

AMENDED IN ASSEMBLY FEBRUARY 23, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1462**

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**Introduced by Assembly Member Mendoza**

January 10, 2012

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An act to amend Sections 191.5, 193, ~~667.5, and 1192.7~~ 2933.1, and 4019 of the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 1462, as amended, Mendoza. Vehicular manslaughter.

Existing law defines gross vehicular manslaughter while intoxicated and vehicular manslaughter while intoxicated and prescribes penalties of imprisonment in the state prison for 4, 6, or 10 years and *in a county jail* for 16 months, 2 years, or 4 years, respectively, as specified. *Vehicular manslaughter while intoxicated is also punishable by imprisonment in a county jail for not more than one year.*

This bill would ~~instead make the penalty, in addition to the above-specified penalties, impose a fine~~ for gross vehicular manslaughter while intoxicated ~~imprisonment in the state prison for 6, 10, or 15 years and a fine of not less than \$2,000 and the penalty a fine~~ for vehicular manslaughter while intoxicated ~~imprisonment in the state prison for 3, 6, or 9 years and a fine of not less than \$1,000 but not more than \$10,000, as specified.~~

Existing law defines vehicular manslaughter and prescribes specified terms in prison.

This bill would add to the penalty for vehicular manslaughter a fine of not less than \$1,000 but not more than \$10,000.

~~Existing law, as added by Proposition 8, an initiative act known as the Victims' Bill of Rights Act, among other things, defines a serious~~

felony. Existing law, as amended by Proposition 21, another initiative act, further defines a violent felony. Under existing law, a person who is convicted of or who has a prior conviction for a serious or violent felony is subject to additional years of imprisonment in the state prison, as specified. The Legislature may amend either of those initiative acts by a statute passed in each house by a  $\frac{2}{3}$  vote, or by a statute that becomes effective only when approved by the voters.

This bill would include within the definition of violent felony specified instances of vehicular manslaughter and fleeing the scene of an accident that results in death or permanent, serious injury. The bill would include within the definition of a serious felony fleeing the scene of an accident that results in death or permanent, serious injury. Because this bill would amend those initiative acts described above, it would require a  $\frac{2}{3}$  vote. Because the bill would impose additional duties on local prosecutors, it would impose a state-mandated local program.

*Existing law provides that it is the intent of the Legislature that persons sentenced to state prison for a determinate sentence serve the entire sentence imposed by the court, except for a reduction in the time served in the custody of the Secretary of the Department of Corrections and Rehabilitation, as specified. Existing law permits a prisoner to earn one day of credit for each day in custody, up to a maximum of 6 months for every 6 months served, except when the prisoner commits a specified act of misconduct, including murder or manslaughter. Existing law prohibits a person who has committed a violent felony from accruing more than 15% of worktime credit. Existing law allows a prisoner confined to a county jail, industrial farm, road camp, or city jail, for each 4-day period in which a prisoner is confined or committed to the facility, to have 2 days deducted from his or her period of confinement, with specified exceptions.*

*This bill would limit the credits available to a person who is serving a sentence in either state prison or a county jail, industrial farm, road camp, or city jail for specified cases of vehicular manslaughter, including gross vehicular manslaughter while intoxicated and vehicular manslaughter while intoxicated, to 15% of the worktime credits. By increasing the time served in county jails, 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:  $\frac{2}{3}$ -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 191.5 of the Penal Code is amended to  
2 read:

3 191.5. (a) Gross vehicular manslaughter while intoxicated is  
4 the unlawful killing of a human being without malice aforethought,  
5 in the driving of a vehicle, where the driving was in violation of  
6 Section 23140, 23152, or 23153 of the Vehicle Code, and the  
7 killing was either the proximate result of the commission of an  
8 unlawful act, not amounting to a felony, and with gross negligence,  
9 or the proximate result of the commission of a lawful act that might  
10 produce death, in an unlawful manner, and with gross negligence.

