

AMENDED IN SENATE MAY 31, 2011
AMENDED IN SENATE MAY 17, 2011
AMENDED IN SENATE APRIL 27, 2011

SENATE BILL

No. 428

Introduced by Senator Strickland

February 16, 2011

An act to amend Sections 7480, 15202.1, and 70372 of the Government Code, to amend Sections 466, 633.8, 904.7, 992, ~~1181~~, 1203.4, 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.~~ *Lester's Law of 2011.*

(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 technical, nonsubstantive 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)~~

~~(8) Existing law generally provides for the granting of probation.~~

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

~~(10)~~

~~(9) 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.~~

~~(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.~~

~~(12)~~

~~(10) 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.

(13)

(11) 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.

(14)

(12) 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 reallocated, as specified, for other authorized purposes for the training of peace officers. The bill would make a related change.

(15)

(13) 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.

(16)

(14) 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.

(17)

(15) 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.

(18)

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

This bill would provide that 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. This act shall be known and may be cited as
2 Lester’s Law of 2011.

3 ~~SECTION 1.~~

4 SEC. 2. Section 7480 of the Government Code, as amended
5 by Section 29 of Chapter 697 of the Statutes of 2010, is amended
6 to read:

7 7480. Nothing in this chapter shall prohibit any of the
8 following:

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

12 (b) When any police or sheriff’s department or district attorney
13 in this state certifies to a bank, credit union, or savings association
14 in writing that a crime report has been filed that involves the
15 alleged fraudulent use of drafts, checks, access cards, or other
16 orders drawn upon any bank, credit union, or savings association
17 in this state, the police or sheriff’s department or district attorney,
18 a county adult protective services office when investigating the
19 financial abuse of an elder or dependent adult, or a long-term care

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

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

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

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

1 institution and the person or entity seeking disclosure, a signed
2 and dated statement containing all of the following:

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

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

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

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

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

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

38 (f) The examination by, or disclosure to, any supervisory agency
39 of financial records that relate solely to the exercise of its
40 supervisory function. The scope of an agency's supervisory

1 function shall be determined by reference to statutes that grant
2 authority to examine, audit, or require reports of financial records
3 or financial institutions as follows:

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

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

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

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

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

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

33 (2) The financial records in connection with the filing or audit
34 of a tax return required to be filed by the financial institution
35 pursuant to Part 1 (commencing with Section 6001), Part 2
36 (commencing with Section 7301), Part 3 (commencing with Section
37 8601), Part 13 (commencing with Section 30001), Part 14
38 (commencing with Section 32001), and Part 17 (commencing with
39 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. 2.~~

13 *SEC. 3.* Section 7480 of the Government Code, as amended
14 by Section 30 of Chapter 697 of the Statutes of 2010, is amended
15 to read:

16 7480. Nothing in this chapter shall prohibit any of the
17 following:

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

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

37 (1) The number of items dishonored.

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

39 (3) The dollar volume of the dishonored items and items paid
40 which created overdrafts and a statement explaining any credit

1 arrangement between the bank, credit union, or savings association
2 and customer to pay overdrafts.

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

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

7 (6) The date the account opened and, if applicable, the date the
8 account closed.

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

14 (A) Requires a financial institution to produce a photograph or
15 video recording if it does not possess the photograph or video
16 recording.

17 (B) Affects any existing civil immunities as provided in Section
18 47 of the Civil Code or any other provision of law.

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

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

39 (1) The number of items dishonored.

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

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

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

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

9 (6) The date the account opened and, if applicable, the date the
10 account closed.

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

16 (A) Requires a financial institution to produce a photograph or
17 video recording if it does not possess the photograph or video
18 recording.

19 (B) Affects any existing civil immunities as provided in Section
20 47 of the Civil Code or any other provision of law.

21 (8) A bank, credit union, or savings association doing business
22 in this state that provides the requesting party with copies of one
23 or more complete account statements prepared in the regular course
24 of business shall be deemed to be in compliance with paragraphs
25 (1), (2), (3), and (4).

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

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

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

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

37 (e) (1) The Attorney General, a supervisory agency, the
38 Franchise Tax Board, the State Board of Equalization, the
39 Employment Development Department, the Controller or an
40 inheritance tax referee when administering the Prohibition of Gift

1 and Death Taxes (Part 8 (commencing with Section 13301) of
2 Division 2 of the Revenue and Taxation Code), a police or sheriff's
3 department or district attorney, a county adult protective services
4 office when investigating the financial abuse of an elder or
5 dependent adult, a long-term care ombudsman when investigating
6 the financial abuse of an elder or dependent adult, a county welfare
7 department when investigating welfare fraud, a county
8 auditor-controller or director of finance when investigating fraud
9 against the county, or the Department of Corporations when
10 conducting investigations in connection with the enforcement of
11 laws administered by the Commissioner of Corporations, from
12 requesting of an office or branch of a financial institution, and the
13 office or branch from responding to a request, as to whether a
14 person has an account or accounts at that office or branch and, if
15 so, any identifying numbers of the account or accounts.

