

AMENDED IN SENATE MAY 17, 2011

AMENDED IN SENATE APRIL 27, 2011

**SENATE BILL**

**No. 428**

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**Introduced by Senator Strickland**

February 16, 2011

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An act to amend Sections 7480, 15202.1, and 70372 of the Government Code, to amend Sections 466, 633.8, 904.7, 992, 1181, ~~1203.01~~, 1203.4, 1203.4a, 1387, 1466, 11105.2, *14303*, and 14314 of the Penal Code, to amend Section 10334 of the Public Contract Code, and to amend Sections 21203 and 21712 of the Vehicle Code, relating to public safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 428, as amended, Strickland. Public safety omnibus bill.

(1) Existing law generally regulates governmental access to financial records. Existing law provides that the dissemination of records pursuant to specified provisions shall not be prohibited.

This bill would include within that category of records which the dissemination of shall not be prohibited, the dissemination of financial information and records pursuant to an order by a judge under specified authority relating to mortgage fraud.

(2) Existing law provides that, in any homicide cases in which a final judgment was entered prior to January 1, 1990, if the venue for trial of a homicide case has been changed from the county which is eligible for reimbursement, as specified, to a location more than 60 miles from the county seat of that county, and the district attorney of that county has entered into a contract with an attorney to try the case or an investigator to assist in the trial of the case, the Controller shall

reimburse the county for the actual costs of the attorney or investigator, as specified.

This bill would instead apply the provisions above to any homicide cases in which a final judgment was not entered prior to January 1, 1990.

(3) Existing law requires a state court construction penalty be imposed upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, as specified,

This bill would make a technical, nonsubstantive change to those provisions.

(4) Existing law makes it a misdemeanor for any person to have upon him or her in his or her possession a picklock, crow, keybit, crowbar, or other specified items, with felonious intent, or for other specified purposes.

This bill would instead make it a misdemeanor for any person to have upon him or her or in his or her possession those specified items, with felonious intent, or for those other specified purposes. By expanding the definition of a crime, this bill would create a state-mandated local program.

(5) Existing law authorizes peace officers to use or authorize the use of an electronic amplifying or recording device to eavesdrop on or record, or both, any oral communication under specified conditions.

This bill would make a technical, nonsubstantive change to those provisions.

(6) Existing law provides for the impanelment of an additional civil grand jury in the County of San Bernardino pursuant to specified procedures.

This bill would make a technical, nonsubstantive change ~~change~~ *changes* to that provision.

(7) Existing law requires the court, in any case in which the defendant is charged with a felony, to require the defendant to provide a right thumbprint on a form developed for that purpose.

This bill would require the court to obtain the thumbprint at the arraignment on the information or indictment, or upon entry of a guilty or no contest plea unless the court has obtained the thumbprint at an earlier proceeding.

(8) Existing law provides that when a verdict has been rendered or a finding made against the defendant, the court may, upon the defendant's application, grant a new trial, in limited specified cases,

including when the jury has been guilty of any misconduct by which a fair and due consideration of the case has been prevented.

This bill would make technical, nonsubstantive changes to those provisions.

~~(9) Existing law requires the clerk of the court, within 60 days after judgment has been pronounced, to mail a copy of the charging documents, the transcript of the proceedings at the time of the defendant's guilty plea, if the defendant pleaded guilty, and the transcript of the proceedings at the time of sentencing, with postage prepaid, to the prison or other institution to which the person convicted is delivered.~~

~~This bill would instead require the clerk to mail a copy of specified documents in cases in which the judgment includes a sentence of death or an indeterminate term. The bill would require, in all other cases, the clerk to mail specified documents upon written request by the Department of Corrections and Rehabilitation.~~

~~(10)~~

~~(9) Existing law generally provides for the granting of probation.~~

This bill would make a technical, nonsubstantive change to those provisions.

~~(11)~~

~~(10) Existing law provides that every defendant convicted of a misdemeanor and not granted probation, and every defendant convicted of an infraction, shall, under specified conditions and procedures, be permitted by the court to withdraw his or her plea of guilty or nolo contendere and enter a plea of not guilty or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty and dismiss the accusatory pleading and release the defendant from all penalties and disabilities resulting from the offense, except as specified.~~

This bill would provide that those provisions do not apply to any infraction falling within the provisions of the Vehicle Code or to a local ordinance adopted pursuant to the Vehicle Code.

~~(12)~~

~~(11) Existing law provides that an order terminating an action, as specified, is a bar to any other prosecution for the same offense, except as specified. Existing law provides that an order terminating an action is not a bar to prosecution if a complaint is dismissed before the commencement of a preliminary hearing in favor of an indictment filed pursuant to specified grand jury proceedings and the indictment is based~~

upon the same subject matter as charged in the dismissed complaint, information, or indictment.

This bill would instead provide that an order terminating an action is not a bar to prosecution if a complaint is dismissed before the commencement of a preliminary hearing in favor of an indictment filed pursuant to those grand jury proceedings or an indictment is based upon the same subject matter as charged in a dismissed complaint, information, or indictment.

(13)

(12) Existing law permits, under specified conditions, an appeal to be taken from a judgment or order, in an infraction or misdemeanor case, to the appellate division of the superior court of the county in which the court from which the appeal is taken is located.

This bill would make technical, nonsubstantive changes to this provision.

(14)

(13) Existing law authorizes the Department of Justice to provide subsequent arrest notification to specified agencies authorized to receive state summary criminal history information for purposes relating to the approval of relative caregivers and nonrelative extended family members.

This bill would expand this authorization to permit the department to provide subsequent state or federal arrest notification to any entity authorized by state or federal code or regulation, as specified.

(15)

(14) Existing law establishes the Environmental Enforcement and Training Account in the General Fund to be expended upon appropriation by the Legislature. Existing law provides that 25% or \$100,000, whichever is less, of the funds be provided to the Commission on Peace Officer Standards and Training (POST).

This bill would permit POST to decline all or part of this allocation and provide that any funds so declined be ~~made available, upon appropriation by the Legislature,~~ *reallocated, as specified*, for other authorized purposes for the training of peace officers. *The bill would make a related change.*

(16)

(15) Existing law provides that no state employee shall acquire any goods from the state, unless the goods are offered to the general public on the same terms and conditions as those applicable to the employee.

This bill would authorize the spouse of a peace officer employed by the state who died in the line of duty to purchase the deceased officer’s state-issued handgun, as specified.

(17)

(16) Existing law prohibits any person riding upon any motorcycle, motorized bicycle, bicycle, coaster, roller skates, sled, or toy vehicle from attaching to any streetcar or vehicle on the roadway.

This bill would additionally prohibit any person riding upon any type of human-powered or gravity-powered device, including, but not limited to, a tricycle, four-wheeled cycle, surrey, roller skis, wheeled shoes, skateboard, scooter, or skis from attaching to any streetcar or vehicle on the roadway.

(18)

(17) Existing law prohibits any person from knowingly driving a motor vehicle that is towing a person riding upon a motorcycle, motorized bicycle, bicycle, coaster, roller skates, sled, skis, or toy vehicle.

This bill additionally prohibits any person from knowingly driving a motor vehicle that is towing a person riding upon any type of human-powered or gravity-powered device, including, but not limited to, a tricycle, four-wheeled cycle, surrey, roller skis, wheeled shoes, skateboard, or scooter. By expanding the definition of an existing crime, this bill would impose a state-mandated local program.

(19)

(18) 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 29 of Chapter 697 of the Statutes of 2010, is  
3 amended to read:  
4 7480. Nothing in this chapter shall prohibit any of the  
5 following:

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

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

20 (1) The number of items dishonored.

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

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

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

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

30 (6) The date the account opened and, if applicable, the date the  
31 account closed.

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

37 (A) Requires a financial institution to produce a photograph or  
38 video recording if it does not possess the photograph or video  
39 recording.

1 (B) Affects any existing civil immunities as provided in Section  
2 47 of the Civil Code or any other provision of law.

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

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

23 (1) The number of items dishonored.

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

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

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

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

33 (6) The date the account opened and, if applicable, the date the  
34 account closed.

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

1 (A) Requires a financial institution to produce a photograph or  
2 video recording if it does not possess the photograph or video  
3 recording.

4 (B) Affects any existing civil immunities as provided in Section  
5 47 of the Civil Code or any other provision of law.

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

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

15 (1) Authorization of the disclosure for the period specified in  
16 subdivision (c).

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

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

22 (e) (1) The Attorney General, a supervisory agency, the  
23 Franchise Tax Board, the State Board of Equalization, the  
24 Employment Development Department, the Controller or an  
25 inheritance tax referee when administering the Prohibition of Gift  
26 and Death Taxes (Part 8 (commencing with Section 13301) of  
27 Division 2 of the Revenue and Taxation Code), a police or sheriff's  
28 department or district attorney, a county adult protective services  
29 office when investigating the financial abuse of an elder or  
30 dependent adult, a long-term care ombudsman when investigating  
31 the financial abuse of an elder or dependent adult, a county welfare  
32 department when investigating welfare fraud, a county  
33 auditor-controller or director of finance when investigating fraud  
34 against the county, or the Department of Corporations when  
35 conducting investigations in connection with the enforcement of  
36 laws administered by the Commissioner of Corporations, from  
37 requesting of an office or branch of a financial institution, and the  
38 office or branch from responding to a request, as to whether a  
39 person has an account or accounts at that office or branch and, if  
40 so, any identifying numbers of the account or accounts.

