or filed as an exhibit shall be,
8 by order of the trial court, destroyed or otherwise disposed of under
9 the conditions provided in the order no sooner than 60 days
10 following the final determination of the criminal action or
11 proceeding.

12 (b) (1) Every person who knowingly has in his or her possession
13 any tool or device that is seized and of a type used in the
14 commission of a violation of Section 10801, 10802, or 10803 of
15 the Vehicle Code, shall be subject to having the tool or device
16 intended for the above purpose deemed a nuisance as provided in
17 paragraph (2).

18 (2) An evidentiary hearing shall be held only upon conviction
19 of the defendant for a violation of Section 10801, 10802, or 10803
20 of the Vehicle Code and after 15 days' notice is given to the
21 defendant of the state's intent to declare as a nuisance any property
22 that is described in paragraph (1). All relevant evidence shall be
23 admissible at the hearing and the state shall prove by a
24 preponderance of the evidence that the property seized is of a type
25 used in facilitating the commission of the crime of which the
26 defendant was convicted.

27 (3) If a person purports to be the lawful owner of any tool or
28 device the state seeks to be declared a nuisance, the person shall
29 show proof by a preponderance of the evidence at the hearing
30 pursuant to paragraph (2), that he or she owns the tool or device,
31 and the illegal use of the tool or device was without his or her
32 knowledge or consent.

33 (4) Following a determination that the property shall be declared
34 a nuisance, the property shall be disposed of as provided in
35 paragraph (2) or (3) of subdivision (c) of Section 1417.5.

36 ~~SEC. 16. Section 11160 of the Penal Code is amended to read:~~

37 ~~11160. (a) Any health practitioner employed in a health~~
38 ~~facility, clinic, physician's office, local or state public health~~
39 ~~department, or a clinic or other type of facility operated by a local~~
40 ~~or state public health department who, in his or her professional~~

1 capacity or within the scope of his or her employment, provides
2 medical services for a physical condition to a patient whom he or
3 she knows or reasonably suspects is a person described as follows,
4 shall immediately make a report in accordance with subdivision
5 (b):

6 (1) ~~Any person suffering from any wound or other physical~~
7 ~~injury inflicted by his or her own act or inflicted by another where~~
8 ~~the injury is by means of a firearm.~~

9 (2) ~~Any person suffering from any wound or other physical~~
10 ~~injury inflicted upon the person where the injury is the result of~~
11 ~~assaultive or abusive conduct.~~

12 (b) ~~Any health practitioner employed in a health facility, clinic,~~
13 ~~physician's office, local or state public health department, or a~~
14 ~~clinic or other type of facility operated by a local or state public~~
15 ~~health department shall make a report regarding persons described~~
16 ~~in subdivision (a) to a local law enforcement agency as follows:~~

17 (1) ~~A report by telephone shall be made immediately or as soon~~
18 ~~as practically possible.~~

19 (2) ~~A written report shall be prepared on the standard form~~
20 ~~developed in compliance with paragraph (4) of this subdivision,~~
21 ~~and Section 11160.2, and adopted by the agency or agencies~~
22 ~~designated by the Director of Finance pursuant to Section 13820,~~
23 ~~or on a form developed and adopted by another state agency that~~
24 ~~otherwise fulfills the requirements of the standard form. The~~
25 ~~completed form shall be sent to a local law enforcement agency~~
26 ~~within two working days of receiving the information regarding~~
27 ~~the person.~~

28 (3) ~~A local law enforcement agency shall be notified and a~~
29 ~~written report shall be prepared and sent pursuant to paragraphs~~
30 ~~(1) and (2) even if the person who suffered the wound, other injury,~~
31 ~~or assaultive or abusive conduct has expired, regardless of whether~~
32 ~~or not the wound, other injury, or assaultive or abusive conduct~~
33 ~~was a factor contributing to the death, and even if the evidence of~~
34 ~~the conduct of the perpetrator of the wound, other injury, or~~
35 ~~assaultive or abusive conduct was discovered during an autopsy.~~

36 (4) ~~The report shall include, but shall not be limited to, the~~
37 ~~following:~~

38 (A) ~~The name of the injured person, if known.~~

39 (B) ~~The injured person's whereabouts.~~

40 (C) ~~The character and extent of the person's injuries.~~

1 ~~(D) The identity of any person the injured person alleges~~
2 ~~inflicted the wound, other injury, or assaultive or abusive conduct~~
3 ~~upon the injured person.~~

4 ~~(e) For the purposes of this section, “injury” shall not include~~
5 ~~any psychological or physical condition brought about solely~~
6 ~~through the voluntary administration of a narcotic or restricted~~
7 ~~dangerous drug.~~

8 ~~(d) For the purposes of this section, “assaultive or abusive~~
9 ~~conduct” shall include any of the following offenses:~~

- 10 ~~(1) Murder, in violation of Section 187.~~
- 11 ~~(2) Manslaughter, in violation of Section 192 or 192.5.~~
- 12 ~~(3) Mayhem, in violation of Section 203.~~
- 13 ~~(4) Aggravated mayhem, in violation of Section 205.~~
- 14 ~~(5) Torture, in violation of Section 206.~~
- 15 ~~(6) Assault with intent to commit mayhem, rape, sodomy, or~~
16 ~~oral copulation, in violation of Section 220.~~
- 17 ~~(7) Administering controlled substances or anesthetic to aid in~~
18 ~~commission of a felony, in violation of Section 222.~~
- 19 ~~(8) Battery, in violation of Section 242.~~
- 20 ~~(9) Sexual battery, in violation of Section 243.4.~~
- 21 ~~(10) Incest, in violation of Section 285.~~
- 22 ~~(11) Throwing any vitriol, corrosive acid, or caustic chemical~~
23 ~~with intent to injure or disfigure, in violation of Section 244.~~
- 24 ~~(12) Assault with a less lethal weapon, as defined in Section~~
25 ~~12601, or stun gun, in violation of Section 244.5.~~
- 26 ~~(13) Assault with a deadly weapon, firearm, assault weapon, or~~
27 ~~machinegun, or by means likely to produce great bodily injury, in~~
28 ~~violation of Section 245.~~
- 29 ~~(14) Rape, in violation of Section 261.~~
- 30 ~~(15) Spousal rape, in violation of Section 262.~~
- 31 ~~(16) Procuring any female to have sex with another man, in~~
32 ~~violation of Section 266, 266a, 266b, or 266c.~~
- 33 ~~(17) Child abuse or endangerment, in violation of Section 273a~~
34 ~~or 273d.~~
- 35 ~~(18) Abuse of spouse or cohabitant, in violation of Section~~
36 ~~273.5.~~
- 37 ~~(19) Sodomy, in violation of Section 286.~~
- 38 ~~(20) Lewd and lascivious acts with a child, in violation of~~
39 ~~Section 288.~~
- 40 ~~(21) Oral copulation, in violation of Section 288a.~~

1 ~~(22) Sexual penetration, in violation of Section 289.~~

2 ~~(23) Elder abuse, in violation of Section 368.~~

3 ~~(24) An attempt to commit any crime specified in paragraphs~~
4 ~~(1) to (23), inclusive.~~