11 (b) Vehicular manslaughter while intoxicated is the unlawful  
12 killing of a human being without malice aforethought, in the  
13 driving of a vehicle, where the driving was in violation of Section  
14 23140, 23152, or 23153 of the Vehicle Code, and the killing was  
15 either the proximate result of the commission of an unlawful act,  
16 not amounting to a felony, but without gross negligence, or the  
17 proximate result of the commission of a lawful act that might  
18 produce death, in an unlawful manner, but without gross  
19 negligence.

20 (c) (1) Except as provided in subdivision (d), gross vehicular  
21 manslaughter while intoxicated in violation of subdivision (a) is  
22 punishable by imprisonment in the state prison for ~~6, 10, or 15~~ *4,*  
23 *6, or 10* years and by a fine of not less than two thousand dollars  
24 (\$2,000).

25 (2) Vehicular manslaughter while intoxicated in violation of  
26 subdivision (b) is punishable by imprisonment *either* in a county  
27 jail for not more than one year or by imprisonment pursuant to  
28 subdivision (h) of Section 1170 for ~~3, 6, or 9~~ *16 months or two or*  
29 *four* years, and by a fine of not less than one thousand dollars  
30 (\$1,000) but not more than ten thousand dollars (\$10,000).

31 (d) A person convicted of violating subdivision (a) who has one  
32 or more prior convictions of this section or of paragraph (1) of  
33 subdivision (c) of Section 192, subdivision (a) or (b) of Section

1 192.5 of this code, or of violating Section 23152 punishable under  
2 Sections 23540, 23542, 23546, 23548, 23550, or 23552 of, or  
3 convicted of Section 23153 of, the Vehicle Code, shall be punished  
4 by imprisonment in the state prison for a term of 15 years to life.  
5 Article 2.5 (commencing with Section 2930) of Chapter 7 of Title  
6 1 of Part 3 shall apply to reduce the term imposed pursuant to this  
7 subdivision.

8 (e) This section shall not be construed as prohibiting or  
9 precluding a charge of murder under Section 188 upon facts  
10 exhibiting wantonness and a conscious disregard for life to support  
11 a finding of implied malice, or upon facts showing malice  
12 consistent with the holding of the California Supreme Court in  
13 *People v. Watson*, 30 Cal. 3d 290.

14 (f) This section shall not be construed as making any homicide  
15 in the driving of a vehicle or the operation of a vessel punishable  
16 which is not a proximate result of the commission of an unlawful  
17 act, not amounting to felony, or of the commission of a lawful act  
18 which might produce death, in an unlawful manner.

19 (g) For the penalties in subdivision (d) to apply, the existence  
20 of any fact required under subdivision (d) shall be alleged in the  
21 information or indictment and either admitted by the defendant in  
22 open court or found to be true by the trier of fact.

23 SEC. 2. Section 193 of the Penal Code is amended to read:

24 193. (a) Voluntary manslaughter is punishable by  
25 imprisonment in the state prison for 3, 6, or 11 years.

26 (b) Involuntary manslaughter is punishable by imprisonment  
27 pursuant to subdivision (h) of Section 1170 for two, three, or four  
28 years.

29 (c) Vehicular manslaughter is punishable as follows:

30 (1) A violation of paragraph (1) of subdivision (c) of Section  
31 192 is punishable either by imprisonment in the county jail for not  
32 more than one year or by imprisonment in the state prison for two,  
33 four, or six years and by a fine of not less than one thousand dollars  
34 (\$1,000) but not more than ten thousand dollars (\$10,000).

35 (2) A violation of paragraph (2) of subdivision (c) of Section  
36 192 is punishable by imprisonment in the county jail for not more  
37 than one year and by a fine of not more than ten thousand dollars  
38 (\$10,000).

39 (3) A violation of paragraph (3) of subdivision (c) of Section  
40 192 is punishable by imprisonment in the state prison for 4, 6, or

1 10 years and by a fine of not less than one thousand dollars  
2 (\$1,000) but not more than ten thousand dollars (\$10,000).