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

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

25 (f) The examination by, or disclosure to, any supervisory agency
26 of financial records that relate solely to the exercise of its
27 supervisory function. The scope of an agency's supervisory
28 function shall be determined by reference to statutes that grant
29 authority to examine, audit, or require reports of financial records
30 or financial institutions as follows:

31 (1) With respect to the Commissioner of Financial Institutions
32 by reference to Division 1 (commencing with Section 99), Division
33 1.5 (commencing with Section 4800), Division 2 (commencing
34 with Section 5000), Division 5 (commencing with Section 14000),
35 Division 7 (commencing with Section 18000), Division 15
36 (commencing with Section 31000), and Division 16 (commencing
37 with Section 33000), of the Financial Code.

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

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

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

13 (h) The disclosure to the State Board of Equalization of any of
14 the following:

15 (1) The information required by Sections 6702, 6703, 8954,
16 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155,
17 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404,
18 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the
19 Revenue and Taxation Code.

20 (2) The financial records in connection with the filing or audit
21 of a tax return required to be filed by the financial institution
22 pursuant to Part 1 (commencing with Section 6001), Part 2
23 (commencing with Section 7301), Part 3 (commencing with Section
24 8601), Part 13 (commencing with Section 30001), Part 14
25 (commencing with Section 32001), and Part 17 (commencing with
26 Section 37001), of Division 2 of the Revenue and Taxation Code.

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

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

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

36 (k) The disclosure by a construction lender, as defined in Section
37 8006 of the Civil Code, to the Registrar of Contractors, of
38 information concerning the making of progress payments to a
39 prime contractor requested by the registrar in connection with an

1 investigation under Section 7108.5 of the Business and Professions
2 Code.

3 (l) Upon receipt of a written request from a local child support
4 agency referring to a support order pursuant to Section 17400 of
5 the Family Code, a financial institution shall disclose the following
6 information concerning the account or the person named in the
7 request, whom the local child support agency shall identify,
8 whenever possible, by social security number:

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

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

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

20 (4) Whenever the request prohibits the disclosure, a financial
21 institution shall not disclose either the request or its response, to
22 an owner of the account or to any other person, except the officers
23 and employees of the financial institution who are involved in
24 responding to the request and to attorneys, employees of the local
25 child support agencies, auditors, and regulatory authorities who
26 have a need to know in order to perform their duties, and except
27 as disclosure may be required by legal process.

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

36 (6) The local child support agency may request information
37 pursuant to this subdivision only when the local child support
38 agency has received at least one of the following types of physical
39 evidence:

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

- 1 (i) Form 599.
- 2 (ii) Form 1099.
- 3 (iii) A bank statement.
- 4 (iv) A check.
- 5 (v) A bank passbook.
- 6 (vi) A deposit slip.
- 7 (vii) A copy of a federal or state income tax return.
- 8 (viii) A debit or credit advice.
- 9 (ix) Correspondence that identifies the child support obligor by
- 10 name, the bank, and the account number.
- 11 (x) Correspondence that identifies the child support obligor by
- 12 name, the bank, and the banking services related to the account of
- 13 the obligor.
- 14 (xi) An asset identification report from a federal agency.
- 15 (B) A sworn declaration of the custodial parent during the 12
- 16 months immediately preceding the request that the person named
- 17 in the request has had or may have had an account at an office or
- 18 branch of the financial institution to which the request is made.
- 19 (7) Information obtained by a local child support agency
- 20 pursuant to this subdivision shall be used only for purposes that
- 21 are directly connected with the administration of the duties of the
- 22 local child support agency pursuant to Section 17400 of the Family
- 23 Code.
- 24 (m) (1) As provided in paragraph (1) of subdivision (c) of
- 25 Section 666 of Title 42 of the United States Code, upon receipt of
- 26 an administrative subpoena on the current federally approved
- 27 interstate child support enforcement form, as approved by the
- 28 federal Office of Management and Budget, a financial institution
- 29 shall provide the information or documents requested by the
- 30 administrative subpoena.
- 31 (2) The administrative subpoena shall refer to the current federal
- 32 Office of Management and Budget control number and be signed
- 33 by a person who states that he or she is an authorized agent of a
- 34 state or county agency responsible for implementing the child
- 35 support enforcement program set forth in Part D (commencing
- 36 with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the
- 37 United States Code. A financial institution may rely on the
- 38 statements made in the subpoena and has no duty to inquire into
- 39 the truth of any statement in the subpoena.

1 (3) If the person who signs the administrative subpoena directs
2 a financial institution in writing not to disclose either the subpoena
3 or its response to any owner of an account covered by the subpoena,
4 the financial institution shall not disclose the subpoena or its
5 response to the owner.

6 (4) No financial institution, or any officer, employee, or agent
7 thereof, shall be liable to any person for (A) disclosing information
8 or providing documents in response to a subpoena pursuant to this
9 subdivision, (B) failing to notify any owner of an account covered
10 by the subpoena or complying with a request not to disclose to the
11 owner, the subpoena or disclosure under this subdivision, or (C)
12 failing to discover any account owned by the person named in the
13 subpoena pursuant to a computerized search of the records of the
14 financial institution.