5 ~~(e) When two or more persons who are required to report are~~
6 ~~present and jointly have knowledge of a known or suspected~~
7 ~~instance of violence that is required to be reported pursuant to this~~
8 ~~section, and when there is an agreement among these persons to~~
9 ~~report as a team, the team may select by mutual agreement a~~
10 ~~member of the team to make a report by telephone and a single~~
11 ~~written report, as required by subdivision (b). The written report~~
12 ~~shall be signed by the selected member of the reporting team. Any~~
13 ~~member who has knowledge that the member designated to report~~
14 ~~has failed to do so shall thereafter make the report.~~

15 ~~(f) The reporting duties under this section are individual, except~~
16 ~~as provided in subdivision (e).~~

17 ~~(g) No supervisor or administrator shall impede or inhibit the~~
18 ~~reporting duties required under this section and no person making~~
19 ~~a report pursuant to this section shall be subject to any sanction~~
20 ~~for making the report. However, internal procedures to facilitate~~
21 ~~reporting and apprise supervisors and administrators of reports~~
22 ~~may be established, except that these procedures shall not be~~
23 ~~inconsistent with this article. The internal procedures shall not~~
24 ~~require any employee required to make a report under this article~~
25 ~~to disclose his or her identity to the employer.~~

26 ~~(h) For the purposes of this section, it is the Legislature's intent~~
27 ~~to avoid duplication of information.~~

28 ~~SEC. 17.~~

29 *SEC. 14.* Section 12021 of the Penal Code is amended to read:

30 12021. (a) (1) Any person who has been convicted of a felony
31 under the laws of the United States, the State of California, or any
32 other state, government, or country or of an offense enumerated
33 in subdivision (a), (b), or (d) of Section 12001.6, or who is addicted
34 to the use of any narcotic drug, and who owns, purchases, receives,
35 or has in his or her possession or under his or her custody or control
36 any firearm is guilty of a felony.

37 (2) Any person who has two or more convictions for violating
38 paragraph (2) of subdivision (a) of Section 417 and who owns,
39 purchases, receives, or has in his or her possession or under his or
40 her custody or control any firearm is guilty of a felony.

1 (b) Notwithstanding subdivision (a), any person who has been
2 convicted of a felony or of an offense enumerated in Section
3 12001.6, when that conviction results from certification by the
4 juvenile court for prosecution as an adult in an adult court under
5 Section 707 of the Welfare and Institutions Code, and who owns
6 or has in his or her possession or under his or her custody or control
7 any firearm is guilty of a felony.

8 (c) (1) Except as provided in subdivision (a) or paragraph (2)
9 of this subdivision, any person who has been convicted of a
10 misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140,
11 subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28,
12 240, 241, 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5,
13 273.6, 417, 417.6, 422, 626.9, 646.9, 12023, or 12024, subdivision
14 (b) or (d) of Section 12034, Section 12040, subdivision (b) of
15 Section 12072, subdivision (a) of former Section 12100, Section
16 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the
17 Welfare and Institutions Code, any firearm-related offense pursuant
18 to Sections 871.5 and 1001.5 of the Welfare and Institutions Code,
19 or of the conduct punished in paragraph (3) of subdivision (g) of
20 Section 12072, and who, within 10 years of the conviction, owns,
21 purchases, receives, or has in his or her possession or under his or
22 her custody or control, any firearm is guilty of a public offense,
23 which shall be punishable by imprisonment in a county jail not
24 exceeding one year or in the state prison, by a fine not exceeding
25 one thousand dollars (\$1,000), or by both that imprisonment and
26 fine. The court, on forms prescribed by the Department of Justice,
27 shall notify the department of persons subject to this subdivision.
28 However, the prohibition in this paragraph may be reduced,
29 eliminated, or conditioned as provided in paragraph (2) or (3).

30 (2) Any person employed as a peace officer described in Section
31 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment
32 or livelihood is dependent on the ability to legally possess a
33 firearm, who is subject to the prohibition imposed by this
34 subdivision because of a conviction under Section 273.5, 273.6,
35 or 646.9, may petition the court only once for relief from this
36 prohibition. The petition shall be filed with the court in which the
37 petitioner was sentenced. If possible, the matter shall be heard
38 before the same judge who sentenced the petitioner. Upon filing
39 the petition, the clerk of the court shall set the hearing date and
40 shall notify the petitioner and the prosecuting attorney of the date

1 of the hearing. Upon making each of the following findings, the
2 court may reduce or eliminate the prohibition, impose conditions
3 on reduction or elimination of the prohibition, or otherwise grant
4 relief from the prohibition as the court deems appropriate:

5 (A) Finds by a preponderance of the evidence that the petitioner
6 is likely to use a firearm in a safe and lawful manner.

7 (B) Finds that the petitioner is not within a prohibited class as
8 specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1,
9 and the court is not presented with any credible evidence that the
10 petitioner is a person described in Section 8100 or 8103 of the
11 Welfare and Institutions Code.

12 (C) (i) Finds that the petitioner does not have a previous
13 conviction under this subdivision no matter when the prior
14 conviction occurred.

15 (ii) In making its decision, the court shall consider the
16 petitioner's continued employment, the interest of justice, any
17 relevant evidence, and the totality of the circumstances. The court
18 shall require, as a condition of granting relief from the prohibition
19 under this section, that the petitioner agree to participate in
20 counseling as deemed appropriate by the court. Relief from the
21 prohibition shall not relieve any other person or entity from any
22 liability that might otherwise be imposed. It is the intent of the
23 Legislature that courts exercise broad discretion in fashioning
24 appropriate relief under this paragraph in cases in which relief is
25 warranted. However, nothing in this paragraph shall be construed
26 to require courts to grant relief to any particular petitioner. It is
27 the intent of the Legislature to permit persons who were convicted
28 of an offense specified in Section 273.5, 273.6, or 646.9 to seek
29 relief from the prohibition imposed by this subdivision.

30 (3) Any person who is subject to the prohibition imposed by
31 this subdivision because of a conviction of an offense prior to that
32 offense being added to paragraph (1) may petition the court only
33 once for relief from this prohibition. The petition shall be filed
34 with the court in which the petitioner was sentenced. If possible,
35 the matter shall be heard before the same judge that sentenced the
36 petitioner. Upon filing the petition, the clerk of the court shall set
37 the hearing date and notify the petitioner and the prosecuting
38 attorney of the date of the hearing. Upon making each of the
39 following findings, the court may reduce or eliminate the
40 prohibition, impose conditions on reduction or elimination of the

1 prohibition, or otherwise grant relief from the prohibition as the
2 court deems appropriate:

3 (A) Finds by a preponderance of the evidence that the petitioner
4 is likely to use a firearm in a safe and lawful manner.

5 (B) Finds that the petitioner is not within a prohibited class as
6 specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1,
7 and the court is not presented with any credible evidence that the
8 petitioner is a person described in Section 8100 or 8103 of the
9 Welfare and Institutions Code.

10 (C) (i) Finds that the petitioner does not have a previous
11 conviction under this subdivision, no matter when the prior
12 conviction occurred.

13 (ii) In making its decision, the court may consider the interest
14 of justice, any relevant evidence, and the totality of the
15 circumstances. It is the intent of the Legislature that courts exercise
16 broad discretion in fashioning appropriate relief under this
17 paragraph in cases in which relief is warranted. However, nothing
18 in this paragraph shall be construed to require courts to grant relief
19 to any particular petitioner.