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

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

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

16 (1) With respect to the Commissioner of Financial Institutions  
17 by reference to Division 1 (commencing with Section 99), Division  
18 1.5 (commencing with Section 4800), Division 2 (commencing  
19 with Section 5000), Division 5 (commencing with Section 14000),  
20 Division 7 (commencing with Section 18000), Division 15  
21 (commencing with Section 31000), and Division 16 (commencing  
22 with Section 33000), of the Financial Code.

23 (2) With respect to the Controller by reference to Title 10  
24 (commencing with Section 1300) of Part 3 of the Code of Civil  
25 Procedure.

26 (3) With respect to the Administrator of Local Agency Security  
27 by reference to Article 2 (commencing with Section 53630) of  
28 Chapter 4 of Part 1 of Division 2 of Title 5 of the Government  
29 Code.

30 (g) The disclosure to the Franchise Tax Board of (1) the amount  
31 of any security interest that a financial institution has in a specified  
32 asset of a customer or (2) financial records in connection with the  
33 filing or audit of a tax return or tax information return that are  
34 required to be filed by the financial institution pursuant to Part 10  
35 (commencing with Section 17001), Part 11 (commencing with  
36 Section 23001), or Part 18 (commencing with Section 38001), of  
37 the Revenue and Taxation Code.

38 (h) The disclosure to the State Board of Equalization of any of  
39 the following:

1 (1) The information required by Sections 6702, 6703, 8954,  
2 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155,  
3 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404,  
4 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the  
5 Revenue and Taxation Code.

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

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

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

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

22 (k) The disclosure by a construction lender, as defined in Section  
23 8006 of the Civil Code, to the Registrar of Contractors, of  
24 information concerning the making of progress payments to a  
25 prime contractor requested by the registrar in connection with an  
26 investigation under Section 7108.5 of the Business and Professions  
27 Code.

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

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

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

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

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

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

22 (6) The local child support agency may request information  
23 pursuant to this subdivision only when the local child support  
24 agency has received at least one of the following types of physical  
25 evidence:

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

27 (i) Form 599.

28 (ii) Form 1099.

29 (iii) A bank statement.

30 (iv) A check.

31 (v) A bank passbook.

32 (vi) A deposit slip.

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

34 (viii) A debit or credit advice.

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

37 (x) Correspondence that identifies the child support obligor by  
38 name, the bank, and the banking services related to the account of  
39 the obligor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (5) No financial institution, or any officer, employee, or agent
- 2 thereof, shall be liable to any person for any of the following:
- 3 (A) Disclosing information to a probate court pursuant to
- 4 Sections 2892 and 2893.
- 5 (B) Disclosing information in response to a court order pursuant
- 6 to paragraph (3).
- 7 (C) Complying with a court order under this subdivision not to
- 8 disclose to the customer, the order, or the dissemination of
- 9 information pursuant to the court order.
- 10 (o) Disclosure by a financial institution to a peace officer, as
- 11 defined in Section 830.1 of the Penal Code, pursuant to the
- 12 following:
- 13 (1) Paragraph (1) of subdivision (a) of Section 1748.95 of the
- 14 Civil Code, provided that the financial institution has first complied
- 15 with the requirements of paragraph (2) of subdivision (a) and
- 16 subdivision (b) of Section 1748.95 of the Civil Code.
- 17 (2) Paragraph (1) of subdivision (a) of Section 4002 of the
- 18 Financial Code, provided that the financial institution has first
- 19 complied with the requirements of paragraph (2) of subdivision
- 20 (a) and subdivision (b) of Section 4002 of the Financial Code.
- 21 (3) Paragraph (1) of subdivision (a) of Section 22470 of the
- 22 Financial Code, provided that any financial institution that is a
- 23 finance lender has first complied with the requirements of
- 24 paragraph (2) of subdivision (a) and subdivision (b) of Section
- 25 22470 of the Financial Code.
- 26 (p) When the governing board of the Public Employees’
- 27 Retirement System or the State Teachers’ Retirement System
- 28 certifies in writing to a financial institution that a benefit recipient
- 29 has died and that transfers to the benefit recipient’s account at the
- 30 financial institution from the retirement system occurred after the
- 31 benefit recipient’s date of death, the financial institution shall
- 32 furnish the retirement system with the name and address of any
- 33 coowner, cosigner, or any other person who had access to the funds
- 34 in the account following the date of the benefit recipient’s death,
- 35 or if the account has been closed, the name and address of the
- 36 person who closed the account.
- 37 (q) When the retirement board of a retirement system established
- 38 under the County Employees Retirement Law of 1937 certifies in
- 39 writing to a financial institution that a retired member or the
- 40 beneficiary of a retired member has died and that transfers to the

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

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

24 SEC. 2. Section 7480 of the Government Code, as amended  
25 by Section 30 of Chapter 697 of the Statutes of 2010, is amended  
26 to read:

27 7480. Nothing in this chapter shall prohibit any of the  
28 following:

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

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

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

8 (1) The number of items dishonored.

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

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

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

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

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

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

25 (A) Requires a financial institution to produce a photograph or  
26 video recording if it does not possess the photograph or video  
27 recording.

28 (B) Affects any existing civil immunities as provided in Section  
29 47 of the Civil Code or any other provision of law.

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

34 (c) When any police or sheriff's department or district attorney  
35 in this state certifies to a bank, credit union, or savings association  
36 in writing that a crime report has been filed that involves the  
37 alleged fraudulent use of drafts, checks, access cards, or other  
38 orders drawn upon any bank, credit union, or savings association  
39 doing business in this state, the police or sheriff's department or  
40 district attorney, a county adult protective services office when

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

- 10 (1) The number of items dishonored.
- 11 (2) The number of items paid that created overdrafts.
- 12 (3) The dollar volume of the dishonored items and items paid  
13 which created overdrafts and a statement explaining any credit  
14 arrangement between the bank, credit union, or savings association  
15 and customer to pay overdrafts.
- 16 (4) The dates and amounts of deposits and debits and the account  
17 balance on these dates.
- 18 (5) A copy of the signature card, including the signature and  
19 any addresses appearing on a customer's signature card.
- 20 (6) The date the account opened and, if applicable, the date the  
21 account closed.
- 22 (7) Surveillance photographs and video recordings of persons  
23 accessing the crime victim's financial account via an automated  
24 teller machine (ATM) or from within the financial institution for  
25 dates on which illegal acts involving this account were alleged to  
26 have occurred. Nothing in this paragraph does any of the following:
  - 27 (A) Requires a financial institution to produce a photograph or  
28 video recording if it does not possess the photograph or video  
29 recording.
  - 30 (B) Affects any existing civil immunities as provided in Section  
31 47 of the Civil Code or any other provision of law.
- 32 (8) A bank, credit union, or savings association doing business  
33 in this state that provides the requesting party with copies of one  
34 or more complete account statements prepared in the regular course  
35 of business shall be deemed to be in compliance with paragraphs  
36 (1), (2), (3), and (4).
- 37 (d) For purposes of subdivision (c), consent of the accountholder  
38 shall be satisfied if an accountholder provides to the financial  
39 institution and the person or entity seeking disclosure, a signed  
40 and dated statement containing all of the following:

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

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

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

8 (e) (1) The Attorney General, a supervisory agency, the  
9 Franchise Tax Board, the State Board of Equalization, the  
10 Employment Development Department, the Controller or an  
11 inheritance tax referee when administering the Prohibition of Gift  
12 and Death Taxes (Part 8 (commencing with Section 13301) of  
13 Division 2 of the Revenue and Taxation Code), a police or sheriff's  
14 department or district attorney, a county adult protective services  
15 office when investigating the financial abuse of an elder or  
16 dependent adult, a long-term care ombudsman when investigating  
17 the financial abuse of an elder or dependent adult, a county welfare  
18 department when investigating welfare fraud, a county  
19 auditor-controller or director of finance when investigating fraud  
20 against the county, or the Department of Corporations when  
21 conducting investigations in connection with the enforcement of  
22 laws administered by the Commissioner of Corporations, from  
23 requesting of an office or branch of a financial institution, and the  
24 office or branch from responding to a request, as to whether a  
25 person has an account or accounts at that office or branch and, if  
26 so, any identifying numbers of the account or accounts.

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

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

36 (f) The examination by, or disclosure to, any supervisory agency  
37 of financial records that relate solely to the exercise of its  
38 supervisory function. The scope of an agency's supervisory  
39 function shall be determined by reference to statutes that grant

1 authority to examine, audit, or require reports of financial records  
2 or financial institutions as follows:

3 (1) With respect to the Commissioner of Financial Institutions  
4 by reference to Division 1 (commencing with Section 99), Division  
5 1.5 (commencing with Section 4800), Division 2 (commencing  
6 with Section 5000), Division 5 (commencing with Section 14000),  
7 Division 7 (commencing with Section 18000), Division 15  
8 (commencing with Section 31000), and Division 16 (commencing  
9 with Section 33000), of the Financial Code.

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

13 (3) With respect to the Administrator of Local Agency Security  
14 by reference to Article 2 (commencing with Section 53630) of  
15 Chapter 4 of Part 1 of Division 2 of Title 5 of the Government  
16 Code.

17 (g) The disclosure to the Franchise Tax Board of (1) the amount  
18 of any security interest that a financial institution has in a specified  
19 asset of a customer or (2) financial records in connection with the  
20 filing or audit of a tax return or tax information return that are  
21 required to be filed by the financial institution pursuant to Part 10  
22 (commencing with Section 17001), Part 11 (commencing with  
23 Section 23001), or Part 18 (commencing with Section 38001), of  
24 the Revenue and Taxation Code.