3 ~~SEC. 3. Section 667.5 of the Penal Code, as amended by~~  
4 ~~Section 10 of Chapter 12 of the First Extraordinary Session of the~~  
5 ~~Statutes of 2011, is amended to read:~~

6 ~~667.5. Enhancement of prison terms for new offenses because~~  
7 ~~of prior prison terms shall be imposed as follows:~~

8 ~~(a) Where one of the new offenses is one of the violent felonies~~  
9 ~~specified in subdivision (c), in addition to and consecutive to any~~  
10 ~~other prison terms therefor, the court shall impose a three-year~~  
11 ~~term for each prior separate prison term served by the defendant~~  
12 ~~where the prior offense was one of the violent felonies specified~~  
13 ~~in subdivision (c). However, no additional term shall be imposed~~  
14 ~~under this subdivision for any prison term served prior to a period~~  
15 ~~of 10 years in which the defendant remained free of both prison~~  
16 ~~custody and the commission of an offense which results in a felony~~  
17 ~~conviction.~~

18 ~~(b) Except where subdivision (a) applies, where the new offense~~  
19 ~~is any felony for which a prison sentence or a sentence of~~  
20 ~~imprisonment in a county jail under subdivision (h) of Section~~  
21 ~~1170 is imposed or is not suspended, in addition and consecutive~~  
22 ~~to any other sentence therefor, the court shall impose a one-year~~  
23 ~~term for each prior separate prison term or county jail term imposed~~  
24 ~~under subdivision (h) of Section 1170 or when sentence is not~~  
25 ~~suspended for any felony; provided that no additional term shall~~  
26 ~~be imposed under this subdivision for any prison term or county~~  
27 ~~jail term imposed under subdivision (h) of Section 1170 or when~~  
28 ~~sentence is not suspended prior to a period of five years in which~~  
29 ~~the defendant remained free of both the commission of an offense~~  
30 ~~which results in a felony conviction, and prison custody or the~~  
31 ~~imposition of a term of jail custody imposed under subdivision (h)~~  
32 ~~of Section 1170 or any felony sentence that is not suspended. A~~  
33 ~~term imposed under the provisions of paragraph (5) of subdivision~~  
34 ~~(h) of Section 1170, wherein a portion of the term is suspended~~  
35 ~~by the court to allow postrelease supervision, shall qualify as a~~  
36 ~~prior county jail term for the purposes of the one-year enhancement.~~

37 ~~(c) For the purpose of this section, “violent felony” shall mean~~  
38 ~~any of the following:~~