20 (4) Law enforcement officials who enforce the prohibition
21 specified in this subdivision against a person who has been granted
22 relief pursuant to paragraph (2) or (3) shall be immune from any
23 liability for false arrest arising from the enforcement of this
24 subdivision unless the person has in his or her possession a certified
25 copy of the court order that granted the person relief from the
26 prohibition. This immunity from liability shall not relieve any
27 person or entity from any other liability that might otherwise be
28 imposed.

29 (d) (1) Any person who, as an express condition of probation,
30 is prohibited or restricted from owning, possessing, controlling,
31 receiving, or purchasing a firearm and who owns, purchases,
32 receives, or has in his or her possession or under his or her custody
33 or control, any firearm but who is not subject to subdivision (a) or
34 (c) is guilty of a public offense, which shall be punishable by
35 imprisonment in a county jail not exceeding one year or in the
36 state prison, by a fine not exceeding one thousand dollars (\$1,000),
37 or by both that imprisonment and fine. The court, on forms
38 provided by the Department of Justice, shall notify the department
39 of persons subject to this subdivision. The notice shall include a

1 copy of the order of probation and a copy of any minute order or
2 abstract reflecting the order and conditions of probation.

3 (2) For any person who is subject to subdivision (a), (b), or (c),
4 the court shall, at the time judgment is imposed, provide on a form
5 supplied by the Department of Justice, a notice to the defendant
6 prohibited by this section from owning, purchasing, receiving,
7 possessing or having under his or her custody or control, any
8 firearm. The notice shall inform the defendant of the prohibition
9 regarding firearms and include a form to facilitate the transfer of
10 firearms. Failure to provide the notice shall not be a defense to a
11 violation of this section.

12 (e) Any person who (1) is alleged to have committed an offense
13 listed in subdivision (b) of Section 707 of the Welfare and
14 Institutions Code, an offense described in subdivision (b) of Section
15 1203.073, any offense enumerated in paragraph (1) of subdivision
16 (c), or any offense described in subdivision (a) of Section 12025,
17 subdivision (a) of Section 12031, or subdivision (a) of Section
18 12034, and (2) is subsequently adjudged a ward of the juvenile
19 court within the meaning of Section 602 of the Welfare and
20 Institutions Code because the person committed an offense listed
21 in subdivision (b) of Section 707 of the Welfare and Institutions
22 Code, an offense described in subdivision (b) of Section 1203.073,
23 any offense enumerated in paragraph (1) of subdivision (c), or any
24 offense described in subdivision (a) of Section 12025, subdivision
25 (a) of Section 12031, or subdivision (a) of Section 12034, shall
26 not own, or have in his or her possession or under his or her
27 custody or control, any firearm until the age of 30 years. A
28 violation of this subdivision shall be punishable by imprisonment
29 in a county jail not exceeding one year or in the state prison, by a
30 fine not exceeding one thousand dollars (\$1,000), or by both that
31 imprisonment and fine. The juvenile court, on forms prescribed
32 by the Department of Justice, shall notify the department of persons
33 subject to this subdivision. Notwithstanding any other law, the
34 forms required to be submitted to the department pursuant to this
35 subdivision may be used to determine eligibility to acquire a
36 firearm.

37 (f) Subdivision (a) shall not apply to a person who has been
38 convicted of a felony under the laws of the United States unless
39 either of the following criteria is satisfied:

1 (1) Conviction of a like offense under California law can only
2 result in imposition of felony punishment.

3 (2) The defendant was sentenced to a federal correctional facility
4 for more than 30 days, or received a fine of more than one thousand
5 dollars (\$1,000), or received both punishments.

6 (g) (1) Every person who purchases or receives, or attempts to
7 purchase or receive, a firearm knowing that he or she is prohibited
8 from doing so by a temporary restraining order or injunction issued
9 pursuant to Section 527.6, 527.8, or 527.85 of the Code of Civil
10 Procedure, a protective order as defined in Section 6218 of the
11 Family Code, a protective order issued pursuant to Section 136.2
12 or 646.91 of this code, or a protective order issued pursuant to
13 Section 15657.03 of the Welfare and Institutions Code, is guilty
14 of a public offense, which shall be punishable by imprisonment
15 in a county jail not exceeding one year or in the state prison, by a
16 fine not exceeding one thousand dollars (\$1,000), or by both that
17 imprisonment and fine.

18 (2) Every person who owns or possesses a firearm knowing that
19 he or she is prohibited from doing so by a temporary restraining
20 order or injunction issued pursuant to Section 527.6, 527.8, or
21 527.85 of the Code of Civil Procedure, a protective order as defined
22 in Section 6218 of the Family Code, a protective order issued
23 pursuant to Section 136.2 or 646.91 of this code, or a protective
24 order issued pursuant to Section 15657.03 of the Welfare and
25 Institutions Code, is guilty of a public offense, which shall be
26 punishable by imprisonment in a county jail not exceeding one
27 year, by a fine not exceeding one thousand dollars (\$1,000), or by
28 both that imprisonment and fine.

29 (3) The Judicial Council shall provide notice on all protective
30 orders that the respondent is prohibited from owning, possessing,
31 purchasing, receiving, or attempting to purchase or receive a
32 firearm while the protective order is in effect. The order shall also
33 state that the firearm shall be relinquished to the local law
34 enforcement agency for that jurisdiction or sold to a licensed gun
35 dealer, and that proof of surrender or sale shall be filed within a
36 specified time of receipt of the order. The order shall state the
37 penalties for a violation of the prohibition. The order shall also
38 state on its face the expiration date for relinquishment.

1 (4) If probation is granted upon conviction of a violation of this
2 subdivision, the court shall impose probation consistent with
3 Section 1203.097.

4 (h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is
5 justifiable where all of the following conditions are met:

6 (A) The person found the firearm or took the firearm from a
7 person who was committing a crime against him or her.

8 (B) The person possessed the firearm no longer than was
9 necessary to deliver or transport the firearm to a law enforcement
10 agency for that agency's disposition according to law.

11 (C) If the firearm was transported to a law enforcement agency,
12 it was transported in accordance with paragraph (18) of subdivision
13 (a) of Section 12026.2.

14 (D) If the firearm is being transported to a law enforcement
15 agency, the person transporting the firearm has given prior notice
16 to the law enforcement agency that he or she is transporting the
17 firearm to the law enforcement agency for disposition according
18 to law.

19 (2) Upon the trial for violating subdivision (a), (b), (c), (d), or
20 (e), the trier of fact shall determine whether the defendant was
21 acting within the provisions of the exemption created by this
22 subdivision.

23 (3) The defendant has the burden of proving by a preponderance
24 of the evidence that he or she comes within the provisions of the
25 exemption created by this subdivision.

26 (i) Subject to available funding, the Attorney General, working
27 with the Judicial Council, the California Alliance Against Domestic
28 Violence, prosecutors, and law enforcement, probation, and parole
29 officers, shall develop a protocol for the implementation of the
30 provisions of this section. The protocol shall be designed to
31 facilitate the enforcement of restrictions on firearm ownership,
32 including provisions for giving notice to defendants who are
33 restricted, provisions for informing those defendants of the
34 procedures by which defendants shall dispose of firearms when
35 required to do so, provisions explaining how defendants shall
36 provide proof of the lawful disposition of firearms, and provisions
37 explaining how defendants may obtain possession of seized
38 firearms when legally permitted to do so pursuant to this section
39 or any other provision of law. The protocol shall be completed on
40 or before January 1, 2005.