25 (h) The disclosure to the State Board of Equalization of any of  
26 the following:

27 (1) The information required by Sections 6702, 6703, 8954,  
28 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155,  
29 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404,  
30 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the  
31 Revenue and Taxation Code.

32 (2) The financial records in connection with the filing or audit  
33 of a tax return required to be filed by the financial institution  
34 pursuant to Part 1 (commencing with Section 6001), Part 2  
35 (commencing with Section 7301), Part 3 (commencing with Section  
36 8601), Part 13 (commencing with Section 30001), Part 14  
37 (commencing with Section 32001), and Part 17 (commencing with  
38 Section 37001), of Division 2 of the Revenue and Taxation Code.

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

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

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

10 (k) The disclosure by a construction lender, as defined in Section  
11 8006 of the Civil Code, to the Registrar of Contractors, of  
12 information concerning the making of progress payments to a  
13 prime contractor requested by the registrar in connection with an  
14 investigation under Section 7108.5 of the Business and Professions  
15 Code.

16 (l) Upon receipt of a written request from a local child support  
17 agency referring to a support order pursuant to Section 17400 of  
18 the Family Code, a financial institution shall disclose the following  
19 information concerning the account or the person named in the  
20 request, whom the local child support agency shall identify,  
21 whenever possible, by social security number:

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

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

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

33 (4) Whenever the request prohibits the disclosure, a financial  
34 institution shall not disclose either the request or its response, to  
35 an owner of the account or to any other person, except the officers  
36 and employees of the financial institution who are involved in  
37 responding to the request and to attorneys, employees of the local  
38 child support agencies, auditors, and regulatory authorities who  
39 have a need to know in order to perform their duties, and except  
40 as disclosure may be required by legal process.

1 (5) No financial institution, or any officer, employee, or agent  
2 thereof, shall be liable to any person for (A) disclosing information  
3 in response to a request pursuant to this subdivision, (B) failing to  
4 notify the owner of an account, or complying with a request under  
5 this paragraph not to disclose to the owner, the request or disclosure  
6 under this subdivision, or (C) failing to discover any account owned  
7 by the person named in the request pursuant to a computerized  
8 search of the records of the financial institution.

9 (6) The local child support agency may request information  
10 pursuant to this subdivision only when the local child support  
11 agency has received at least one of the following types of physical  
12 evidence:

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

14 (i) Form 599.

15 (ii) Form 1099.

16 (iii) A bank statement.

17 (iv) A check.

18 (v) A bank passbook.

19 (vi) A deposit slip.

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

21 (viii) A debit or credit advice.

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

24 (x) Correspondence that identifies the child support obligor by  
25 name, the bank, and the banking services related to the account of  
26 the obligor.

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

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

32 (7) Information obtained by a local child support agency  
33 pursuant to this subdivision shall be used only for purposes that  
34 are directly connected with the administration of the duties of the  
35 local child support agency pursuant to Section 17400 of the Family  
36 Code.

37 (m) (1) As provided in paragraph (1) of subdivision (c) of  
38 Section 666 of Title 42 of the United States Code, upon receipt of  
39 an administrative subpoena on the current federally approved  
40 interstate child support enforcement form, as approved by the

1 federal Office of Management and Budget, a financial institution  
2 shall provide the information or documents requested by the  
3 administrative subpoena.

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

13 (3) If the person who signs the administrative subpoena directs  
14 a financial institution in writing not to disclose either the subpoena  
15 or its response to any owner of an account covered by the subpoena,  
16 the financial institution shall not disclose the subpoena or its  
17 response to the owner.

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

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

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

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

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

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

4 (B) The ex parte application and any subsequent judicial order  
5 shall be open to the public as a judicial record unless ordered sealed  
6 by the court, for a period of 60 days. The sealing of these records  
7 may be extended for 60-day periods upon a showing to the court  
8 that it is necessary for the continuance of the investigation.  
9 Sixty-day extensions may continue for up to one year or until  
10 termination of the investigation of the individual or individuals,  
11 whichever is sooner.

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

15 (D) Nothing in this subdivision shall preclude the financial  
16 institution from notifying a customer of the receipt of the order  
17 for production of records unless a court orders the financial  
18 institution to withhold notification to the customer upon a finding  
19 that the notice would impede the investigation.

20 (E) Where a court has made an order pursuant to this paragraph  
21 to withhold notification to the customer under this paragraph, the  
22 peace officer or law enforcement agency who obtained the financial  
23 information shall notify the customer by delivering a copy of the  
24 ex parte order to the customer within 10 days of the termination  
25 of the investigation.

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

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

30 (A) Disclosing information to a probate court pursuant to  
31 Sections 2892 and 2893.

32 (B) Disclosing information in response to a court order pursuant  
33 to paragraph (3).

34 (C) Complying with a court order under this subdivision not to  
35 disclose to the customer, the order, or the dissemination of  
36 information pursuant to the court order.

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

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

5 (2) Paragraph (1) of subdivision (a) of Section 4002 of the  
6 Financial Code, provided that the financial institution has first  
7 complied with the requirements of paragraph (2) of subdivision  
8 (a) and subdivision (b) of Section 4002 of the Financial Code.

9 (3) Paragraph (1) of subdivision (a) of Section 22470 of the  
10 Financial Code, provided that any financial institution that is a  
11 finance lender has first complied with the requirements of  
12 paragraph (2) of subdivision (a) and subdivision (b) of Section  
13 22470 of the Financial Code.

14 (p) When the governing board of the Public Employees'  
15 Retirement System or the State Teachers' Retirement System  
16 certifies in writing to a financial institution that a benefit recipient  
17 has died and that transfers to the benefit recipient's account at the  
18 financial institution from the retirement system occurred after the  
19 benefit recipient's date of death, the financial institution shall  
20 furnish the retirement system with the name and address of any  
21 coowner, cosigner, or any other person who had access to the funds  
22 in the account following the date of the benefit recipient's death,  
23 or if the account has been closed, the name and address of the  
24 person who closed the account.

25 (q) When the retirement board of a retirement system established  
26 under the County Employees Retirement Law of 1937 certifies in  
27 writing to a financial institution that a retired member or the  
28 beneficiary of a retired member has died and that transfers to the  
29 account of the retired member or beneficiary of a retired member  
30 at the financial institution from the retirement system occurred  
31 after the date of death of the retired member or beneficiary of a  
32 retired member, the financial institution shall furnish the retirement  
33 system with the name and address of any coowner, cosigner, or  
34 any other person who had access to the funds in the account  
35 following the date of death of the retired member or beneficiary  
36 of a retired member, or if the account has been closed, the name  
37 and address of the person who closed the account.

38 (r) When the Franchise Tax Board certifies in writing to a  
39 financial institution that (1) a taxpayer filed a tax return that  
40 authorized a direct deposit refund with an incorrect financial

1 institution account or routing number that resulted in all or a  
2 portion of the refund not being received, directly or indirectly, by  
3 the taxpayer; (2) the direct deposit refund was not returned to the  
4 Franchise Tax Board; and (3) the refund was deposited directly  
5 on a specified date into the account of an accountholder of the  
6 financial institution who was not entitled to receive the refund,  
7 then the financial institution shall furnish to the Franchise Tax  
8 Board the name and address of any coowner, cosigner, or any other  
9 person who had access to the funds in the account following the  
10 date of direct deposit refund, or if the account has been closed, the  
11 name and address of the person who closed the account.

12 SEC. 3. Section 15202.1 of the Government Code is amended  
13 to read:

14 15202.1. (a) If the venue for trial of a homicide case has been  
15 changed from the county which is eligible for reimbursement under  
16 Section 15202 to a location more than 60 miles from the county  
17 seat of that county, and the district attorney of that county has  
18 entered into a contract with an attorney to try the case or an  
19 investigator to assist in the trial of the case, the Controller shall  
20 reimburse the county for the actual costs of the attorney or  
21 investigator under this section, at an hourly rate not to exceed the  
22 hourly rate charged state agencies by the Attorney General for  
23 similar attorney services or investigators, without further showing  
24 of justification. Nothing in this section shall permit the  
25 reimbursement of costs for travel in excess of 1,000 miles on any  
26 single round trip, without the prior approval of the Attorney  
27 General.

28 (b) (1) This section shall apply to any homicide cases in which  
29 a final judgment was entered on or after January 1, 1990.

30 (2) The limitation provided in this subdivision shall not apply  
31 to Sierra County. Instead, the County of Sierra may apply to the  
32 Controller for reimbursement pursuant to subdivision (a) for its  
33 costs incident to the prosecution of the homicide trial of People v.  
34 Corjasso.

35 SEC. 4. Section 70372 of the Government Code is amended  
36 to read:

37 70372. (a) (1) Except as otherwise provided in this article,  
38 there shall be levied a state court construction penalty, in the  
39 amount of five dollars (\$5) for every ten dollars (\$10), or part of  
40 ten dollars (\$10), upon every fine, penalty, or forfeiture imposed

1 and collected by the courts for all criminal offenses, including, but  
2 not limited to, all offenses involving a violation of a section of the  
3 Fish and Game Code, the Health and Safety Code, or the Vehicle  
4 Code or any local ordinance adopted pursuant to the Vehicle Code.  
5 This penalty is in addition to any other state or local penalty,  
6 including, but not limited to, the penalty provided by Section 1464  
7 of the Penal Code and Section 76000.

8 (2) This construction penalty does not apply to the following:

9 (A) Any restitution fine.