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

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

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

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

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

30 (B) The ex parte application and any subsequent judicial order
31 shall be open to the public as a judicial record unless ordered sealed
32 by the court, for a period of 60 days. The sealing of these records
33 may be extended for 60-day periods upon a showing to the court
34 that it is necessary for the continuance of the investigation.
35 Sixty-day extensions may continue for up to one year or until
36 termination of the investigation of the individual or individuals,
37 whichever is sooner.

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

1 (D) Nothing in this subdivision shall preclude the financial
2 institution from notifying a customer of the receipt of the order
3 for production of records unless a court orders the financial
4 institution to withhold notification to the customer upon a finding
5 that the notice would impede the investigation.

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

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

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

16 (A) Disclosing information to a probate court pursuant to
17 Sections 2892 and 2893.

18 (B) Disclosing information in response to a court order pursuant
19 to paragraph (3).

20 (C) Complying with a court order under this subdivision not to
21 disclose to the customer, the order, or the dissemination of
22 information pursuant to the court order.

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

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

30 (2) Paragraph (1) of subdivision (a) of Section 4002 of the
31 Financial Code, provided that the financial institution has first
32 complied with the requirements of paragraph (2) of subdivision
33 (a) and subdivision (b) of Section 4002 of the Financial Code.

34 (3) Paragraph (1) of subdivision (a) of Section 22470 of the
35 Financial Code, provided that any financial institution that is a
36 finance lender has first complied with the requirements of
37 paragraph (2) of subdivision (a) and subdivision (b) of Section
38 22470 of the Financial Code.

39 (p) When the governing board of the Public Employees'
40 Retirement System or the State Teachers' Retirement System

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

10 (q) When the retirement board of a retirement system established
11 under the County Employees Retirement Law of 1937 certifies in
12 writing to a financial institution that a retired member or the
13 beneficiary of a retired member has died and that transfers to the
14 account of the retired member or beneficiary of a retired member
15 at the financial institution from the retirement system occurred
16 after the date of death of the retired member or beneficiary of a
17 retired member, the financial institution shall furnish the retirement
18 system with the name and address of any coowner, cosigner, or
19 any other person who had access to the funds in the account
20 following the date of death of the retired member or beneficiary
21 of a retired member, or if the account has been closed, the name
22 and address of the person who closed the account.

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

37 ~~SEC. 3.~~

38 *SEC. 4.* Section 15202.1 of the Government Code is amended
39 to read:

1 15202.1. (a) If the venue for trial of a homicide case has been
2 changed from the county which is eligible for reimbursement under
3 Section 15202 to a location more than 60 miles from the county
4 seat of that county, and the district attorney of that county has
5 entered into a contract with an attorney to try the case or an
6 investigator to assist in the trial of the case, the Controller shall
7 reimburse the county for the actual costs of the attorney or
8 investigator under this section, at an hourly rate not to exceed the
9 hourly rate charged state agencies by the Attorney General for
10 similar attorney services or investigators, without further showing
11 of justification. Nothing in this section shall permit the
12 reimbursement of costs for travel in excess of 1,000 miles on any
13 single round trip, without the prior approval of the Attorney
14 General.

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

17 (2) The limitation provided in this subdivision shall not apply
18 to Sierra County. Instead, the County of Sierra may apply to the
19 Controller for reimbursement pursuant to subdivision (a) for its
20 costs incident to the prosecution of the homicide trial of People v.
21 Corjasso.

22 ~~SEC. 4.~~

23 *SEC. 5.* Section 70372 of the Government Code is amended
24 to read:

25 70372. (a) (1) Except as otherwise provided in this article,
26 there shall be levied a state court construction penalty, in the
27 amount of five dollars (\$5) for every ten dollars (\$10), or part of
28 ten dollars (\$10), upon every fine, penalty, or forfeiture imposed
29 and collected by the courts for all criminal offenses, including, but
30 not limited to, all offenses involving a violation of a section of the
31 Fish and Game Code, the Health and Safety Code, or the Vehicle
32 Code or any local ordinance adopted pursuant to the Vehicle Code.
33 This penalty is in addition to any other state or local penalty,
34 including, but not limited to, the penalty provided by Section 1464
35 of the Penal Code and Section 76000.

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

37 (A) Any restitution fine.

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

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

3 (D) The state surcharge authorized by Section 1465.7 of the
4 Penal Code.

5 (3) Any bail schedule adopted pursuant to Section 1269b of the
6 Penal Code or adopted by the Judicial Council pursuant to Section
7 40310 of the Vehicle Code may include the necessary amount to
8 pay the penalty established by this section, the penalties authorized
9 by Section 1464 of the Penal Code and Chapter 12 (commencing
10 with Section 76000) of Title 8, and the surcharge authorized by
11 Section 1465.7 of the Penal Code for all matters where a personal
12 appearance is not mandatory and the bail is posted primarily to
13 guarantee payment of the fine. After a determination by the court
14 of the amount due, the clerk of the court shall collect the penalty
15 and transmit it immediately to the county treasury and the county
16 treasurer shall transmit these sums as provided in subdivision (f).