1 SEC. 18.— Section 13540 of the Penal Code is amended to read:

2 13540. (a) Any person or persons desiring peace officer status
3 under Chapter 4.5 (commencing with Section 830) of Title 3 of
4 Part 2 who, on January 1, 1990, were not entitled to be designated
5 as peace officers under that chapter shall request the Commission
6 on Peace Officer Standards and Training to undertake a feasibility
7 study regarding designating that person or persons as peace
8 officers. The request and study shall be undertaken in accordance
9 with regulations adopted by the commission. The commission may
10 charge any person requesting a study, a fee, not to exceed the actual
11 cost of undertaking the study. Nothing in this article shall apply
12 to or otherwise affect the authority of the Chief Deputy Secretary
13 for Adult Operations, the Chief Deputy Secretary for Juvenile
14 Justice, the Chair of the Board of Parole Hearings, or the Secretary
15 of the Department of Corrections and Rehabilitation to designate
16 peace officers as provided for in Section 830.5.

17 (b) Any person or persons who are designated as peace officers
18 under Chapter 4.5, (commencing with Section 830) of Title 3 of
19 Part 2, and who desire a change in peace officer designation or
20 status, shall request the Commission on Peace Officer Standards
21 and Training to undertake a study to assess the need for a change
22 in designation or status. The request and study shall be undertaken
23 in accordance with regulations adopted by the commission. The
24 commission may charge any person, agency, or organization
25 requesting a study, a fee, not to exceed the actual cost of
26 undertaking the study.

27 SEC. 19.— Section 13542 of the Penal Code is amended to read:

28 13542. (a) In order for the commission to give a favorable
29 recommendation as to a peace officer designation, the person or
30 persons desiring the designation shall be employed by an agency
31 with a supervisory structure consisting of a chief law enforcement
32 officer, the agency shall agree to comply with the training
33 requirements set forth in Section 832, and shall be subject to the
34 funding restriction set forth in Section 13526. The commission
35 shall issue the study and its recommendations to the requesting
36 person or agency within 18 months of the mutual acceptance of a
37 contract between the requesting person or agency and the
38 commission. A copy of that study and recommendations shall also
39 be submitted to the Legislature.

1 ~~(b) (1) In order for the commission to give a favorable~~
2 ~~recommendation as to a change in peace officer designation or~~
3 ~~status, the person or persons desiring the change in peace officer~~
4 ~~designation or status shall be employed by an agency that~~
5 ~~participates in, and complies with, regulations set forth by the~~
6 ~~Commission on Peace Officer Standards and Training.~~

7 ~~(2) If the designation change is moving the person or persons~~
8 ~~into Section 830.1, the person or persons shall obtain the basic~~
9 ~~certificate issued by the Commission on Peace Officer Standards~~
10 ~~and Training, set forth in Section 832.4.~~

11 ~~(3) The commission shall issue the study and its~~
12 ~~recommendations, as specified in subdivision (b) of Section 13540,~~
13 ~~to the requesting person or persons, within 12 months of the mutual~~
14 ~~acceptance of a contract between the requesting person or agency~~
15 ~~and the commission, or as soon as possible thereafter if the~~
16 ~~commission shows good cause as to the need for an extension of~~
17 ~~the 12-month time period.~~

18 ~~(4) A copy of that study and recommendation shall also be~~
19 ~~submitted to the Legislature.~~

20 ~~SEC. 20:~~

21 ~~SEC. 15.~~ Section 13821 of the Penal Code is amended to read:

22 13821. (a) Of the amount deposited in the Local Safety and
23 Protection Account in the Transportation Fund authorized by
24 Section 10752.2 of the Revenue and Taxation Code, the Controller
25 shall allocate 12.68 percent in the 2008–09 fiscal year and 11.42
26 percent in the 2009–10 fiscal year, and each fiscal year thereafter,
27 to the California Emergency Management Agency. The Controller
28 shall allocate these funds on a quarterly basis beginning April 1,
29 2009.

30 ~~(b) There—These~~ funds shall be allocated by the California
31 Emergency Management Agency according to the agency’s existing
32 programmatic guidelines and consistent with the programs
33 approved in the Budget Act of 2008. Of the amount allocated
34 pursuant to subdivision (a), the California Emergency Management
35 Agency shall distribute these funds according to the following
36 percentages:

37 (1) The California Multi-Jurisdictional Methamphetamine
38 Enforcement Teams shall receive 33.95 percent in the 2008–09
39 fiscal year and each fiscal year thereafter.

1 (2) The Multi-Agency Gang Enforcement Consortium shall
2 ~~received~~ receive 0.15 percent in the 2008–09 fiscal year, and each
3 fiscal year thereafter.

4 (3) The CALGANG program administered by the Department
5 of Justice shall receive 0.47 percent in the 2008–09 fiscal year,
6 and each fiscal year thereafter.

7 (4) The Evidentiary Medical Training Program shall receive
8 1.02 percent in the 2008–09 fiscal year and each fiscal year
9 thereafter.

10 (5) The Public Prosecutors and Public Defenders Legal Training
11 program shall receive 0.01 percent in the 2008–09 fiscal year and
12 each fiscal year thereafter.

13 (6) The Sexual Assault Felony Enforcement Teams, authorized
14 by Section 13887, shall receive 8.93 percent in the 2008–09 fiscal
15 year and each fiscal year thereafter.

16 (7) The Vertical Prosecution Block Grant Program shall receive
17 25.35 percent in the 2008–09 fiscal year and each fiscal year
18 thereafter.

19 (8) The High Technology Theft Apprehension and Prosecution
20 Program, authorized by Section 13848.2, shall receive 20.84
21 percent in the 2008–09 fiscal year, and each fiscal year thereafter.

22 (9) The Gang Violence Suppression Program authorized by
23 Section 13826.1, shall receive 2.8 percent in the 2008–09 fiscal
24 year and each fiscal year thereafter.

25 (10) The Central Valley and Central Coast Rural Crime
26 Prevention Programs, authorized by Sections 14170 and 14180,
27 shall receive 6.49 percent in the 2008–09 fiscal year and each fiscal
28 year thereafter.

29 (c) Beginning in the 2009–10 fiscal year and each fiscal year
30 thereafter, the California Emergency Management Agency may
31 retain up to 3 percent of the funds allocated in subdivision (a) for
32 program administrative costs.

33 *SEC. 16. Section 13885 of the Penal Code is amended to read:*
34 13885. The Legislature hereby finds that a substantial and
35 disproportionate amount of sexual offenses are committed against
36 the people of California by a relatively small number of multiple
37 and repeat sex offenders. In enacting this chapter, the Legislature
38 intends to support efforts of the criminal justice community through
39 a focused effort by law enforcement and prosecuting agencies to

1 identify, locate, apprehend, and prosecute ~~sexual habitual sex~~
2 offenders.

3 *SEC. 17. Section 13885.1 of the Penal Code is amended to*
4 *read:*

5 13885.1. The Attorney General shall maintain, upon
6 appropriation of funds by the Legislature, a statewide Sexual
7 Predator Apprehension Team force within the California Bureau
8 of Investigation. The Sexual Predator Apprehension Team force
9 shall be comprised of California Bureau of Investigation special
10 agent teams throughout California. The teams shall focus on repeat
11 sex offenders, and perform the following activities:

12 (a) Coordinate state and local investigative resources to
13 apprehend ~~sexual habitual high risk sex~~ offenders and persons
14 required to register under Section 290 who violate the law or
15 conditions of probation or parole.