10 (B) Any penalty authorized by Section 1464 of the Penal Code  
11 or Chapter 12 (commencing with Section 76000) of Title 8.

12 (C) Any parking offense subject to Article 3 (commencing with  
13 Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

14 (D) The state surcharge authorized by Section 1465.7 of the  
15 Penal Code.

16 (3) Any bail schedule adopted pursuant to Section 1269b of the  
17 Penal Code or adopted by the Judicial Council pursuant to Section  
18 40310 of the Vehicle Code may include the necessary amount to  
19 pay the penalty established by this section, the penalties authorized  
20 by Section 1464 of the Penal Code and Chapter 12 (commencing  
21 with Section 76000) of Title 8, and the surcharge authorized by  
22 Section 1465.7 of the Penal Code for all matters where a personal  
23 appearance is not mandatory and the bail is posted primarily to  
24 guarantee payment of the fine. After a determination by the court  
25 of the amount due, the clerk of the court shall collect the penalty  
26 and transmit it immediately to the county treasury and the county  
27 treasurer shall transmit these sums as provided in subdivision (f).

28 (b) In addition to the penalty provided by subdivision (a), for  
29 every parking offense where a parking penalty, fine, or forfeiture  
30 is imposed, an added state court construction penalty of four dollars  
31 and fifty cents (\$4.50) shall be included in the total penalty, fine,  
32 or forfeiture. These moneys shall be taken from fines and  
33 forfeitures deposited with the county treasurer prior to any division  
34 pursuant to Section 1462.3 or 1463.009 of the Penal Code. In those  
35 cities, districts, or other issuing agencies which elect to accept  
36 parking penalties, and otherwise process parking violations  
37 pursuant to Article 3 (commencing with Section 40200) of Chapter  
38 1 of Division 17 of the Vehicle Code, that city, district, or issuing  
39 agency shall observe the increased bail amounts as established by  
40 the court reflecting the added penalty provided for by this

1 subdivision. Each agency that elects to process parking violations  
2 shall pay to the county treasurer four dollars and fifty cents (\$4.50)  
3 for the parking penalty imposed by this subdivision for each  
4 violation that is not filed in court. Those payments to the county  
5 treasurer shall be made monthly, and the county treasurer shall  
6 transmit these sums as provided in paragraph (2) of subdivision  
7 (f). In the event these payments were deposited in a local  
8 courthouse construction fund and expended pursuant to the  
9 provisions of Chapter 592 of the Statutes of 2003, no county or  
10 processing agency shall be liable for the failure to transmit the  
11 payments to the Controller during the 2008 calendar year.

12 (c) If multiple offenses are involved, the state court construction  
13 penalty under subdivision (a) shall be based upon the total fine or  
14 bail for each case. If a fine is suspended, in whole or in part, the  
15 state court construction penalty under subdivision (a) shall be  
16 reduced in proportion to the suspension.

17 (d) If any deposited bail is made for an offense to which this  
18 section applies, and for which a court appearance is not mandatory,  
19 the person making the deposit shall also deposit a sufficient amount  
20 to include the state court construction penalty prescribed by  
21 subdivision (a) for forfeited bail. If bail is returned, the state court  
22 construction penalty paid thereon pursuant to subdivision (a) shall  
23 also be returned.

24 (e) In any case where a person convicted of any offense, to  
25 which this section applies, is in prison until the fine is satisfied,  
26 the judge may waive all or any part of the state court construction  
27 penalty, the payment of which would work a hardship on the person  
28 convicted or his or her immediate family.

29 (f) (1) Within 45 days after the end of the month that moneys  
30 are deposited in the county treasury pursuant to subdivision (a),  
31 the county treasurer shall transmit the moneys to the Controller,  
32 to be deposited as follows:

33 (A) The total to be deposited pursuant to subdivision (a) shall  
34 be multiplied by a fraction as follows:

35 (i) The numerator is the amount imposed as of January 1, 1998,  
36 as an additional penalty on every ten dollars (\$10), or part of ten  
37 dollars (\$10), upon every fine, penalty, or forfeiture, if any, for  
38 deposit into the local courthouse construction fund in that county  
39 established pursuant to Sections 76000 and 76100. The numerator  
40 shall be expressed in whole dollars and fractions of a dollar.

1 (ii) The denominator is five dollars (\$5).

2 (B) The resulting amount shall be deposited in the Immediate  
3 and Critical Needs Account of the State Court Facilities  
4 Construction Fund, established in Section 70371.5.

5 (C) The remaining amount of the deposit shall be deposited in  
6 the State Court Facilities Construction Fund.

7 (2) Within 45 days after the end of the month that moneys are  
8 deposited in the county treasury pursuant to subdivision (b), the  
9 county treasurer shall transmit the moneys to the Controller to be  
10 deposited as follows: one-third of the total amount shall be  
11 deposited in the State Court Facilities Construction Fund and  
12 two-thirds of the total amount shall be deposited in the Immediate  
13 and Critical Needs Account of the State Court Facilities  
14 Construction Fund, established in Section 70371.5.

15 SEC. 5. Section 466 of the Penal Code is amended to read:

16 466. Every person having upon him or her or in his or her  
17 possession a picklock, crow, keybit, crowbar, screwdriver, vise  
18 grip pliers, water-pump pliers, slidehammer, slim jim, tension bar,  
19 lock pick gun, tubular lock pick, bump key, floor-safe door puller,  
20 master key, ceramic or porcelain spark plug chips or pieces, or  
21 other instrument or tool with intent feloniously to break or enter  
22 into any building, railroad car, aircraft, or vessel, trailer coach, or  
23 vehicle as defined in the Vehicle Code, or who shall knowingly  
24 make or alter, or shall attempt to make or alter, any key or other  
25 instrument named above so that the same will fit or open the lock  
26 of a building, railroad car, aircraft, vessel, trailer coach, or vehicle  
27 as defined in the Vehicle Code, without being requested to do so  
28 by some person having the right to open the same, or who shall  
29 make, alter, or repair any instrument or thing, knowing or having  
30 reason to believe that it is intended to be used in committing a  
31 misdemeanor or felony, is guilty of a misdemeanor. Any of the  
32 structures mentioned in Section 459 shall be deemed to be a  
33 building within the meaning of this section.

34 SEC. 6. Section 633.8 of the Penal Code is amended to read:

35 633.8. (a) It is the intent of the Legislature in enacting this  
36 section to provide law enforcement with the ability to use electronic  
37 amplifying or recording devices to eavesdrop on and record the  
38 otherwise confidential oral communications of individuals within  
39 a location when responding to an emergency situation that involves  
40 the taking of a hostage or the barricading of a location. It is the

1 intent of the Legislature that eavesdropping on oral  
2 communications pursuant to this section comply with paragraph  
3 (7) of Section 2518 of Title 18 of the United States Code.

4 (b) Notwithstanding the provisions of this chapter, and in  
5 accordance with federal law, a designated peace officer described  
6 in subdivision (c) may use, or authorize the use of, an electronic  
7 amplifying or recording device to eavesdrop on or record, or both,  
8 any oral communication within a particular location in response  
9 to an emergency situation involving the taking of a hostage or  
10 hostages or the barricading of a location if all of the following  
11 conditions are satisfied:

12 (1) The officer reasonably determines that an emergency  
13 situation exists involving the immediate danger of death or serious  
14 physical injury to any person, within the meaning of Section  
15 2518(7)(a)(i) of Title 18 of the United States Code.

16 (2) The officer reasonably determines that the emergency  
17 situation requires that the eavesdropping on oral communication  
18 occur immediately.

19 (3) There are grounds upon which an order could be obtained  
20 pursuant to Section 2516(2) of Title 18 of the United States Code  
21 in regard to the offenses enumerated therein.

22 (c) Only a peace officer who has been designated by either a  
23 district attorney in the county where the emergency exists, or by  
24 the Attorney General to make the necessary determinations  
25 pursuant to paragraphs (1), (2), and (3) of subdivision (b) may  
26 make those determinations for purposes of this section.

27 (d) If the determination is made by a designated peace officer  
28 described in subdivision (c) that an emergency situation exists, a  
29 peace officer shall not be required to knock and announce his or  
30 her presence before entering, installing, and using any electronic  
31 amplifying or recording devices.

32 (e) If the determination is made by a designated peace officer  
33 described in subdivision (c) that an emergency situation exists and  
34 an eavesdropping device has been deployed, an application for an  
35 order approving the eavesdropping shall be made within 48 hours  
36 of the beginning of the eavesdropping and shall comply with the  
37 requirements of Section 629.50. A court may grant an application  
38 authorizing the use of electronic amplifying or recording devices  
39 to eavesdrop on and record otherwise confidential oral  
40 communications in barricade or hostage situations where there is

1 probable cause to believe that an individual is committing, has  
2 committed, or is about to commit an offense listed in Section  
3 2516(2) of Title 18 of the United States Code.

4 (f) The contents of any oral communications overheard pursuant  
5 to this section shall be recorded on tape or other comparable device.  
6 The recording of the contents shall be done so as to protect the  
7 recording from editing or other alterations.

8 (g) For purposes of this section, a “barricading” occurs when a  
9 person refuses to come out from a covered or enclosed position.  
10 Barricading also occurs when a person is held against his or her  
11 will and the captor has not made a demand.

12 (h) For purposes of this section, a “hostage situation” occurs  
13 when a person is held against his or her will and the captor has  
14 made a demand.