17 (b) In addition to the penalty provided by subdivision (a), for
18 every parking offense where a parking penalty, fine, or forfeiture
19 is imposed, an added state court construction penalty of four dollars
20 and fifty cents (\$4.50) shall be included in the total penalty, fine,
21 or forfeiture. These moneys shall be taken from fines and
22 forfeitures deposited with the county treasurer prior to any division
23 pursuant to Section 1462.3 or 1463.009 of the Penal Code. In those
24 cities, districts, or other issuing agencies which elect to accept
25 parking penalties, and otherwise process parking violations
26 pursuant to Article 3 (commencing with Section 40200) of Chapter
27 1 of Division 17 of the Vehicle Code, that city, district, or issuing
28 agency shall observe the increased bail amounts as established by
29 the court reflecting the added penalty provided for by this
30 subdivision. Each agency that elects to process parking violations
31 shall pay to the county treasurer four dollars and fifty cents (\$4.50)
32 for the parking penalty imposed by this subdivision for each
33 violation that is not filed in court. Those payments to the county
34 treasurer shall be made monthly, and the county treasurer shall
35 transmit these sums as provided in paragraph (2) of subdivision
36 (f). In the event these payments were deposited in a local
37 courthouse construction fund and expended pursuant to the
38 provisions of Chapter 592 of the Statutes of 2003, no county or
39 processing agency shall be liable for the failure to transmit the
40 payments to the Controller during the 2008 calendar year.

1 (c) If multiple offenses are involved, the state court construction
2 penalty under subdivision (a) shall be based upon the total fine or
3 bail for each case. If a fine is suspended, in whole or in part, the
4 state court construction penalty under subdivision (a) shall be
5 reduced in proportion to the suspension.

6 (d) If any deposited bail is made for an offense to which this
7 section applies, and for which a court appearance is not mandatory,
8 the person making the deposit shall also deposit a sufficient amount
9 to include the state court construction penalty prescribed by
10 subdivision (a) for forfeited bail. If bail is returned, the state court
11 construction penalty paid thereon pursuant to subdivision (a) shall
12 also be returned.

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

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

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

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

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

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

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

36 (2) Within 45 days after the end of the month that moneys are
37 deposited in the county treasury pursuant to subdivision (b), the
38 county treasurer shall transmit the moneys to the Controller to be
39 deposited as follows: one-third of the total amount shall be
40 deposited in the State Court Facilities Construction Fund and

1 two-thirds of the total amount shall be deposited in the Immediate
2 and Critical Needs Account of the State Court Facilities
3 Construction Fund, established in Section 70371.5.

4 ~~SEC. 5.~~

5 *SEC. 6.* Section 466 of the Penal Code is amended to read:

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

24 ~~SEC. 6.~~

25 *SEC. 7.* Section 633.8 of the Penal Code is amended to read:

26 633.8. (a) It is the intent of the Legislature in enacting this
27 section to provide law enforcement with the ability to use electronic
28 amplifying or recording devices to eavesdrop on and record the
29 otherwise confidential oral communications of individuals within
30 a location when responding to an emergency situation that involves
31 the taking of a hostage or the barricading of a location. It is the
32 intent of the Legislature that eavesdropping on oral
33 communications pursuant to this section comply with paragraph
34 (7) of Section 2518 of Title 18 of the United States Code.

35 (b) Notwithstanding the provisions of this chapter, and in
36 accordance with federal law, a designated peace officer described
37 in subdivision (c) may use, or authorize the use of, an electronic
38 amplifying or recording device to eavesdrop on or record, or both,
39 any oral communication within a particular location in response
40 to an emergency situation involving the taking of a hostage or

1 hostages or the barricading of a location if all of the following
2 conditions are satisfied:

3 (1) The officer reasonably determines that an emergency
4 situation exists involving the immediate danger of death or serious
5 physical injury to any person, within the meaning of Section
6 2518(7)(a)(i) of Title 18 of the United States Code.

7 (2) The officer reasonably determines that the emergency
8 situation requires that the eavesdropping on oral communication
9 occur immediately.

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

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

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

23 (e) If the determination is made by a designated peace officer
24 described in subdivision (c) that an emergency situation exists and
25 an eavesdropping device has been deployed, an application for an
26 order approving the eavesdropping shall be made within 48 hours
27 of the beginning of the eavesdropping and shall comply with the
28 requirements of Section 629.50. A court may grant an application
29 authorizing the use of electronic amplifying or recording devices
30 to eavesdrop on and record otherwise confidential oral
31 communications in barricade or hostage situations where there is
32 probable cause to believe that an individual is committing, has
33 committed, or is about to commit an offense listed in Section
34 2516(2) of Title 18 of the United States Code.