16 (b) Target and monitor chronic repeat violent sex offenders
17 before the commission of additional sexual offenses.

18 (c) Develop profiles in unsolved sexual assault cases.

19 *SEC. 18. Section 13885.2 of the Penal Code is amended to*
20 *read:*

21 13885.2. The Attorney General, subject to the availability of
22 funds, shall establish in the Department of Justice the ~~Sexual~~
23 ~~Habitual High Risk Sex Offender~~ Program, which is hereby created,
24 which shall ~~evaluate the number of arrests and convictions for sex~~
25 ~~offenses and the length of sentences for repeat offenders receive~~
26 ~~the Facts of Offense Sheets, pursuant to Section 1203e. The~~
27 ~~program shall use the scores of sex offenders reported on the Facts~~
28 ~~of Offense Sheets for the purpose of identifying, assessing,~~
29 ~~monitoring, and containing those sex offenders at a high risk of~~
30 ~~reoffending.~~ This shall be a statewide program.

31 It is the intent of the Legislature that this statewide program shall
32 not affect the operation of the Serious Habitual Offender Program
33 authorized by Chapter 10 (commencing with Section 13890)
34 involving the Counties of San Francisco, San Mateo, Santa Clara,
35 Santa Cruz, Alameda, Contra Costa, Napa, Sonoma, Solano, and
36 Marin which shall become inoperative on July 1, 1994.

37 *SEC. 19. Section 13885.4 of the Penal Code is amended to*
38 *read:*

39 13885.4. As used in this chapter, ~~“sexual habitual offenders”~~
40 ~~“high risk sex offenders”~~ means those persons who ~~have been~~

1 ~~either of the following:~~ *are required to register as sex offenders*
2 *pursuant to the Sex Offender Registration Act and who have been*
3 *assessed with a score indicating a “high risk” on the SARATSO*
4 *identified for that person’s specific population as set forth in*
5 *Section 290.04, or who are identified as being at a high risk of*
6 *reoffending by the Department of Justice, based on the person’s*
7 *SARATSO score when considered in combination with other,*
8 *empirically based risk factors.*

9 ~~(a) Convicted of two or more violent offenses against a person~~
10 ~~involving force or violence which include at least one sex offense.~~

11 ~~(b) Convicted of an offense listed in Section 290 and also meet~~
12 ~~one of the following criteria:~~

13 ~~(1) Have three or more felony arrests for sex offenses specified~~
14 ~~in Section 290 on their criminal record.~~

15 ~~(2) Have five or more felony arrests for any type of offense on~~
16 ~~their criminal record.~~

17 ~~(3) Have 10 or more arrests, either felony or misdemeanor, for~~
18 ~~any type of offense on their criminal record.~~

19 ~~(4) Have five or more arrests, either felony or misdemeanor,~~
20 ~~for any type of offense, including either of the following:~~

21 ~~(A) At least one conviction for multiple sex offenses which~~
22 ~~shall mean a conviction arising from the commission of two or~~
23 ~~more offenses listed in subdivision (a) of Section 290 in one~~
24 ~~transaction.~~

25 ~~(B) At least two arrests for a single sex offense listed in~~
26 ~~subdivision (a) of Section 290.~~

27 *SEC. 20. Section 13885.6 of the Penal Code is amended to*
28 *read:*

29 13885.6. The Department of Justice shall establish and maintain
30 a comprehensive file of existing information maintained by law
31 enforcement agencies, *probation departments*, the Department of
32 *Corrections and Rehabilitation, the State Department of Mental*
33 *Health*, the Department of Motor Vehicles, and the Department
34 of Justice. The Department of Justice may request the Department
35 of *Corrections and Rehabilitation, the State Department of Mental*
36 *Health*, the Department of Motor Vehicles, ~~and~~ law enforcement
37 agencies, *and probation departments* to provide existing
38 information from their files regarding persons identified as ~~sexual~~
39 ~~habitual offenders by the Department of Justice as high risk sex~~
40 *offenders pursuant to Section 13885.4.* The Department of

1 Corrections and Rehabilitation, the State Department of Mental
2 Health, the Department of Motor Vehicles, ~~and~~ law enforcement
3 agencies, and probation departments, when requested by the
4 Department of Justice, shall provide copies of existing information
5 maintained in their files regarding persons identified by the
6 Department of Justice as ~~sexual habitual~~ high risk sex offenders
7 and shall provide followup information to the Department of Justice
8 as it becomes available. *This information shall include, but is not*
9 *limited to, criminal histories, Facts of Offense Sheets, sex offender*
10 *registration records, police reports, probation and presentencing*
11 *reports, judicial records and case files, juvenile records,*
12 *psychological evaluations and psychological hospital reports, and*
13 *sexually violent predator treatment program reports. This*
14 *information shall also include records that have been sealed. This*
15 *information shall be provided to the Department of Justice in a*
16 *manner and format jointly approved by the submitting department*
17 *and the Department of Justice. This ~~sexual habitual~~ high risk sex*
18 *offender file shall be maintained by the Department of Justice High*
19 *Risk Sex Offender Program and shall contain a complete physical*
20 *description and method of operation of the ~~sexual habitual~~ high*
21 *risk sex offender, information describing his or her interaction with*
22 *criminal justice agencies, and his or her prior criminal record. The*
23 *Department of Justice also shall prepare a ~~summary profile of each~~*
24 *~~sexual habitual~~ bulletin on each high risk sex offender for*
25 *distribution to law enforcement agencies.*

26 *SEC. 21. Section 13885.8 of the Penal Code is amended to*
27 *read:*

28 13885.8. The Department of Justice shall *electronically* provide
29 ~~a summary profile of each sexual habitual bulletin on each high~~
30 ~~risk sex offender to each law enforcement agency when the~~
31 ~~individual registers in, or moves to, the area in which the law~~
32 ~~enforcement agency is located agencies via the California Sex~~
33 ~~Offender Registry database and the California Law Enforcement~~
34 ~~Web (CLEW).~~

35 Upon request, the department shall provide the complete file of
36 information on a ~~sexual habitual~~ high risk sex offender to law
37 enforcement agencies, district attorneys, and the courts for the
38 purpose of identifying, apprehending, prosecuting, and sentencing
39 ~~sexual habitual~~ high risk sex offenders.

1 ~~SEC. 21.~~

2 *SEC. 22.* Section 40000.7 of the Vehicle Code is amended to
3 read:

4 40000.7. (a) A violation of any of the following provisions is
5 a misdemeanor, and not an infraction:

6 (1) Section 2416, relating to regulations for emergency vehicles.

7 (2) Section 2800, relating to failure to obey an officer's lawful
8 order or submit to a lawful inspection.

9 (3) Section 2800.1, relating to fleeing from a peace officer.

10 (4) Section 2801, relating to failure to obey a firefighter's lawful
11 order.

12 (5) Section 2803, relating to unlawful vehicle or load.

13 (6) Section 2813, relating to stopping for inspection.

14 (7) Subdivisions (b), (c), and (d) of Section 4461 and
15 subdivisions (b) and (c) of Section 4463, relating to disabled person
16 placards and disabled person and disabled veteran license plates.