15 (i) A judge shall not grant an application made pursuant to this  
16 section in anticipation that an emergency situation will arise. A  
17 judge shall grant an application authorizing the use of electronic  
18 amplifying or recording devices to eavesdrop on and record  
19 otherwise confidential oral communications in barricade or hostage  
20 situations where there is probable cause to believe that an  
21 individual is committing, has committed, or is about to commit an  
22 offense listed in Section 2516(2) of Title 18 of the United States  
23 Code, and only if the peace officer has fully complied with the  
24 requirements of this section. If an application is granted pursuant  
25 to this section, an inventory shall be served pursuant to Section  
26 629.68.

27 (j) This section does not require that a peace officer designated  
28 pursuant to subdivision (c) undergo training pursuant to Section  
29 629.94.

30 (k) A peace officer who has been designated pursuant to  
31 subdivision (c) to use an eavesdropping device shall cease use of  
32 the device upon the termination of the barricade or hostage  
33 situation, or upon the denial by a judge of an application for an  
34 order to approve the eavesdropping, whichever is earlier.

35 (l) Nothing in this section shall be deemed to affect the  
36 admissibility or inadmissibility of evidence.

37 SEC. 7. Section 904.7 of the Penal Code is amended to read:

38 904.7. (a) Notwithstanding subdivision (a) of Section 904.6  
39 or any other provision, in the County of San Bernardino, the  
40 presiding judge of the superior court, or the judge appointed by

1 the presiding judge to supervise the grand jury, may, upon the  
2 request of the Attorney General or the district attorney or upon his  
3 or her own motion, order and direct the impanelment of an  
4 additional civil grand jury pursuant to this section.

5 (b) The presiding judge or the judge appointed by the presiding  
6 judge to supervise the grand jury shall select persons, at random,  
7 from the list of trial jurors in civil and criminal cases and shall  
8 examine them to determine if they are competent to serve as grand  
9 jurors. When a sufficient number of competent persons have been  
10 selected, they shall constitute an additional grand jury.

11 (c) Any additional civil grand jury that is impaneled pursuant  
12 to this section may serve for a term as determined by the presiding  
13 judge or the judge appointed by the presiding judge to supervise  
14 the civil grand jury, but may be discharged at any time within the  
15 set term by order of the presiding judge or the judge appointed by  
16 the presiding judge to supervise the civil grand jury. In no event  
17 shall more than one additional civil grand jury be impaneled  
18 pursuant to this section at the same time.

19 (d) Whenever an additional civil grand jury is impaneled  
20 pursuant to this section, it may inquire into matters of oversight,  
21 conduct investigations, issue reports, and make recommendations,  
22 except for any matters that the regular grand jury is inquiring into  
23 at the time of its impanelment. Any additional civil grand jury  
24 impaneled pursuant to this section shall not have jurisdiction to  
25 issue indictments.

26 (e) It is the intent of the Legislature that, in the County of San  
27 Bernardino, all persons qualified for jury service shall have an  
28 equal opportunity to be considered for service as grand jurors  
29 within the county, and that they have an obligation to serve, when  
30 summoned for that purpose. All persons selected for an additional  
31 ~~criminal~~ grand jury shall be selected at random from a source or  
32 sources reasonably representative of a cross section of the  
33 population that is eligible for jury service in the county.

34 SEC. 8. Section 992 of the Penal Code is amended to read:

35 992. (a) (1) In any case in which the defendant is charged  
36 with a felony, the court shall require the defendant to provide a  
37 right thumbprint on a form developed for this purpose. Unless the  
38 court has obtained the thumbprint at an earlier proceeding, it shall  
39 do so at the arraignment on the information or indictment, or upon  
40 entry of a guilty or no contest plea under Section 859a. The

1 fingerprint form shall include the name and superior court case  
2 number of the defendant, the date, and the printed name, position,  
3 and badge or serial number of the court bailiff who imprints the  
4 defendant's thumbprint. In the event the defendant is physically  
5 unable to provide a right thumbprint, the defendant shall provide  
6 a left thumbprint. In the event the defendant is physically unable  
7 to provide a left thumbprint, the court shall make a determination  
8 as to how the defendant might otherwise provide a suitable  
9 identifying characteristic to be imprinted on the judgment of  
10 conviction. The clerk shall note on the fingerprint form which  
11 digit, if any, of the defendant's was imprinted thereon. In the event  
12 that the defendant is convicted, this fingerprint form shall be  
13 attached to the minute order reflecting the defendant's sentence.  
14 The fingerprint form shall be permanently maintained in the  
15 superior court file.

16 (2) This thumbprint or fingerprint shall not be used to create a  
17 database. The Judicial Council shall develop a form to implement  
18 this section.

19 (b) In the event that a county implements a countywide policy  
20 in which every felony defendant's photograph and fingerprints are  
21 permanently maintained in the superior court file, the presiding  
22 judge of that county may elect, after consultation with the district  
23 attorney, to continue compliance with this section.

24 SEC. 9. Section 1181 of the Penal Code is amended to read:

25 1181. When a verdict has been rendered or a finding made  
26 against the defendant, the court may, upon his or her application,  
27 grant a new trial, in the following cases only:

28 (a) When the trial has been had in the defendant's absence  
29 except in cases where the trial may lawfully proceed in the  
30 defendant's absence.

31 (b) When the jury has received any evidence out of court, other  
32 than that resulting from a view of the premises, or of personal  
33 property.

34 (c) When the jury has been separated without leave of the court  
35 after retiring to deliberate upon their verdict.

36 (d) When the jury has been guilty of any misconduct by which  
37 a fair and due consideration of the case has been prevented.

38 (e) When the verdict has been decided by lot, or by any means  
39 other than a fair expression of opinion on the part of all the jurors.

1 (f) When the court has misdirected the jury in a matter of law,  
2 or has erred in the decision of any question of law arising during  
3 the course of the trial.

4 (g) When the district attorney or other counsel prosecuting the  
5 case has been guilty of prejudicial misconduct during the trial  
6 thereof before a jury.

7 (h) When the verdict or finding is contrary to law or evidence,  
8 but:

9 (1) If the evidence shows the defendant to be not guilty of the  
10 degree of the crime of which he or she was convicted, but guilty  
11 of a lesser degree thereof, or of a lesser crime included therein,  
12 the court may modify the verdict, finding or judgment accordingly  
13 without granting or ordering a new trial, and this power shall extend  
14 to any court to which the cause may be appealed.

15 (2) In any case wherein authority is vested by statute in the trial  
16 court or jury to recommend or determine as a part of its verdict or  
17 finding the punishment to be imposed, the court may modify such  
18 verdict or finding by imposing the lesser punishment without  
19 granting or ordering a new trial, and this power shall extend to any  
20 court to which the case may be appealed.

21 (i) When new evidence is discovered material to the defendant,  
22 and which he or she could not, with reasonable diligence, have  
23 discovered and produced at the trial. When a motion for a new  
24 trial is made upon the ground of newly discovered evidence, the  
25 defendant must produce at the hearing, in support thereof, the  
26 affidavits of the witnesses by whom such evidence is expected to  
27 be given, and if time is required by the defendant to procure such  
28 affidavits, the court may postpone the hearing of the motion for  
29 such length of time as, under all circumstances of the case, may  
30 seem reasonable.

31 (j) When the right to a phonographic report has not been waived,  
32 and when it is not possible to have a phonographic report of the  
33 trial transcribed by a stenographic reporter as provided by law or  
34 by rule because of the death or disability of a reporter who  
35 participated as a stenographic reporter at the trial or because of  
36 the loss or destruction, in whole or in substantial part, of the notes  
37 of such reporter, the trial court or a judge, thereof, or the reviewing  
38 court shall have power to set aside and vacate the judgment, order  
39 or decree from which an appeal has been taken or is to be taken  
40 and to order a new trial of the action or proceeding.

1 SEC. 10. ~~Section 1203.01 of the Penal Code is amended to~~  
2 ~~read:~~

3 ~~1203.01. (a) Immediately after judgment has been pronounced,~~  
4 ~~the judge and the district attorney, respectively, may cause to be~~  
5 ~~filed with the clerk of the court a brief statement of their views~~  
6 ~~respecting the person convicted or sentenced and the crime~~  
7 ~~committed, together with any reports the probation officer may~~  
8 ~~have filed relative to the prisoner. The judge and district attorney~~  
9 ~~shall cause those statements to be filed if no probation officer's~~  
10 ~~report has been filed. The attorney for the defendant and the law~~  
11 ~~enforcement agency that investigated the case may likewise file~~  
12 ~~with the clerk of the court statements of their views respecting the~~  
13 ~~defendant and the crime of which he or she was convicted.~~  
14 ~~Immediately after the filing of those statements and reports, the~~  
15 ~~clerk of the court shall mail a copy thereof, certified by that clerk,~~  
16 ~~with postage prepaid, addressed to the Department of Corrections~~  
17 ~~and Rehabilitation at the prison or other institution to which the~~  
18 ~~person convicted is delivered. The clerk shall also mail a copy of~~  
19 ~~any statement submitted by the court, district attorney, or law~~  
20 ~~enforcement agency, pursuant to this section, with postage prepaid,~~  
21 ~~addressed to the attorney for the defendant, if any, and to the~~  
22 ~~defendant, in care of the Department of Corrections and~~  
23 ~~Rehabilitation, and a copy of any statement submitted by the~~  
24 ~~attorney for the defendant, with postage prepaid, shall be mailed~~  
25 ~~to the district attorney.~~