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

39 (g) For purposes of this section, a “barricading” occurs when a
40 person refuses to come out from a covered or enclosed position.

1 Barricading also occurs when a person is held against his or her
2 will and the captor has not made a demand.

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

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

18 (j) This section does not require that a peace officer designated
19 pursuant to subdivision (c) undergo training pursuant to Section
20 629.94.

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

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

28 ~~SEC. 7.~~

29 *SEC. 8.* Section 904.7 of the Penal Code is amended to read:

30 904.7. (a) Notwithstanding subdivision (a) of Section 904.6
31 or any other provision, in the County of San Bernardino, the
32 presiding judge of the superior court, or the judge appointed by
33 the presiding judge to supervise the grand jury, may, upon the
34 request of the Attorney General or the district attorney or upon his
35 or her own motion, order and direct the impanelment of an
36 additional civil grand jury pursuant to this section.

37 (b) The presiding judge or the judge appointed by the presiding
38 judge to supervise the grand jury shall select persons, at random,
39 from the list of trial jurors in civil and criminal cases and shall
40 examine them to determine if they are competent to serve as grand

1 jurors. When a sufficient number of competent persons have been
2 selected, they shall constitute an additional grand jury.

3 (c) Any additional civil grand jury that is impaneled pursuant
4 to this section may serve for a term as determined by the presiding
5 judge or the judge appointed by the presiding judge to supervise
6 the civil grand jury, but may be discharged at any time within the
7 set term by order of the presiding judge or the judge appointed by
8 the presiding judge to supervise the civil grand jury. In no event
9 shall more than one additional civil grand jury be impaneled
10 pursuant to this section at the same time.

11 (d) Whenever an additional civil grand jury is impaneled
12 pursuant to this section, it may inquire into matters of oversight,
13 conduct investigations, issue reports, and make recommendations,
14 except for any matters that the regular grand jury is inquiring into
15 at the time of its impanelment. Any additional civil grand jury
16 impaneled pursuant to this section shall not have jurisdiction to
17 issue indictments.

18 (e) It is the intent of the Legislature that, in the County of San
19 Bernardino, all persons qualified for jury service shall have an
20 equal opportunity to be considered for service as grand jurors
21 within the county, and that they have an obligation to serve, when
22 summoned for that purpose. All persons selected for an additional
23 grand jury shall be selected at random from a source or sources
24 reasonably representative of a cross section of the population that
25 is eligible for jury service in the county.

26 ~~SEC. 8:~~

27 *SEC. 9.* Section 992 of the Penal Code is amended to read:

28 992. (a) (1) In any case in which the defendant is charged
29 with a felony, the court shall require the defendant to provide a
30 right thumbprint on a form developed for this purpose. Unless the
31 court has obtained the thumbprint at an earlier proceeding, it shall
32 do so at the arraignment on the information or indictment, or upon
33 entry of a guilty or no contest plea under Section 859a. The
34 fingerprint form shall include the name and superior court case
35 number of the defendant, the date, and the printed name, position,
36 and badge or serial number of the court bailiff who imprints the
37 defendant's thumbprint. In the event the defendant is physically
38 unable to provide a right thumbprint, the defendant shall provide
39 a left thumbprint. In the event the defendant is physically unable
40 to provide a left thumbprint, the court shall make a determination

1 as to how the defendant might otherwise provide a suitable
2 identifying characteristic to be imprinted on the judgment of
3 conviction. The clerk shall note on the fingerprint form which
4 digit, if any, of the defendant's was imprinted thereon. In the event
5 that the defendant is convicted, this fingerprint form shall be
6 attached to the minute order reflecting the defendant's sentence.
7 The fingerprint form shall be permanently maintained in the
8 superior court file.

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

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

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

18 ~~1181. When a verdict has been rendered or a finding made~~
19 ~~against the defendant, the court may, upon his or her application,~~
20 ~~grant a new trial, in the following cases only:~~

21 ~~(a) When the trial has been had in the defendant's absence~~
22 ~~except in cases where the trial may lawfully proceed in the~~
23 ~~defendant's absence.~~

24 ~~(b) When the jury has received any evidence out of court, other~~
25 ~~than that resulting from a view of the premises, or of personal~~
26 ~~property.~~

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

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

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

33 ~~(f) When the court has misdirected the jury in a matter of law,~~
34 ~~or has erred in the decision of any question of law arising during~~
35 ~~the course of the trial.~~

36 ~~(g) When the district attorney or other counsel prosecuting the~~
37 ~~case has been guilty of prejudicial misconduct during the trial~~
38 ~~thereof before a jury.~~

39 ~~(h) When the verdict or finding is contrary to law or evidence,~~
40 ~~but:~~

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

7 ~~(2) In any case wherein authority is vested by statute in the trial~~
 8 ~~court or jury to recommend or determine as a part of its verdict or~~
 9 ~~finding the punishment to be imposed, the court may modify such~~
 10 ~~verdict or finding by imposing the lesser punishment without~~
 11 ~~granting or ordering a new trial, and this power shall extend to any~~
 12 ~~court to which the case may be appealed.~~