17 (8) Section 4462.5, relating to deceptive or false evidence of
18 vehicle registration.

19 (9) Section 4463.5, relating to deceptive or facsimile license
20 plates.

21 (10) Section 5500, relating to the surrender of registration
22 documents and license plates before dismantling may begin.

23 (11) Section 5506, relating to the sale of a total loss salvage
24 vehicle, or of a vehicle reported for dismantling by a salvage
25 vehicle rebuilder.

26 (12) Section 5753, relating to delivery of certificates of
27 ownership and registration when committed by a dealer or any
28 person while a dealer within the preceding 12 months.

29 (13) Section 5901, relating to dealers and lessor-retailers giving
30 notice.

31 (14) Section 5901.1, relating to lessors giving notice and failure
32 to pay fee.

33 (15) Section 8802, relating to the return of canceled, suspended,
34 or revoked certificates of ownership, registration cards, or license
35 plates, when committed by any person with intent to defraud.

36 (16) Section 8803, relating to return of canceled, suspended, or
37 revoked documents and license plates of a dealer, manufacturer,
38 remanufacturer, transporter, dismantler, or salesman.

39 (b) This section shall become operative on January 1, 2001.

1 SEC. 22.— Section 12301.6 of the Welfare and Institutions Code
2 is amended to read:

3 12301.6. (a) Notwithstanding Sections 12302 and 12302.1, a
4 county board of supervisors may, at its option, elect to do either
5 of the following:

6 (1) ~~Contract with a nonprofit consortium to provide for the~~
7 ~~delivery of in-home supportive services.~~

8 (2) ~~Establish, by ordinance, a public authority to provide for~~
9 ~~the delivery of in-home supportive services.~~

10 (b) (1) ~~To the extent that a county elects to establish a public~~
11 ~~authority pursuant to paragraph (2) of subdivision (a), the enabling~~
12 ~~ordinance shall specify the membership of the governing body of~~
13 ~~the public authority, the qualifications for individual members, the~~
14 ~~manner of appointment, selection, or removal of members, how~~
15 ~~long they shall serve, and other matters as the board of supervisors~~
16 ~~deems necessary for the operation of the public authority.~~

17 (2) ~~A public authority established pursuant to paragraph (2) of~~
18 ~~subdivision (a) shall be both of the following:~~

19 (A) ~~An entity separate from the county, and shall be required~~
20 ~~to file the statement required by Section 53051 of the Government~~
21 ~~Code.~~

22 (B) ~~A corporate public body, exercising public and essential~~
23 ~~governmental functions and that has all powers necessary or~~
24 ~~convenient to carry out the delivery of in-home supportive services,~~
25 ~~including the power to contract for services pursuant to Sections~~
26 ~~12302 and 12302.1 and that makes or provides for direct payment~~
27 ~~to a provider chosen by the recipient for the purchase of services~~
28 ~~pursuant to Sections 12302 and 12302.2. Employees of the public~~
29 ~~authority shall not be employees of the county for any purpose.~~

30 (3) (A) ~~As an alternative, the enabling ordinance may designate~~
31 ~~the board of supervisors as the governing body of the public~~
32 ~~authority.~~

33 (B) ~~Any enabling ordinance that designates the board of~~
34 ~~supervisors as the governing body of the public authority shall~~
35 ~~also specify that no fewer than 50 percent of the membership of~~
36 ~~the advisory committee shall be individuals who are current or~~
37 ~~past users of personal assistance services paid for through public~~
38 ~~or private funds or recipients of services under this article.~~

39 (C) ~~If the enabling ordinance designates the board of supervisors~~
40 ~~as the governing body of the public authority, it shall also require~~

1 the appointment of an advisory committee of not more than 11
2 individuals who shall be designated in accordance with
3 subparagraph (B):

4 (D) Prior to making designations of committee members
5 pursuant to subparagraph (C), or governing body members in
6 accordance with paragraph (4), the board of supervisors shall solicit
7 recommendations of qualified members of either the governing
8 body of the public authority or of any advisory committee through
9 a fair and open process that includes the provision of reasonable
10 written notice to, and a reasonable response time by, members of
11 the general public and interested persons and organizations:

12 (4) If the enabling ordinance does not designate the board of
13 supervisors as the governing body of the public authority, the
14 enabling ordinance shall require the membership of the governing
15 body to meet the requirements of subparagraph (B) of paragraph
16 (3):

17 (e) (1) Any public authority created pursuant to this section
18 shall be deemed to be the employer of in-home supportive services
19 personnel referred to recipients under paragraph (3) of subdivision
20 (e) within the meaning of Chapter 10 (commencing with Section
21 3500) of Division 4 of Title 1 of the Government Code. Recipients
22 shall retain the right to hire, fire, and supervise the work of any
23 in-home supportive services personnel providing services to them.

24 (2) (A) Any nonprofit consortium contracting with a county
25 pursuant to this section shall be deemed to be the employer of
26 in-home supportive services personnel referred to recipients
27 pursuant to paragraph (3) of subdivision (e) for the purposes of
28 collective bargaining over wages, hours, and other terms and
29 conditions of employment:

30 (B) Recipients shall retain the right to hire, fire, and supervise
31 the work of any in-home supportive services personnel providing
32 services for them:

33 (d) A public authority established pursuant to this section or a
34 nonprofit consortium contracting with a county pursuant to this
35 section, when providing for the delivery of services under this
36 article by contract in accordance with Sections 12302 and 12302.1
37 or by direct payment to a provider chosen by a recipient in
38 accordance with Sections 12302 and 12302.2, shall comply with
39 and be subject to, all statutory and regulatory provisions applicable
40 to the respective delivery mode:

1 ~~(e) Any nonprofit consortium contracting with a county pursuant~~
2 ~~to this section or any public authority established pursuant to this~~
3 ~~section shall provide for all of the following functions under this~~
4 ~~article, but shall not be limited to those functions:~~

5 ~~(1) The provision of assistance to recipients in finding in-home~~
6 ~~supportive services personnel through the establishment of a~~
7 ~~registry.~~

8 ~~(2) (A) (i) The investigation of the qualifications and~~
9 ~~background of potential personnel. Upon the effective date of the~~
10 ~~amendments to this section made during the 2009-10 Fourth~~
11 ~~Extraordinary Session of the Legislature, the investigation with~~
12 ~~respect to any provider in the registry or prospective registry~~
13 ~~applicant shall include criminal background checks requested by~~
14 ~~the nonprofit consortium or public authority and conducted by the~~
15 ~~Department of Justice pursuant to Section 15660, for those public~~
16 ~~authorities or nonprofit consortia using the agencies on the effective~~
17 ~~date of the amendments to this section made during the 2009-10~~
18 ~~Fourth Extraordinary Session of the Legislature. Criminal~~
19 ~~background checks shall be performed no later than July 1, 2010,~~
20 ~~for any provider who is already on the registry on the effective~~
21 ~~date of amendments to this section made during the 2009-10 Fourth~~
22 ~~Extraordinary Session of the Legislature, for whom a criminal~~
23 ~~background check pursuant to this section has not previously been~~
24 ~~provided, as a condition of the provider's continued enrollment in~~
25 ~~the IHSS program. Criminal background checks shall be conducted~~
26 ~~at the provider's expense.~~

27 ~~(ii) Upon notice from the Department of Justice notifying the~~
28 ~~public authority or nonprofit consortium that the prospective~~
29 ~~registry applicant has been convicted of a criminal offense specified~~
30 ~~in Section 12305.81, the public authority or nonprofit consortium~~
31 ~~shall deny the request to be placed on the registry for providing~~
32 ~~supportive services to any recipient of the In-Home Supportive~~
33 ~~Services program.~~

34 ~~(B) (i) If an applicant or provider is rejected as a result of~~
35 ~~information contained in the Department of Justice criminal~~
36 ~~offender record information response, the individual shall receive~~
37 ~~a copy of the response from the primary response recipient.~~

38 ~~(ii) The department shall develop a written appeal process for~~
39 ~~the current and prospective providers who are determined ineligible~~

1 to receive payment for the provision of services in the In-Home
2 Supportive Services program.