39 ~~(1) Murder or voluntary manslaughter.~~

40 ~~(2) Mayhem.~~

- 1 ~~(3) Rape as defined in paragraph (2) or (6) of subdivision (a)~~  
2 ~~of Section 261 or paragraph (1) or (4) of subdivision (a) of Section~~  
3 ~~262.~~
- 4 ~~(4) Sodomy as defined in subdivision (c) or (d) of Section 286.~~
- 5 ~~(5) Oral copulation as defined in subdivision (c) or (d) of Section~~  
6 ~~288a.~~
- 7 ~~(6) Lewd or lascivious act as defined in subdivision (a) or (b)~~  
8 ~~of Section 288.~~
- 9 ~~(7) Any felony punishable by death or imprisonment in the state~~  
10 ~~prison for life.~~
- 11 ~~(8) Any felony in which the defendant inflicts great bodily injury~~  
12 ~~on any person other than an accomplice which has been charged~~  
13 ~~and proved as provided for in Section 12022.7, 12022.8, or 12022.9~~  
14 ~~on or after July 1, 1977, or as specified prior to July 1, 1977, in~~  
15 ~~Sections 213, 264, and 461, or any felony in which the defendant~~  
16 ~~uses a firearm which use has been charged and proved as provided~~  
17 ~~in subdivision (a) of Section 12022.3, or Section 12022.5 or~~  
18 ~~12022.55.~~
- 19 ~~(9) Any robbery.~~
- 20 ~~(10) Arson, in violation of subdivision (a) or (b) of Section 451.~~
- 21 ~~(11) Sexual penetration as defined in subdivision (a) or (j) of~~  
22 ~~Section 289.~~
- 23 ~~(12) Attempted murder.~~
- 24 ~~(13) A violation of Section 18745, 18750, or 18755.~~
- 25 ~~(14) Kidnapping.~~
- 26 ~~(15) Assault with the intent to commit a specified felony, in~~  
27 ~~violation of Section 220.~~
- 28 ~~(16) Continuous sexual abuse of a child, in violation of Section~~  
29 ~~288.5.~~
- 30 ~~(17) Carjacking, as defined in subdivision (a) of Section 215.~~
- 31 ~~(18) Rape, spousal rape, or sexual penetration, in concert, in~~  
32 ~~violation of Section 264.1.~~
- 33 ~~(19) Extortion, as defined in Section 518, which would constitute~~  
34 ~~a felony violation of Section 186.22 of the Penal Code.~~
- 35 ~~(20) Threats to victims or witnesses, as defined in Section 136.1,~~  
36 ~~which would constitute a felony violation of Section 186.22 of the~~  
37 ~~Penal Code.~~
- 38 ~~(21) Any burglary of the first degree, as defined in subdivision~~  
39 ~~(a) of Section 460, wherein it is charged and proved that another~~

1 ~~person, other than an accomplice, was present in the residence~~  
2 ~~during the commission of the burglary.~~

3 ~~(22) Any violation of Section 12022.53.~~

4 ~~(23) A violation of subdivision (b) or (c) of Section 11418. The~~  
5 ~~Legislature finds and declares that these specified crimes merit~~  
6 ~~special consideration when imposing a sentence to display society's~~  
7 ~~condemnation for these extraordinary crimes of violence against~~  
8 ~~the person.~~

9 ~~(24) Vehicular manslaughter, in violation of Section 191.5 or~~  
10 ~~paragraph (1) or (3) of subdivision (e) of Section 192.~~

11 ~~(25) Violation of paragraph (2) of subdivision (b) of Section~~  
12 ~~20001 of the Vehicle Code.~~

13 ~~(d) For the purposes of this section, the defendant shall be~~  
14 ~~deemed to remain in prison custody for an offense until the official~~  
15 ~~discharge from custody or until release on parole, whichever first~~  
16 ~~occurs, including any time during which the defendant remains~~  
17 ~~subject to reimprisonment for escape from custody or is~~  
18 ~~reimprisoned on revocation of parole. The additional penalties~~  
19 ~~provided for prior prison terms shall not be imposed unless they~~  
20 ~~are charged and admitted or found true in the action for the new~~  
21 ~~offense.~~

22 ~~(e) The additional penalties provided for prior prison terms shall~~  
23 ~~not be imposed for any felony for which the defendant did not~~  
24 ~~serve a prior separate term in state prison or in county jail under~~  
25 ~~subdivision (h) of Section 1170.~~

26 ~~(f) A prior conviction of a felony shall include a conviction in~~  
27 ~~another jurisdiction for an offense which, if committed in~~  
28 ~~California, is punishable by imprisonment in the state prison or in~~  
29 ~~county jail under subdivision (h) of Section 1170 if the defendant~~  
30 ~~served one year or more in prison for the offense in the other~~  
31 ~~jurisdiction. A prior conviction of a particular felony shall include~~  
32 ~~a conviction in another jurisdiction for an offense which includes~~  
33 ~~all of the elements of the particular felony as defined under~~  
34 ~~California law if the defendant served one year or more in prison~~  
35 ~~for the offense in the other jurisdiction.~~

36 ~~(g) A prior separate prison term for the purposes of this section~~  
37 ~~shall mean a continuous completed period of prison incarceration~~  
38 ~~imposed for the particular offense alone or in combination with~~  
39 ~~concurrent or consecutive sentences for other crimes, including~~  
40 ~~any reimprisonment on revocation of parole which is not~~

1 accompanied by a new commitment to prison, and including any  
2 reimprisonment after an escape from incarceration.