13 ~~(i) When new evidence is discovered material to the defendant,~~
 14 ~~and which he or she could not, with reasonable diligence, have~~
 15 ~~discovered and produced at the trial. When a motion for a new~~
 16 ~~trial is made upon the ground of newly discovered evidence, the~~
 17 ~~defendant must produce at the hearing, in support thereof, the~~
 18 ~~affidavits of the witnesses by whom such evidence is expected to~~
 19 ~~be given, and if time is required by the defendant to procure such~~
 20 ~~affidavits, the court may postpone the hearing of the motion for~~
 21 ~~such length of time as, under all circumstances of the case, may~~
 22 ~~seem reasonable.~~

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

33 SEC. 10. Section 1203.4 of the Penal Code, as amended by
 34 Section 76 of Chapter 178 of the Statutes of 2010, is amended to
 35 read:

36 1203.4. (a) In any case in which a defendant has fulfilled the
 37 conditions of probation for the entire period of probation, or has
 38 been discharged prior to the termination of the period of probation,
 39 or in any other case in which a court, in its discretion and the
 40 interests of justice, determines that a defendant should be granted

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

28 Dismissal of an accusation or information pursuant to this section
29 does not permit a person to own, possess, or have in his or her
30 custody or control any firearm or prevent his or her conviction
31 under Chapter 2 (commencing with Section 29800) of Division 9
32 of Title 4 of Part 6.

33 Dismissal of an accusation or information underlying a
34 conviction pursuant to this section does not permit a person
35 prohibited from holding public office as a result of that conviction
36 to hold public office.

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

39 (b) Subdivision (a) of this section does not apply to any
40 misdemeanor that is within the provisions of Section 42002.1 of

1 the Vehicle Code, to any violation of subdivision (c) of Section
2 286, Section 288, subdivision (c) of Section 288a, Section 288.5,
3 or subdivision (j) of Section 289, any felony conviction pursuant
4 to subdivision (d) of Section 261.5, or to any infraction.

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

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

14 (d) A person who petitions for a change of plea or setting aside
15 of a verdict under this section may be required to reimburse the
16 court for the actual costs of services rendered, whether or not the
17 petition is granted and the records are sealed or expunged, at a rate
18 to be determined by the court not to exceed one hundred fifty
19 dollars (\$150), and to reimburse the county for the actual costs of
20 services rendered, whether or not the petition is granted and the
21 records are sealed or expunged, at a rate to be determined by the
22 county board of supervisors not to exceed one hundred fifty dollars
23 (\$150), and to reimburse any city for the actual costs of services
24 rendered, whether or not the petition is granted and the records are
25 sealed or expunged, at a rate to be determined by the city council
26 not to exceed one hundred fifty dollars (\$150). Ability to make
27 this reimbursement shall be determined by the court using the
28 standards set forth in paragraph (2) of subdivision (g) of Section
29 987.8 and shall not be a prerequisite to a person's eligibility under
30 this section. The court may order reimbursement in any case in
31 which the petitioner appears to have the ability to pay, without
32 undue hardship, all or any portion of the costs for services
33 established pursuant to this subdivision.

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

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

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

5 (g) Notwithstanding the above provisions or any other provision
6 of law, the Governor shall have the right to pardon a person
7 convicted of a violation of subdivision (c) of Section 286, Section
8 288, subdivision (c) of Section 288a, Section 288.5, or subdivision
9 (j) of Section 289, if there are extraordinary circumstances.

10 SEC. 11. Section 1203.4a of the Penal Code is amended to
11 read:

12 1203.4a. (a) Every defendant convicted of a misdemeanor and
13 not granted probation, and every defendant convicted of an
14 infraction, shall, at any time after the lapse of one year from the
15 date of pronouncement of judgment, if he or she has fully complied
16 with and performed the sentence of the court, is not then serving
17 a sentence for any offense and is not under charge of commission
18 of any crime and has, since the pronouncement of judgment, lived
19 an honest and upright life and has conformed to and obeyed the
20 laws of the land, be permitted by the court to withdraw his or her
21 plea of guilty or nolo contendere and enter a plea of not guilty; or
22 if he or she has been convicted after a plea of not guilty, the court
23 shall set aside the verdict of guilty; and in either case the court
24 shall thereupon dismiss the accusatory pleading against the
25 defendant, who shall thereafter be released from all penalties and
26 disabilities resulting from the offense of which he or she has been
27 convicted, except as provided in Section 12021.1 of this code or
28 Section 13555 of the Vehicle Code. The defendant shall be
29 informed of the provisions of this section, either orally or in
30 writing, at the time he or she is sentenced. The defendant may
31 make an application and change of plea in person or by attorney,
32 or by the probation officer authorized in writing; provided, that in
33 any subsequent prosecution of the defendant for any other offense,
34 the prior conviction may be pleaded and proved and shall have the
35 same effect as if relief had not been granted pursuant to this section.