26 ~~(b) In all cases in which the judgment imposed includes a~~  
27 ~~sentence of death or an indeterminate term with or without the~~  
28 ~~possibility of parole, the clerk shall, within 60 days after judgment~~  
29 ~~has been pronounced, mail a copy of the charging documents, a~~  
30 ~~copy of waiver and plea forms, if any, the transcript of the~~  
31 ~~proceedings at the time of the defendant's guilty or nolo contendere~~  
32 ~~plea, if the defendant pleaded guilty or nolo contendere, and the~~  
33 ~~transcript of the proceedings at the time of sentencing, with postage~~  
34 ~~prepaid, to the prison or other institution to which the person~~  
35 ~~convicted is delivered. In all other cases, upon written request by~~  
36 ~~the department, the clerk shall mail, with postage prepaid to the~~  
37 ~~prison or other institution to which the person convicted is~~  
38 ~~delivered, a copy of the charging documents, a copy of the waiver~~  
39 ~~and plea forms, if any, the transcript of the proceedings at the time~~  
40 ~~of the defendant's guilty or nolo contendere plea, if the defendant~~

1 ~~pleaded guilty or nolo contendere, and the transcript of the~~  
2 ~~proceedings at the time of sentencing.~~

3 ~~SEC. 11.~~

4 *SEC. 10.* Section 1203.4 of the Penal Code, as amended by  
5 Section 76 of Chapter 178 of the Statutes of 2010, is amended to  
6 read:

7 1203.4. (a) In any case in which a defendant has fulfilled the  
8 conditions of probation for the entire period of probation, or has  
9 been discharged prior to the termination of the period of probation,  
10 or in any other case in which a court, in its discretion and the  
11 interests of justice, determines that a defendant should be granted  
12 the relief available under this section, the defendant shall, at any  
13 time after the termination of the period of probation, if he or she  
14 is not then serving a sentence for any offense, on probation for  
15 any offense, or charged with the commission of any offense, be  
16 permitted by the court to withdraw his or her plea of guilty or plea  
17 of nolo contendere and enter a plea of not guilty; or, if he or she  
18 has been convicted after a plea of not guilty, the court shall set  
19 aside the verdict of guilty; and, in either case, the court shall  
20 thereupon dismiss the accusations or information against the  
21 defendant and except as noted below, he or she shall thereafter be  
22 released from all penalties and disabilities resulting from the  
23 offense of which he or she has been convicted, except as provided  
24 in Section 13555 of the Vehicle Code. The probationer shall be  
25 informed, in his or her probation papers, of this right and privilege  
26 and his or her right, if any, to petition for a certificate of  
27 rehabilitation and pardon. The probationer may make the  
28 application and change of plea in person or by attorney, or by the  
29 probation officer authorized in writing. However, in any subsequent  
30 prosecution of the defendant for any other offense, the prior  
31 conviction may be pleaded and proved and shall have the same  
32 effect as if probation had not been granted or the accusation or  
33 information dismissed. The order shall state, and the probationer  
34 shall be informed, that the order does not relieve him or her of the  
35 obligation to disclose the conviction in response to any direct  
36 question contained in any questionnaire or application for public  
37 office, for licensure by any state or local agency, or for contracting  
38 with the California State Lottery.

39 Dismissal of an accusation or information pursuant to this section  
40 does not permit a person to own, possess, or have in his or her

1 custody or control any firearm or prevent his or her conviction  
2 under Chapter 2 (commencing with Section 29800) of Division 9  
3 of Title 4 of Part 6.

4 Dismissal of an accusation or information underlying a  
5 conviction pursuant to this section does not permit a person  
6 prohibited from holding public office as a result of that conviction  
7 to hold public office.

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

10 (b) Subdivision (a) of this section does not apply to any  
11 misdemeanor that is within the provisions of Section 42002.1 of  
12 the Vehicle Code, to any violation of subdivision (c) of Section  
13 286, Section 288, subdivision (c) of Section 288a, Section 288.5,  
14 or subdivision (j) of Section 289, any felony conviction pursuant  
15 to subdivision (d) of Section 261.5, or to any infraction.

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

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

25 (d) A person who petitions for a change of plea or setting aside  
26 of a verdict under this section may be required to reimburse the  
27 court for the actual costs of services rendered, whether or not the  
28 petition is granted and the records are sealed or expunged, at a rate  
29 to be determined by the court not to exceed one hundred fifty  
30 dollars (\$150), and to reimburse the county for the actual costs of  
31 services rendered, whether or not the petition is granted and the  
32 records are sealed or expunged, at a rate to be determined by the  
33 county board of supervisors not to exceed one hundred fifty dollars  
34 (\$150), and to reimburse any city for the actual costs of services  
35 rendered, whether or not the petition is granted and the records are  
36 sealed or expunged, at a rate to be determined by the city council  
37 not to exceed one hundred fifty dollars (\$150). Ability to make  
38 this reimbursement shall be determined by the court using the  
39 standards set forth in paragraph (2) of subdivision (g) of Section  
40 987.8 and shall not be a prerequisite to a person's eligibility under

1 this section. The court may order reimbursement in any case in  
2 which the petitioner appears to have the ability to pay, without  
3 undue hardship, all or any portion of the costs for services  
4 established pursuant to this subdivision.

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

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

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

15 (g) Notwithstanding the above provisions or any other provision  
16 of law, the Governor shall have the right to pardon a person  
17 convicted of a violation of subdivision (c) of Section 286, Section  
18 288, subdivision (c) of Section 288a, Section 288.5, or subdivision  
19 (j) of Section 289, if there are extraordinary circumstances.

20 ~~SEC. 12:~~

21 *SEC. 11.* Section 1203.4a of the Penal Code is amended to  
22 read:

23 1203.4a. (a) Every defendant convicted of a misdemeanor and  
24 not granted probation, and every defendant convicted of an  
25 infraction, shall, at any time after the lapse of one year from the  
26 date of pronouncement of judgment, if he or she has fully complied  
27 with and performed the sentence of the court, is not then serving  
28 a sentence for any offense and is not under charge of commission  
29 of any crime and has, since the pronouncement of judgment, lived  
30 an honest and upright life and has conformed to and obeyed the  
31 laws of the land, be permitted by the court to withdraw his or her  
32 plea of guilty or nolo contendere and enter a plea of not guilty; or  
33 if he or she has been convicted after a plea of not guilty, the court  
34 shall set aside the verdict of guilty; and in either case the court  
35 shall thereupon dismiss the accusatory pleading against the  
36 defendant, who shall thereafter be released from all penalties and  
37 disabilities resulting from the offense of which he or she has been  
38 convicted, except as provided in Section 12021.1 of this code or  
39 Section 13555 of the Vehicle Code. The defendant shall be  
40 informed of the provisions of this section, either orally or in

1 writing, at the time he or she is sentenced. The defendant may  
 2 make an application and change of plea in person or by attorney,  
 3 or by the probation officer authorized in writing; provided, that in  
 4 any subsequent prosecution of the defendant for any other offense,  
 5 the prior conviction may be pleaded and proved and shall have the  
 6 same effect as if relief had not been granted pursuant to this section.

7 This subdivision applies to convictions which occurred before,  
 8 as well as those occurring after, the effective date of this section.

9 (b) Subdivision (a) does not apply to any misdemeanor falling  
 10 within the provisions of Section 42002.1 of the Vehicle Code, to  
 11 any infraction falling within the provisions of ~~Section 42001~~ of  
 12 the Vehicle Code, or to any local ordinance adopted pursuant to  
 13 the Vehicle Code.

14 (c) A person who petitions for a dismissal of a charge under  
 15 this section may be required to reimburse the county and the court  
 16 for the cost of services rendered at a rate to be determined by the  
 17 county board of supervisors for the county and by the court for the  
 18 court, not to exceed sixty dollars (\$60), and to reimburse any city  
 19 for the cost of services rendered at a rate to be determined by the  
 20 city council not to exceed sixty dollars (\$60). Ability to make this  
 21 reimbursement shall be determined by the court using the standards  
 22 set forth in paragraph (2) of subdivision (g) of Section 987.8 and  
 23 shall not be a prerequisite to a person's eligibility under this  
 24 section. The court may order reimbursement in any case in which  
 25 the petitioner appears to have the ability to pay, without undue  
 26 hardship, all or any portion of the cost for services established  
 27 pursuant to this subdivision.

28 (d) A petition for dismissal of an infraction pursuant to this  
 29 section shall be by written declaration, except upon a showing of  
 30 compelling need. Dismissal of an infraction shall not be granted  
 31 under this section unless the prosecuting attorney has been given  
 32 at least 15 days' notice of the petition for dismissal. It shall be  
 33 presumed that the prosecuting attorney has received notice if proof  
 34 of service is filed with the court.

35 (e) Any determination of amount made by a court under this  
 36 section shall be valid only if either (1) made under procedures  
 37 adopted by the Judicial Council or (2) approved by the Judicial  
 38 Council.

39 ~~SEC. 13.~~

40 *SEC. 12.* Section 1387 of the Penal Code is amended to read:

1 1387. (a) An order terminating an action pursuant to this  
2 chapter, or Section 859b, 861, 871, or 995, is a bar to any other  
3 prosecution for the same offense if it is a felony or if it is a  
4 misdemeanor charged together with a felony and the action has  
5 been previously terminated pursuant to this chapter, or Section  
6 859b, 861, 871, or 995, or if it is a misdemeanor not charged  
7 together with a felony, except in those felony cases, or those cases  
8 where a misdemeanor is charged with a felony, where subsequent  
9 to the dismissal of the felony or misdemeanor the judge or  
10 magistrate finds any of the following:

11 (1) That substantial new evidence has been discovered by the  
12 prosecution which would not have been known through the exercise  
13 of due diligence at, or prior to, the time of termination of the action.