3 (h) ~~Serving a prison term includes any confinement time in any  
4 state prison or federal penal institution as punishment for  
5 commission of an offense, including confinement in a hospital or  
6 other institution or facility credited as service of prison time in the  
7 jurisdiction of the confinement.~~

8 (i) ~~For the purposes of this section, a commitment to the State  
9 Department of Mental Health as a mentally disordered sex offender  
10 following a conviction of a felony, which commitment exceeds  
11 one year in duration, shall be deemed a prior prison term.~~

12 (j) ~~For the purposes of this section, when a person subject to  
13 the custody, control, and discipline of the Director of Corrections  
14 is incarcerated at a facility operated by the Department of the Youth  
15 Authority, that incarceration shall be deemed to be a term served  
16 in state prison.~~

17 (k) ~~(1) Notwithstanding subdivisions (d) and (g) or any other  
18 provision of law, where one of the new offenses is committed  
19 while the defendant is temporarily removed from prison pursuant  
20 to Section 2690 or while the defendant is transferred to a  
21 community facility pursuant to Section 3416, 6253, or 6263, or  
22 while the defendant is on furlough pursuant to Section 6254, the  
23 defendant shall be subject to the full enhancements provided for  
24 in this section.~~

25 ~~(2) This subdivision shall not apply when a full, separate, and  
26 consecutive term is imposed pursuant to any other provision of  
27 law.~~

28 SEC. 4. ~~Section 1192.7 of the Penal Code, as amended by  
29 Section 73 of Chapter 178 of the Statutes of 2010, is amended to  
30 read:~~

31 ~~1192.7. (a) (1) It is the intent of the Legislature that district  
32 attorneys prosecute violent sex crimes under statutes that provide  
33 sentencing under a “one strike,” “three strikes” or habitual sex  
34 offender statute instead of engaging in plea bargaining over those  
35 offenses.~~

36 ~~(2) Plea bargaining in any case in which the indictment or  
37 information charges any serious felony, any felony in which it is  
38 alleged that a firearm was personally used by the defendant, or  
39 any offense of driving while under the influence of alcohol, drugs,  
40 narcotics, or any other intoxicating substance, or any combination~~

1 thereof, is prohibited, unless there is insufficient evidence to prove  
2 the people's case, or testimony of a material witness cannot be  
3 obtained, or a reduction or dismissal would not result in a  
4 substantial change in sentence.

5 (3) If the indictment or information charges the defendant with  
6 a violent sex crime, as listed in subdivision (c) of Section 667.61,  
7 that could be prosecuted under Sections 269, 288.7, subdivisions  
8 (b) through (i) of Section 667, Section 667.61, or 667.71, plea  
9 bargaining is prohibited unless there is insufficient evidence to  
10 prove the people's case, or testimony of a material witness cannot  
11 be obtained, or a reduction or dismissal would not result in a  
12 substantial change in sentence. At the time of presenting the  
13 agreement to the court, the district attorney shall state on the record  
14 why a sentence under one of those sections was not sought.

15 (b) As used in this section "plea bargaining" means any  
16 bargaining, negotiation, or discussion between a criminal  
17 defendant, or his or her counsel, and a prosecuting attorney or  
18 judge, whereby the defendant agrees to plead guilty or nolo  
19 contendere, in exchange for any promises, commitments,  
20 concessions, assurances, or consideration by the prosecuting  
21 attorney or judge relating to any charge against the defendant or  
22 to the sentencing of the defendant.