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

38 (b) Subdivision (a) does not apply to any misdemeanor falling
39 within the provisions of Section 42002.1 of the Vehicle Code, to

1 any infraction falling within the provisions of the Vehicle Code,
2 or to any local ordinance adopted pursuant to the Vehicle Code.

3 (c) A person who petitions for a dismissal of a charge under
4 this section may be required to reimburse the county and the court
5 for the cost of services rendered at a rate to be determined by the
6 county board of supervisors for the county and by the court for the
7 court, not to exceed sixty dollars (\$60), and to reimburse any city
8 for the cost of services rendered at a rate to be determined by the
9 city council not to exceed sixty dollars (\$60). Ability to make this
10 reimbursement shall be determined by the court using the standards
11 set forth in paragraph (2) of subdivision (g) of Section 987.8 and
12 shall not be a prerequisite to a person's eligibility under this
13 section. The court may order reimbursement in any case in which
14 the petitioner appears to have the ability to pay, without undue
15 hardship, all or any portion of the cost for services established
16 pursuant to this subdivision.

17 (d) A petition for dismissal of an infraction pursuant to this
18 section shall be by written declaration, except upon a showing of
19 compelling need. Dismissal of an infraction shall not be granted
20 under this section unless the prosecuting attorney has been given
21 at least 15 days' notice of the petition for dismissal. It shall be
22 presumed that the prosecuting attorney has received notice if proof
23 of service is filed with the court.

24 (e) Any determination of amount made by a court under this
25 section shall be valid only if either (1) made under procedures
26 adopted by the Judicial Council or (2) approved by the Judicial
27 Council.

28 ~~SEC. 12. Section 1387 of the Penal Code is amended to read:~~

29 ~~1387. (a) An order terminating an action pursuant to this~~
30 ~~chapter, or Section 859b, 861, 871, or 995, is a bar to any other~~
31 ~~prosecution for the same offense if it is a felony or if it is a~~
32 ~~misdemeanor charged together with a felony and the action has~~
33 ~~been previously terminated pursuant to this chapter, or Section~~
34 ~~859b, 861, 871, or 995, or if it is a misdemeanor not charged~~
35 ~~together with a felony, except in those felony cases, or those cases~~
36 ~~where a misdemeanor is charged with a felony, where subsequent~~
37 ~~to the dismissal of the felony or misdemeanor the judge or~~
38 ~~magistrate finds any of the following:~~

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

4 ~~(2) That the termination of the action was the result of the direct~~
5 ~~intimidation of a material witness, as shown by a preponderance~~
6 ~~of the evidence.~~

7 ~~(3) That the termination of the action was the result of the failure~~
8 ~~to appear by the complaining witness, who had been personally~~
9 ~~subpoenaed in a prosecution arising under subdivision (c) of~~
10 ~~Section 243 or Section 262, 273.5, or 273.6. This paragraph shall~~
11 ~~apply only within six months of the original dismissal of the action,~~
12 ~~and may be invoked only once in each action. Nothing in this~~
13 ~~section shall preclude a defendant from being eligible for diversion.~~

14 ~~(b) Notwithstanding subdivision (a), an order terminating an~~
15 ~~action pursuant to this chapter is not a bar to another prosecution~~
16 ~~for the same offense if it is a misdemeanor charging an offense~~
17 ~~based on an act of domestic violence, as defined in subdivisions~~
18 ~~(a) and (b) of Section 13700, and the termination of the action was~~
19 ~~the result of the failure to appear by the complaining witness, who~~
20 ~~had been personally subpoenaed. This subdivision shall apply only~~
21 ~~within six months of the original dismissal of the action, and may~~
22 ~~be invoked only once in each action. Nothing in this subdivision~~
23 ~~shall preclude a defendant from being eligible for diversion.~~

24 ~~(c) An order terminating an action is not a bar to prosecution~~
25 ~~if a complaint is dismissed before the commencement of a~~
26 ~~preliminary hearing in favor of an indictment filed pursuant to~~
27 ~~Section 944 or an indictment is based upon the same subject matter~~
28 ~~as charged in a dismissed complaint, information, or indictment.~~

29 ~~(d) If the previous termination was pursuant to Section 859b,~~
30 ~~861, 871, or 995, the subsequent order terminating an action is not~~
31 ~~a bar to prosecution if:~~

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

34 ~~(2) The motion pursuant to Section 995 was granted because of~~
35 ~~any of the following reasons:~~

36 ~~(A) Present insanity of the defendant.~~

37 ~~(B) A lack of counsel after the defendant elected to represent~~
38 ~~himself or herself rather than being represented by appointed~~
39 ~~counsel.~~

40 ~~(C) Ineffective assistance of counsel.~~

1 ~~(D) Conflict of interest of defense counsel.~~

2 ~~(E) Violation of time deadlines based upon unavailability of~~
3 ~~defense counsel.~~

4 ~~(F) Defendant’s motion to withdraw a waiver of the preliminary~~
5 ~~examination.~~