3 (C) Nothing in this paragraph shall be construed to prohibit the
4 Department of Justice from assessing a fee pursuant to Section
5 11105 of the Penal Code to cover the cost of furnishing summary
6 criminal history information.

7 (D) As used in this section, “nonprofit consortium” means a
8 nonprofit public benefit corporation that has all powers necessary
9 to carry out the delivery of in-home supportive services under the
10 delegated authority of a government entity.

11 (3) Establishment of a referral system under which in-home
12 supportive services personnel shall be referred to recipients.

13 (4) Providing for training for providers and recipients.

14 (5) (A) Performing any other functions related to the delivery
15 of in-home supportive services.

16 (B) (i) Upon request of a recipient of in-home supportive
17 services pursuant to this chapter, or a recipient of personal care
18 services under the Medi-Cal program pursuant to Section 14132.95,
19 a public authority or nonprofit consortium may provide a criminal
20 background check on a nonregistry applicant or provider from the
21 Department of Justice, in accordance with clause (i) of
22 subparagraph (A) of paragraph (2) of subdivision (e). If the person
23 who is the subject of the criminal background check is not hired
24 or is terminated because of the information contained in the
25 criminal background report, the provisions of subparagraph (B)
26 of paragraph (2) of subdivision (e) shall apply.

27 (ii) A recipient of in-home supportive services pursuant to this
28 chapter or a recipient of personal care services under the Medi-Cal
29 program may elect to employ an individual as their service provider
30 notwithstanding the individual’s record of previous criminal
31 convictions, unless those convictions include any of the offenses
32 specified in Section 12305.81.

33 (6) Ensuring that the requirements of the personal care option
34 pursuant to Subchapter 19 (commencing with Section 1396) of
35 Chapter 7 of Title 42 of the United States Code are met.

36 (f) (1) Any nonprofit consortium contracting with a county
37 pursuant to this section or any public authority created pursuant
38 to this section shall be deemed not to be the employer of in-home
39 supportive services personnel referred to recipients under this

1 section for purposes of liability due to the negligence or intentional
2 torts of the in-home supportive services personnel.

3 ~~(2) In no case shall a nonprofit consortium contracting with a
4 county pursuant to this section or any public authority created
5 pursuant to this section be held liable for action or omission of any
6 in-home supportive services personnel whom the nonprofit
7 consortium or public authority did not list on its registry or
8 otherwise refer to a recipient.~~

9 ~~(3) Counties and the state shall be immune from any liability
10 resulting from their implementation of this section in the
11 administration of the In-Home Supportive Services program. Any
12 obligation of the public authority or consortium pursuant to this
13 section, whether statutory, contractual, or otherwise, shall be the
14 obligation solely of the public authority or nonprofit consortium,
15 and shall not be the obligation of the county or state.~~

16 ~~(g) Any nonprofit consortium contracting with a county pursuant
17 to this section shall ensure that it has a governing body that
18 complies with the requirements of subparagraph (B) of paragraph
19 (3) of subdivision (b) or an advisory committee that complies with
20 subparagraphs (B) and (C) of paragraph (3) of subdivision (b).~~

21 ~~(h) Recipients of services under this section may elect to receive
22 services from in-home supportive services personnel who are not
23 referred to them by the public authority or nonprofit consortium.
24 Those personnel shall be referred to the public authority or
25 nonprofit consortium for the purposes of wages, benefits, and other
26 terms and conditions of employment.~~

27 ~~(i) (1) Nothing in this section shall be construed to affect the
28 state's responsibility with respect to the state payroll system,
29 unemployment insurance, or workers' compensation and other
30 provisions of Section 12302.2 for providers of in-home supportive
31 services.~~

32 ~~(2) The Controller shall make any deductions from the wages
33 of in-home supportive services personnel, who are employees of
34 a public authority pursuant to paragraph (1) of subdivision (e), that
35 are agreed to by that public authority in collective bargaining with
36 the designated representative of the in-home supportive services
37 personnel pursuant to Chapter 10 (commencing with Section 3500)
38 of Division 4 of Title 1 of the Government Code and transfer the
39 deducted funds as directed in that agreement.~~

1 ~~(3) Any county that elects to provide in-home supportive~~
2 ~~services pursuant to this section shall be responsible for any~~
3 ~~increased costs to the in-home supportive services case~~
4 ~~management, information, and payroll system attributable to~~
5 ~~that election. The department shall collaborate with any county~~
6 ~~that elects to provide in-home supportive services pursuant to this~~
7 ~~section prior to implementing the amount of financial obligation~~
8 ~~for which the county shall be responsible.~~

9 ~~(j) To the extent permitted by federal law, personal care option~~
10 ~~funds, obtained pursuant to Subchapter 19 (commencing with~~
11 ~~Section 1396) of Chapter 7 of Title 42 of the United States Code,~~
12 ~~along with matching funds using the state and county sharing ratio~~
13 ~~established in subdivision (c) of Section 12306, or any other funds~~
14 ~~that are obtained pursuant to Subchapter 19 (commencing with~~
15 ~~Section 1396) of Chapter 7 of Title 42 of the United States Code,~~
16 ~~may be used to establish and operate an entity authorized by this~~
17 ~~section.~~

18 ~~(k) Notwithstanding any other provision of law, the county, in~~
19 ~~exercising its option to establish a public authority, shall not be~~
20 ~~subject to competitive bidding requirements. However, contracts~~
21 ~~entered into by either the county, a public authority, or a nonprofit~~
22 ~~consortium pursuant to this section shall be subject to competitive~~
23 ~~bidding as otherwise required by law.~~

24 ~~(l) (1) The department may adopt regulations implementing~~
25 ~~this section as emergency regulations in accordance with Chapter~~
26 ~~3.5 (commencing with Section 11340) of Part 1 of Division 3 of~~
27 ~~Title 2 of the Government Code. For the purposes of the~~
28 ~~Administrative Procedure Act, the adoption of the regulations shall~~
29 ~~be deemed an emergency and necessary for the immediate~~
30 ~~preservation of the public peace, health and safety, or general~~
31 ~~welfare. Notwithstanding Chapter 3.5 (commencing with Section~~
32 ~~11340) of Part 1 of Division 3 of Title 2 of the Government Code,~~
33 ~~these emergency regulations shall not be subject to the review and~~
34 ~~approval of the Office of Administrative Law.~~

35 ~~(2) Notwithstanding subdivision (h) of Section 11346.1 and~~
36 ~~Section 11349.6 of the Government Code, the department shall~~
37 ~~transmit these regulations directly to the Secretary of State for~~
38 ~~filing. The regulations shall become effective immediately upon~~
39 ~~filing by the Secretary of State.~~