23 (c) As used in this section, "serious felony" means any of the  
24 following:

25 (1) Murder or voluntary manslaughter; (2) mayhem; (3) rape;  
26 (4) sodomy by force, violence, duress, menace, threat of great  
27 bodily injury, or fear of immediate and unlawful bodily injury on  
28 the victim or another person; (5) oral copulation by force, violence,  
29 duress, menace, threat of great bodily injury, or fear of immediate  
30 and unlawful bodily injury on the victim or another person; (6)  
31 lewd or lascivious act on a child under 14 years of age; (7) any  
32 felony punishable by death or imprisonment in the state prison for  
33 life; (8) any felony in which the defendant personally inflicts great  
34 bodily injury on any person, other than an accomplice, or any  
35 felony in which the defendant personally uses a firearm; (9)  
36 attempted murder; (10) assault with intent to commit rape or  
37 robbery; (11) assault with a deadly weapon or instrument on a  
38 peace officer; (12) assault by a life prisoner on a noninmate; (13)  
39 assault with a deadly weapon by an inmate; (14) arson; (15)  
40 exploding a destructive device or any explosive with intent to

1 injure; (16) exploding a destructive device or any explosive causing  
2 bodily injury, great bodily injury, or mayhem; (17) exploding a  
3 destructive device or any explosive with intent to murder; (18) any  
4 burglary of the first degree; (19) robbery or bank robbery; (20)  
5 kidnapping; (21) holding of a hostage by a person confined in a  
6 state prison; (22) attempt to commit a felony punishable by death  
7 or imprisonment in the state prison for life; (23) any felony in  
8 which the defendant personally used a dangerous or deadly weapon;  
9 (24) selling, furnishing, administering, giving, or offering to sell,  
10 furnish, administer, or give to a minor any heroin, cocaine,  
11 phenylelidine (PCP), or any methamphetamine-related drug, as  
12 described in paragraph (2) of subdivision (d) of Section 11055 of  
13 the Health and Safety Code, or any of the precursors of  
14 methamphetamines, as described in subparagraph (A) of paragraph  
15 (1) of subdivision (f) of Section 11055 or subdivision (a) of Section  
16 11100 of the Health and Safety Code; (25) any violation of  
17 subdivision (a) of Section 289 where the act is accomplished  
18 against the victim's will by force, violence, duress, menace, or  
19 fear of immediate and unlawful bodily injury on the victim or  
20 another person; (26) grand theft involving a firearm; (27)  
21 carjacking; (28) any felony offense, which would also constitute  
22 a felony violation of Section 186.22; (29) assault with the intent  
23 to commit mayhem, rape, sodomy, or oral copulation, in violation  
24 of Section 220; (30) throwing acid or flammable substances, in  
25 violation of Section 244; (31) assault with a deadly weapon,  
26 firearm, machinegun, assault weapon, or semiautomatic firearm  
27 or assault on a peace officer or firefighter, in violation of Section  
28 245; (32) assault with a deadly weapon against a public transit  
29 employee, custodial officer, or school employee, in violation of  
30 Section 245.2, 245.3, or 245.5; (33) discharge of a firearm at an  
31 inhabited dwelling, vehicle, or aircraft, in violation of Section 246;  
32 (34) commission of rape or sexual penetration in concert with  
33 another person, in violation of Section 264.1; (35) continuous  
34 sexual abuse of a child, in violation of Section 288.5; (36) shooting  
35 from a vehicle, in violation of subdivision (c) or (d) of Section  
36 26100; (37) intimidation of victims or witnesses, in violation of  
37 Section 136.1; (38) criminal threats, in violation of Section 422;  
38 (39) any attempt to commit a crime listed in this subdivision other  
39 than an assault; (40) any violation of Section 12022.53; (41) a  
40 violation of subdivision (b) or (c) of Section 11418; (42) any

1 conspiracy to commit an offense described in this subdivision; and  
2 ~~(43) violation of paragraph (2) of subdivision (b) of Section 20001~~  
3 ~~of the Vehicle Code.~~