14 (2) That the termination of the action was the result of the direct  
15 intimidation of a material witness, as shown by a preponderance  
16 of the evidence.

17 (3) That the termination of the action was the result of the failure  
18 to appear by the complaining witness, who had been personally  
19 subpoenaed in a prosecution arising under subdivision (e) of  
20 Section 243 or Section 262, 273.5, or 273.6. This paragraph shall  
21 apply only within six months of the original dismissal of the action,  
22 and may be invoked only once in each action. Nothing in this  
23 section shall preclude a defendant from being eligible for diversion.

24 (b) Notwithstanding subdivision (a), an order terminating an  
25 action pursuant to this chapter is not a bar to another prosecution  
26 for the same offense if it is a misdemeanor charging an offense  
27 based on an act of domestic violence, as defined in subdivisions  
28 (a) and (b) of Section 13700, and the termination of the action was  
29 the result of the failure to appear by the complaining witness, who  
30 had been personally subpoenaed. This subdivision shall apply only  
31 within six months of the original dismissal of the action, and may  
32 be invoked only once in each action. Nothing in this subdivision  
33 shall preclude a defendant from being eligible for diversion.

34 (c) An order terminating an action is not a bar to prosecution  
35 if a complaint is dismissed before the commencement of a  
36 preliminary hearing in favor of an indictment filed pursuant to  
37 Section 944 or an indictment is based upon the same subject matter  
38 as charged in a dismissed complaint, information, or indictment.

1 (d) If the previous termination was pursuant to Section 859b,  
2 861, 871, or 995, the subsequent order terminating an action is not  
3 a bar to prosecution if:

4 (1) Good cause is shown why the preliminary examination was  
5 not held within 60 days from the date of arraignment or plea.

6 (2) The motion pursuant to Section 995 was granted because of  
7 any of the following reasons:

8 (A) Present insanity of the defendant.

9 (B) A lack of counsel after the defendant elected to represent  
10 himself or herself rather than being represented by appointed  
11 counsel.

12 (C) Ineffective assistance of counsel.

13 (D) Conflict of interest of defense counsel.

14 (E) Violation of time deadlines based upon unavailability of  
15 defense counsel.

16 (F) Defendant's motion to withdraw a waiver of the preliminary  
17 examination.

18 (3) The motion pursuant to Section 995 was granted after  
19 dismissal by the magistrate of the action pursuant to Section 871  
20 and was recharged pursuant to Section 739.

21 ~~SEC. 14.~~

22 *SEC. 13.* Section 1466 of the Penal Code is amended to read:

23 1466. An appeal may be taken from a judgment or order, in an  
24 infraction or misdemeanor case, to the appellate division of the  
25 superior court of the county in which the court from which the  
26 appeal is taken is located, in the following cases:

27 (a) By the people:

28 (1) From an order recusing the district attorney or city attorney  
29 pursuant to Section 1424.

30 (2) From an order or judgment dismissing or otherwise  
31 terminating all or any portion of the action, including such an order  
32 or judgment, entered after a verdict or finding of guilty or a verdict  
33 or judgment entered before the defendant has been placed in  
34 jeopardy or where the defendant has waived jeopardy.

35 (3) From sustaining a demurrer to any portion of the complaint  
36 or pleading.

37 (4) From an order granting a new trial.

38 (5) From an order arresting judgment.

39 (6) From any order made after judgment affecting the substantial  
40 rights of the people.

1 (7) From the imposition of an unlawful sentence, whether or  
2 not the court suspends the execution of sentence. As used in this  
3 subparagraph, “unlawful sentence” means the imposition of a  
4 sentence not authorized by law or the imposition of a sentence  
5 based upon an unlawful order of the court that strikes or otherwise  
6 modifies the effect of an enhancement or prior conviction. A  
7 defendant shall have the right to counsel in the people’s appeal of  
8 an unlawful sentence under the same circumstances that he or she  
9 would have a right to counsel under subdivision (a) of Section  
10 1238.

11 (8) Nothing in this section shall be construed to authorize an  
12 appeal from an order granting probation. Instead, the people may  
13 seek appellate review of any grant of probation, whether or not  
14 the court imposes sentence, by means of a petition for a writ of  
15 mandate or prohibition that is filed within 60 days after probation  
16 is granted. The review of any grant of probation shall include  
17 review of any order underlying the grant of probation.

18 (b) By the defendant:

19 (1) From a final judgment of conviction. A sentence, an order  
20 granting probation, a conviction in a case in which before final  
21 judgment the defendant is committed for insanity or is given an  
22 indeterminate commitment as a mentally disordered sex offender,  
23 or the conviction of a defendant committed for controlled substance  
24 addiction shall be deemed to be a final judgment within the  
25 meaning of this section. Upon appeal from a final judgment or an  
26 order granting probation the court may review any order denying  
27 a motion for a new trial.

28 (2) From any order made after judgment affecting his or her  
29 substantial rights.

30 ~~SEC. 15.~~

31 *SEC. 14.* Section 11105.2 of the Penal Code is amended to  
32 read:

33 11105.2. (a) The Department of Justice may provide  
34 subsequent state or federal arrest notification to any entity  
35 authorized by state or federal code or regulation to receive state  
36 or federal summary criminal history information to assist in  
37 fulfilling employment, licensing, certification duties, or the duties  
38 of approving relative caregivers and nonrelative extended family  
39 members, upon the arrest of any person whose fingerprints are  
40 maintained on file at the Department of Justice or the Federal

1 Bureau of Investigation as the result of an application for licensing,  
2 employment, certification, or approval. The notification shall  
3 consist of a current copy of the person's state or federal summary  
4 criminal history transcript.

5 (b) For purposes of this section, "approval" means those duties  
6 described in subdivision (d) of Section 309 of the Welfare and  
7 Institutions Code for approving the home of a relative caregiver  
8 or of a nonrelative extended family member for placement of a  
9 child supervised by the juvenile court.

10 (c) Any entity, other than a law enforcement agency employing  
11 peace officers as defined in Section 830.1, subdivisions (a) and  
12 (e) of Section 830.2, subdivision (a) of Section 830.3, subdivisions  
13 (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31,  
14 shall enter into a contract with the Department of Justice in order  
15 to receive notification of subsequent state or federal arrests for  
16 licensing, employment, or certification purposes.

17 (d) Any entity which submits the fingerprints of applicants for  
18 licensing, employment, certification, or approval to the Department  
19 of Justice for the purpose of establishing a record of the applicant  
20 to receive notification of subsequent state or federal arrests shall  
21 immediately notify the department when the employment of the  
22 applicant is terminated, when the applicant's license or certificate  
23 is revoked, when the applicant may no longer renew or reinstate  
24 the license or certificate, or when a relative caregiver's or  
25 nonrelative extended family member's approval is terminated. The  
26 Department of Justice shall terminate subsequent state or federal  
27 arrest notification on any applicant upon the request of the  
28 licensing, employment, certifying, or approving authority.

29 (e) Any entity receiving notification of a subsequent state or  
30 federal arrest for a person unknown to the entity, or for a person  
31 no longer employed by the entity, or no longer eligible to renew  
32 the certificate or license for which subsequent state or federal arrest  
33 notification service was established shall immediately return the  
34 subsequent state or federal arrest notification to the Department  
35 of Justice, informing the department that the entity is no longer  
36 interested in the applicant. The entity shall not record or otherwise  
37 retain any information received as a result of the subsequent notice.

38 (f) Any entity which submits the fingerprints of an applicant  
39 for employment, licensing, certification, or approval to the  
40 Department of Justice for the purpose of establishing a record at

1 the department or the Federal Bureau of Investigation to receive  
2 notification of subsequent arrest shall immediately notify the  
3 department if the applicant is not subsequently employed, or if the  
4 applicant is denied licensing certification, or approval.

5 (g) An entity that fails to provide the Department of Justice with  
6 notification as set forth in subdivisions (c), (d), and (e) may be  
7 denied further subsequent notification service.

8 (h) Notwithstanding subdivisions (c), (d), and (f), subsequent  
9 state or federal arrest notification by the Department of Justice and  
10 retention by the employing agency shall continue as to retired  
11 peace officers listed in subdivision (c) of Section 830.5.

12 *SEC. 15. Section 14303 of the Penal Code is amended to read:*

13 14303. (a) There is hereby created, in the General Fund, the  
14 Environmental Enforcement and Training Account and up to two  
15 million dollars (\$2,000,000) in the account may be expended  
16 annually by the agency, upon appropriation by the Legislature, for  
17 the purposes of this title.

18 (b) The agency may accept and receive any contribution of  
19 funds from a public or private organization or an individual,  
20 including the proceeds from a judgment in state or federal court,  
21 when the funds are contributed or the judgment specifies that the  
22 proceeds are to be used to carry out the purposes of this title.  
23 Private contributors shall not have the authority to further influence  
24 or direct the use of their contributions.

25 (c) The agency shall immediately deposit any funds contributed  
26 pursuant to subdivision (b) in the account.

27 (d) As of January 1, 2003, all unallocated funds in the Hazardous  
28 Materials Enforcement and Training Account created pursuant to  
29 Chapter 743 of the Statutes of 1992 that derive from court  
30 judgments specifying that the funds may be used only for purposes  
31 of this title shall be transferred to the Environmental Enforcement  
32 and Training Account.