1 ~~(3) Except as otherwise provided for by Section 10554, the~~
2 ~~Office of Administrative Law shall provide for the printing and~~
3 ~~publication of these regulations in the California Code of~~
4 ~~Regulations. Emergency regulations adopted pursuant to this~~
5 ~~subdivision shall remain in effect for no more than 180 days.~~

6 ~~(m) (1) In the event that a county elects to form a nonprofit~~
7 ~~consortium or public authority pursuant to subdivision (a) before~~
8 ~~the State Department of Health Care Services has obtained all~~
9 ~~necessary federal approvals pursuant to paragraph (3) of~~
10 ~~subdivision (j) of Section 14132.95, all of the following shall apply:~~

11 ~~(A) Subdivision (d) shall apply only to those matters that do~~
12 ~~not require federal approval.~~

13 ~~(B) The second sentence of subdivision (h) shall not be~~
14 ~~operative.~~

15 ~~(C) The nonprofit consortium or public authority shall not~~
16 ~~provide services other than those specified in paragraphs (1), (2),~~
17 ~~(3), (4), and (5) of subdivision (e).~~

18 ~~(2) Paragraph (1) shall become inoperative when the State~~
19 ~~Department of Health Care Services has obtained all necessary~~
20 ~~federal approvals pursuant to paragraph (3) of subdivision (j) of~~
21 ~~Section 14132.95.~~

22 ~~(n) (1) One year after the effective date of the first approval by~~
23 ~~the department granted to the first public authority, the Bureau of~~
24 ~~State Audits shall commission a study to review the performance~~
25 ~~of that public authority.~~

26 ~~(2) The study shall be submitted to the Legislature and the~~
27 ~~Governor not later than two years after the effective date of the~~
28 ~~approval specified in subdivision (a). The study shall give special~~
29 ~~attention to the health and welfare of the recipients under the public~~
30 ~~authority, including the degree to which all required services have~~
31 ~~been delivered, out-of-home placement rates, prompt response to~~
32 ~~recipient complaints, and any other issue the director deems~~
33 ~~relevant.~~

34 ~~(3) The report shall make recommendations to the Legislature~~
35 ~~and the Governor for any changes to this section that will further~~
36 ~~ensure the well-being of recipients and the most efficient delivery~~
37 ~~of required services.~~

38 ~~(o) Commencing July 1, 1997, the department shall provide~~
39 ~~annual reports to the appropriate fiscal and policy committees of~~
40 ~~the Legislature on the efficacy of the implementation of this~~

1 section, and shall include an assessment of the quality of care
2 provided pursuant to this section.

3 (p) (1) Notwithstanding any other provision of law, and except
4 as provided in paragraph (2), the department shall, no later than
5 January 1, 2009, implement subparagraphs (A) and (B) through
6 an all county letter from the director:

7 (A) Subparagraphs (A) and (B) of paragraph (2) of subdivision
8 (e);

9 (B) Subparagraph (B) of paragraph (5) of subdivision (e).

10 (2) The department shall, no later than July 1, 2009, adopt
11 regulations to implement subparagraphs (A) and (B) of paragraph
12 (1).

13 (q) The amendments made to paragraphs (2) and (5) of
14 subdivision (e) made by the act that added this subdivision during
15 the 2007-08 Regular Session of the Legislature shall only be
16 implemented to the extent that an appropriation is made in the
17 annual Budget Act or other statute, except for the amendments
18 that added subparagraph (D) of paragraph (2) of subdivision (e),
19 which shall go into effect January 1, 2009.

20 SEC. 23. Section 12305.86 of the Welfare and Institutions
21 Code is amended to read:

22 12305.86. (a) Effective October 1, 2009, a county shall
23 investigate the background of a person who seeks to become a
24 supportive services provider and who is not listed on the registry
25 of a public authority or nonprofit consortium pursuant to Section
26 12301.6. This investigation shall include criminal background
27 checks conducted by the Department of Justice pursuant to Section
28 15660.

29 (b) No later than July 1, 2010, the county shall complete a
30 criminal background check pursuant to subdivision (a) for a
31 provider who is providing in-home supportive services prior to
32 October 1, 2009, and who is not listed on a public authority or
33 nonprofit consortium registry, as a condition of the provider's
34 continued enrollment in the IHSS program. Criminal background
35 checks shall be conducted at the provider's expense.

36 (c) Upon notice from the Department of Justice that a
37 prospective or current provider has been convicted of a criminal
38 offense specified in Section 12305.81, the county shall deny or
39 terminate the applicant's request to become a provider of

1 ~~supportive services to any recipient of the In-Home Supportive~~
2 ~~Services program.~~

3 ~~(1) If an applicant or provider is rejected as a result of~~
4 ~~information contained in the Department of Justice criminal~~
5 ~~offender record information response, the individual shall receive~~
6 ~~a copy of the response from the primary response recipient.~~

7 ~~(2) The department shall develop a written appeal process for~~
8 ~~the current and prospective providers who are determined ineligible~~
9 ~~to receive payment for the provision of services under the In-Home~~
10 ~~Supportive Services program.~~

11 ~~(d) Nothing in this section shall be construed to prohibit the~~
12 ~~Department of Justice from assessing a fee pursuant to Section~~
13 ~~11105 or 11123 of the Penal Code to cover the cost of furnishing~~
14 ~~summary criminal history information.~~

15 ~~(e) The department shall seek federal financial participation, to~~
16 ~~the extent possible, to cover any costs associated with this section.~~

17 ~~SEC. 24.~~

18 ~~SEC. 23.~~ Section 58 of Chapter 28 of the Third Extraordinary
19 Session of the Statutes of 2009 is repealed.

20 ~~SEC. 25.~~ Any section of any other act enacted by the
21 Legislature during the 2010 calendar year that takes effect on or
22 before January 1, 2011, and that amends, amends and renumbers,
23 adds, repeals and adds, or repeals a section that is amended,
24 amended and renumbered, added, repealed and added, or repealed
25 by this act shall prevail over this act, whether that act is enacted
26 prior to or subsequent to the enactment of this act.

27 ~~SEC. 26.~~ No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.

36 *SEC. 24. Any section of any act, other than SB 1330, enacted*
37 *by the Legislature during the 2010 calendar year that takes effect*
38 *on or before January 1, 2011, and that amends, amends and*
39 *renumbers, adds, repeals and adds, or repeals any one or more*
40 *of the sections affected by this act shall prevail over this act,*

1 *whether this act is enacted prior to, or subsequent to, the enactment*
2 *of that act. The repeal, or repeal and addition, of any article,*
3 *chapter, part, title, or division of any code by this act shall not*
4 *become operative if any section of any other act, other than SB*
5 *1330, that is enacted by the Legislature during the 2010 calendar*
6 *year and takes effect on or before January 1, 2011, amends,*
7 *amends and renumbers, adds, repeals and adds, or repeals any*
8 *section contained in that article, chapter, part, title, or division.*
9 *SEC. 25. If the Commission on State Mandates determines that*
10 *this act contains costs mandated by the state, reimbursement to*
11 *local agencies and school districts for those costs shall be made*
12 *pursuant to Part 7 (commencing with Section 17500) of Division*
13 *4 of Title 2 of the Government Code.*

O