4 ~~(d) As used in this section, “bank robbery” means to take or~~  
5 ~~attempt to take, by force or violence, or by intimidation from the~~  
6 ~~person or presence of another any property or money or any other~~  
7 ~~thing of value belonging to, or in the care, custody, control,~~  
8 ~~management, or possession of, any bank, credit union, or any~~  
9 ~~savings and loan association.~~

10 ~~As used in this subdivision, the following terms have the~~  
11 ~~following meanings:~~

12 ~~(1) “Bank” means any member of the Federal Reserve System,~~  
13 ~~and any bank, banking association, trust company, savings bank,~~  
14 ~~or other banking institution organized or operating under the laws~~  
15 ~~of the United States, and any bank the deposits of which are insured~~  
16 ~~by the Federal Deposit Insurance Corporation.~~

17 ~~(2) “Savings and loan association” means any federal savings~~  
18 ~~and loan association and any “insured institution” as defined in~~  
19 ~~Section 401 of the federal National Housing Act, as amended, and~~  
20 ~~any federal credit union as defined in Section 2 of the Federal~~  
21 ~~Credit Union Act.~~

22 ~~(3) “Credit union” means any federal credit union and any~~  
23 ~~state-chartered credit union the accounts of which are insured by~~  
24 ~~the Administrator of the National Credit Union administration.~~

25 ~~(e) The provisions of this section shall not be amended by the~~  
26 ~~Legislature except by statute passed in each house by rolleall vote~~  
27 ~~entered in the journal, two-thirds of the membership concurring,~~  
28 ~~or by a statute that becomes effective only when approved by the~~  
29 ~~electors.~~

30 *SEC. 3. Section 2933.1 of the Penal Code is amended to read:*

31 2933.1. (a) Notwithstanding any other law, any person who  
32 is convicted of a felony offense listed in *subdivision (a) of Section*  
33 *191.5, paragraph (1) of subdivision (c) of Section 192, subdivision*  
34 *(a), (b), or (c) of Section 192.5, or subdivision (c) of Section 667.5*  
35 *shall accrue no more than 15 percent of worktime credit, as defined*  
36 *in Section 2933.*

37 (b) The 15-percent limitation provided in subdivision (a) shall  
38 apply whether the defendant is sentenced under Chapter 4.5  
39 (commencing with Section 1170) of Title 7 of Part 2 or sentenced  
40 under some other law. However, nothing in subdivision (a) shall

1 affect the requirement of any statute that the defendant serve a  
 2 specified period of time prior to minimum parole eligibility, nor  
 3 shall any offender otherwise statutorily ineligible for credit be  
 4 eligible for credit pursuant to this section.

5 (c) Notwithstanding Section 4019 or any other provision of law,  
 6 the maximum credit that may be earned against a period of  
 7 confinement in, or commitment to, a county jail, industrial farm,  
 8 or road camp, or a city jail, industrial farm, or road camp, following  
 9 arrest and prior to placement in the custody of the ~~Director of~~  
 10 ~~Corrections~~ *Secretary of the Department of Corrections and*  
 11 *Rehabilitation*, shall not exceed 15 percent of the actual period of  
 12 confinement for any person specified in subdivision (a).

13 (d) This section shall only apply to offenses listed in subdivision  
 14 (a) that are committed on or after the date on which this section  
 15 becomes operative.

16 *SEC. 4. Section 4019 of the Penal Code is amended to read:*

17 4019. (a) The provisions of this section shall apply in all of  
 18 the following cases:

19 (1) When a prisoner is confined in or committed to a county  
 20 jail, industrial farm, or road camp, or any city jail, industrial farm,  
 21 or road camp, including all days of custody from the date of arrest  
 22 to the date on which the serving of the sentence commences, under  
 23 a judgment of imprisonment, or a fine and imprisonment until the  
 24 fine is paid in a criminal action or proceeding.