33 (e) (1) *Any funds that are appropriated by the Legislature*  
34 *pursuant to subdivision (a), allocated pursuant to Section 14314,*  
35 *and declined by the commission, may be reallocated by the*  
36 *secretary as described in Section 14314.*

37 (2) *This subdivision applies to funds that are appropriated for*  
38 *the 2011–12 fiscal year and each fiscal year thereafter.*

39 *SEC. 16. Section 14314 of the Penal Code is amended to read:*

1 14314. Notwithstanding any other provision of this title, the  
2 agency shall not implement this title until there is an amount of  
3 one hundred thousand dollars (\$100,000) in the account.

4 Funds in the account shall be divided as follows:

5 (a) Twenty-five percent or one hundred thousand dollars  
6 (\$100,000) to the commission, whichever is less. The commission  
7 may decline all or part of the funds allocated to it pursuant to this  
8 subdivision. Any funds so declined shall be ~~made available for~~  
9 ~~use, upon appropriation by the Legislature, by any of the entities~~  
10 *reallocated by the secretary to any of the entities* listed in  
11 subdivisions (b), (c), and (d) for the training of peace officers  
12 consistent with this title.

13 (b) Twenty-five percent to the secretary for allocation to the  
14 Environmental Circuit Prosecutor Project pursuant to Chapter 4  
15 (commencing with Section 14309).

16 (c) Twenty-five percent to the secretary for allocation to the  
17 California District Attorneys Association for training and assistance  
18 pursuant to Chapter 3 (commencing with Section 14306).

19 (d) (1) The balance to the secretary for grants awarded to  
20 programs pursuant to Chapter 3 (commencing with Section 14306)  
21 or Chapter 4 (commencing with Section 14309) based on need or  
22 in order to sustain the current level of presence and enforcement  
23 for those programs.

24 (2) Notwithstanding paragraph (1), the commission may also  
25 seek additional funding from the money allocated in this  
26 subdivision based on need if the environmental law enforcement  
27 training is mandated or if there are substantial changes in the law  
28 that require the commission to revise its environmental law courses.

29 (e) The secretary shall develop an application process for  
30 awarding funds to programs pursuant to subdivisions (b), (c), and  
31 (d).

32 SEC. 17. Section 10334 of the Public Contract Code, as  
33 amended by Section 95 of Chapter 178 of the Statutes of 2010, is  
34 amended to read:

35 10334. (a) No state employee shall acquire any goods from  
36 the state, unless the goods are offered to the general public in the  
37 regular course of the state's business on the same terms and  
38 conditions as those applicable to the employee. "State employee,"  
39 as used in this section, means any employee of the state included  
40 within Section 82009 of the Government Code, and all officers

1 and employees included within Section 4 of Article VII of the  
2 California Constitution, except those persons excluded from the  
3 definition of “designated employee” under the last paragraph of  
4 Section 82019 of the Government Code.

5 (b) Notwithstanding subdivision (a), any peace officer as defined  
6 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part  
7 2 of the Penal Code, employed by the State of California for a  
8 period of more than 120 months who has been duly retired through  
9 a service retirement or a peace officer retiring from a job-incurred  
10 disability not related to a mental or emotional disorder and who  
11 has been granted the legal right to carry a concealed firearm  
12 pursuant to Article 2 (commencing with Section 25450) of Chapter  
13 2 of Division 5 of Title 4 of Part 6 of the Penal Code may be  
14 authorized by the person’s department head to purchase his or her  
15 state-issued handgun. Disability retired peace officers need not  
16 meet the 120-month employment requirement. The cost of the  
17 handgun shall be the fair market value as listed in the annual Blue  
18 Book of Gun Values or replacement cost, whichever is less, of the  
19 handgun issued as determined by the appointing power, plus a  
20 charge for the cost of handling. The retiring officer shall request  
21 to purchase his or her handgun in writing to the department within  
22 30 calendar days of his or her retirement date.

23 (c) Notwithstanding subdivision (a), any peace officer described  
24 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part  
25 2 of the Penal Code employed by the State of California who is  
26 authorized to carry firearms may purchase his or her state-issued  
27 service firearm if the person’s department head directs the  
28 department to change its state-issued service weapon system. The  
29 cost of the service firearm shall be the fair market value as listed  
30 in the annual Blue Book of Gun Values or replacement cost,  
31 whichever is less, of the firearm issued as determined by the  
32 department head, plus a charge for the cost of handling. The  
33 requesting officer shall request to purchase his or her firearm in  
34 writing to the department within 10 calendar days of receiving the  
35 new state-issued weapon.

36 (d) Notwithstanding subdivision (a), the spouse of a peace  
37 officer, as defined in Chapter 4.5 (commencing with Section 830)  
38 of Title 3 of Part 2 of the Penal Code, employed by the state who  
39 has died in the line of duty may be authorized by the deceased’s  
40 department head to purchase his or her spouse’s state-issued

1 handgun. The cost of the handgun shall be the fair market value  
2 as listed in the annual Blue Book of Gun Values or replacement  
3 costs, whichever is less, of the handgun issued as determined by  
4 the appointing power, plus a charge for the cost of handling. The  
5 spouse shall request to purchase the handgun in writing to the  
6 department within 30 calendar days of his or her spouse's date of  
7 death.

8 SEC. 18. Section 21203 of the Vehicle Code is amended to  
9 read:

10 21203. No person riding upon any motorcycle, motorized  
11 bicycle, toy vehicle, or any type of human-powered or  
12 gravity-powered device, including, but not limited to, a bicycle,  
13 tricycle, four-wheeled cycle, surrey, coaster, roller skates, roller  
14 skis, wheeled shoes, skateboard, scooter, sled, or skis, shall attach  
15 the same or himself to any streetcar or vehicle on the roadway.

16 SEC. 19. Section 21712 of the Vehicle Code is amended to  
17 read:

18 21712. (a) A person driving a motor vehicle shall not  
19 knowingly permit a person to ride on a vehicle or upon a portion  
20 of a vehicle that is not designed or intended for the use of  
21 passengers.

22 (b) A person shall not ride on a vehicle or upon a portion of a  
23 vehicle that is not designed or intended for the use of passengers.

24 (c) A person driving a motor vehicle shall not knowingly permit  
25 a person to ride in the trunk of that motor vehicle.

26 (d) A person shall not ride in the trunk of a motor vehicle.

27 (e) A person violating subdivision (c) or (d) shall be punished  
28 as follows:

29 (1) By a fine of one hundred dollars (\$100).

30 (2) For a second violation occurring within one year of a prior  
31 violation that resulted in a conviction, a fine of two hundred dollars  
32 (\$200).

33 (3) For a third or a subsequent violation occurring within one  
34 year of two or more prior violations that resulted in convictions,  
35 a fine of two hundred fifty dollars (\$250).

36 (f) Subdivisions (a) and (b) do not apply to an employee engaged  
37 in the necessary discharge of his or her duty or in the case of  
38 persons riding completely within or upon vehicle bodies in the  
39 space intended for a load on the vehicle.

1 (g) A person shall not drive a motor vehicle that is towing a  
2 trailer coach, camp trailer, or trailer carrying a vessel, containing  
3 a passenger, except when a trailer carrying or designed to carry a  
4 vessel is engaged in the launching or recovery of the vessel.

5 (h) A person shall not knowingly drive a motor vehicle that is  
6 towing a person riding upon a motorcycle, motorized bicycle, toy  
7 vehicle, or any type of human-powered or gravity-powered device,  
8 including, but not limited to, a bicycle, tricycle, four-wheeled  
9 cycle, surrey, coaster, roller skates, roller skis, wheeled shoes,  
10 skateboard, scooter, sled, or skis.

11 (i) Subdivision (g) does not apply to a trailer coach that is towed  
12 with a fifth-wheel device if the trailer coach is equipped with safety  
13 glazing materials wherever glazing materials are used in windows  
14 or doors, with an audible or visual signaling device that a passenger  
15 inside the trailer coach can use to gain the attention of the motor  
16 vehicle driver, and with at least one unobstructed exit capable of  
17 being opened from both the interior and exterior of the trailer  
18 coach.

19 ~~SEC. 8.~~

20 *SEC. 20.* Any section of any act, other than ~~\_\_\_\_\_~~ *AB 1023*,  
21 enacted by the Legislature during the 2011 calendar year that takes  
22 effect on or before January 1, 2012, and that amends, amends and  
23 renumbers, adds, repeals and adds, or repeals any one or more of  
24 the sections affected by this act shall prevail over this act, whether  
25 this act is enacted prior to, or subsequent to, the enactment of that  
26 act. The repeal, or repeal and addition, of any article, chapter, part,  
27 title, or division of any code by this act shall not become operative  
28 if any section of any other act, other than ~~\_\_\_\_\_~~ *AB 1023*, that is  
29 enacted by the Legislature during the 2011 calendar year and takes  
30 effect on or before January 1, 2012, amends, amends and  
31 renumbers, adds, repeals and adds, or repeals any section contained  
32 in that article, chapter, part, title, or division.

33 ~~SEC. 9.~~

34 *SEC. 21.* No reimbursement is required by this act pursuant  
35 to Section 6 of Article XIII B of the California Constitution because  
36 the only costs that may be incurred by a local agency or school  
37 district will be incurred because this act creates a new crime or  
38 infraction, eliminates a crime or infraction, or changes the penalty  
39 for a crime or infraction, within the meaning of Section 17556 of  
40 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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