25 (2) When a prisoner is confined in or committed to the county  
 26 jail, industrial farm, or road camp or any city jail, industrial farm,  
 27 or road camp as a condition of probation after suspension of  
 28 imposition of a sentence or suspension of execution of sentence,  
 29 in a criminal action or proceeding.

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

34 (4) When a prisoner is confined in a county jail, industrial farm,  
 35 or road camp, or a city jail, industrial farm, or road camp following  
 36 arrest and prior to the imposition of sentence for a felony  
 37 conviction.

38 (5) When a prisoner is confined in a county jail, industrial farm,  
 39 or road camp, or a city jail, industrial farm, or road camp as part

1 of custodial sanction imposed following a violation of postrelease  
2 community supervision or parole.

3 (6) When a prisoner is confined in a county jail, industrial farm,  
4 or road camp, or a city jail, industrial farm, or road camp as a result  
5 of a sentence imposed pursuant to subdivision (h) of Section 1170.

6 (b) Subject to the provisions of subdivision (d), for each four-day  
7 period in which a prisoner is confined in or committed to a facility  
8 as specified in this section, one day shall be deducted from his or  
9 her period of confinement unless it appears by the record that the  
10 prisoner has refused to satisfactorily perform labor as assigned by  
11 the sheriff, chief of police, or superintendent of an industrial farm  
12 or road camp.

13 (c) For each four-day period in which a prisoner is confined in  
14 or committed to a facility as specified in this section, one day shall  
15 be deducted from his or her period of confinement unless it appears  
16 by the record that the prisoner has not satisfactorily complied with  
17 the reasonable rules and regulations established by the sheriff,  
18 chief of police, or superintendent of an industrial farm or road  
19 camp.

20 (d) Nothing in this section shall be construed to require the  
21 sheriff, chief of police, or superintendent of an industrial farm or  
22 road camp to assign labor to a prisoner if it appears from the record  
23 that the prisoner has refused to satisfactorily perform labor as  
24 assigned or that the prisoner has not satisfactorily complied with  
25 the reasonable rules and regulations of the sheriff, chief of police,  
26 or superintendent of any industrial farm or road camp.

27 (e) No deduction may be made under this section unless the  
28 person is committed for a period of four days or longer.

29 (f) It is the intent of the Legislature that if all days are earned  
30 under this section, a term of four days will be deemed to have been  
31 served for every two days spent in actual custody.

32 (g) The changes in this section as enacted by the act that added  
33 this subdivision shall apply to prisoners who are confined to a  
34 county jail, city jail, industrial farm, or road camp for a crime  
35 committed on or after the effective date of that act.

36 (h) The changes to this section enacted by the act that added  
37 this subdivision shall apply prospectively and shall apply to  
38 prisoners who are confined to a county jail, city jail, industrial  
39 farm, or road camp for a crime committed on or after October 1,

1 2011. Any days earned by a prisoner prior to October 1, 2011,  
2 shall be calculated at the rate required by the prior law.

3 (i) This section shall not apply, and no credits may be earned,  
4 for periods of flash incarceration imposed pursuant to Section  
5 3000.08 or 3454.

6 (j) *Notwithstanding any other law, a person who is convicted*  
7 *of a felony offense listed in subdivision (a) or (b) of Section 191.5,*  
8 *paragraph (1) of subdivision (c) of Section 192, or subdivision*  
9 *(a), (b), or (c) of Section 192.5 shall accrue no more than 15*  
10 *percent of the worktime credit otherwise awarded pursuant to*  
11 *subdivision (b) or (c).*

12 SEC. 5. No reimbursement is required by this act pursuant to  
13 Section 6 of Article XIII B of the California Constitution because  
14 the only costs that may be incurred by a local agency or school  
15 district will be incurred because this act creates a new crime or  
16 infraction, eliminates a crime or infraction, or changes the penalty  
17 for a crime or infraction, within the meaning of Section 17556 of  
18 the Government Code, or changes the definition of a crime within  
19 the meaning of Section 6 of Article XIII B of the California  
20 Constitution.