6 ~~(3) The motion pursuant to Section 995 was granted after~~
7 ~~dismissal by the magistrate of the action pursuant to Section 871~~
8 ~~and was recharged pursuant to Section 739.~~

9 ~~SEC. 13.~~

10 *SEC. 12.* Section 1466 of the Penal Code is amended to read:

11 1466. An appeal may be taken from a judgment or order, in an
12 infraction or misdemeanor case, to the appellate division of the
13 superior court of the county in which the court from which the
14 appeal is taken is located, in the following cases:

15 (a) By the people:

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

18 (2) From an order or judgment dismissing or otherwise
19 terminating all or any portion of the action, including such an order
20 or judgment, entered after a verdict or finding of guilty or a verdict
21 or judgment entered before the defendant has been placed in
22 jeopardy or where the defendant has waived jeopardy.

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

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

26 (5) From an order arresting judgment.

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

29 (7) From the imposition of an unlawful sentence, whether or
30 not the court suspends the execution of sentence. As used in this
31 ~~subparagraph~~ *paragraph*, “unlawful sentence” means the
32 imposition of a sentence not authorized by law or the imposition
33 of a sentence based upon an unlawful order of the court that strikes
34 or otherwise modifies the effect of an enhancement or prior
35 conviction. A defendant shall have the right to counsel in the
36 people’s appeal of an unlawful sentence under the same
37 circumstances that he or she would have a right to counsel under
38 subdivision (a) of Section 1238.

39 (8) Nothing in this section shall be construed to authorize an
40 appeal from an order granting probation. Instead, the people may

1 seek appellate review of any grant of probation, whether or not
2 the court imposes sentence, by means of a petition for a writ of
3 mandate or prohibition that is filed within 60 days after probation
4 is granted. The review of any grant of probation shall include
5 review of any order underlying the grant of probation.

6 (b) By the defendant:

7 (1) From a final judgment of conviction. A sentence, an order
8 granting probation, a conviction in a case in which before final
9 judgment the defendant is committed for insanity or is given an
10 indeterminate commitment as a mentally disordered sex offender,
11 or the conviction of a defendant committed for controlled substance
12 addiction shall be deemed to be a final judgment within the
13 meaning of this section. Upon appeal from a final judgment or an
14 order granting probation the court may review any order denying
15 a motion for a new trial.

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

18 ~~SEC. 14.~~

19 *SEC. 13.* Section 11105.2 of the Penal Code is amended to
20 read:

21 11105.2. (a) The Department of Justice may provide
22 subsequent state or federal arrest notification to any entity
23 authorized by state or federal code or regulation to receive state
24 or federal summary criminal history information to assist in
25 fulfilling employment, licensing, certification duties, or the duties
26 of approving relative caregivers and nonrelative extended family
27 members, upon the arrest of any person whose fingerprints are
28 maintained on file at the Department of Justice or the Federal
29 Bureau of Investigation as the result of an application for licensing,
30 employment, certification, or approval. The notification shall
31 consist of a current copy of the person's state or federal summary
32 criminal history transcript.

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

38 (c) Any entity, other than a law enforcement agency employing
39 peace officers as defined in Section 830.1, subdivisions (a) and
40 (e) of Section 830.2, subdivision (a) of Section 830.3, subdivisions

1 (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31,
2 shall enter into a contract with the Department of Justice in order
3 to receive notification of subsequent state or federal arrests for
4 licensing, employment, or certification purposes.

5 (d) Any entity which submits the fingerprints of applicants for
6 licensing, employment, certification, or approval to the Department
7 of Justice for the purpose of establishing a record of the applicant
8 to receive notification of subsequent state or federal arrests shall
9 immediately notify the department when the employment of the
10 applicant is terminated, when the applicant's license or certificate
11 is revoked, when the applicant may no longer renew or reinstate
12 the license or certificate, or when a relative caregiver's or
13 nonrelative extended family member's approval is terminated. The
14 Department of Justice shall terminate subsequent state or federal
15 arrest notification on any applicant upon the request of the
16 licensing, employment, certifying, or approving authority.

17 (e) Any entity receiving notification of a subsequent state or
18 federal arrest for a person unknown to the entity, or for a person
19 no longer employed by the entity, or no longer eligible to renew
20 the certificate or license for which subsequent state or federal arrest
21 notification service was established shall immediately return the
22 subsequent state or federal arrest notification to the Department
23 of Justice, informing the department that the entity is no longer
24 interested in the applicant. The entity shall not record or otherwise
25 retain any information received as a result of the subsequent notice.

26 (f) Any entity which submits the fingerprints of an applicant
27 for employment, licensing, certification, or approval to the
28 Department of Justice for the purpose of establishing a record at
29 the department or the Federal Bureau of Investigation to receive
30 notification of subsequent arrest shall immediately notify the
31 department if the applicant is not subsequently employed, or if the
32 applicant is denied licensing certification, or approval.

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

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

1 ~~SEC. 15.~~

2 ~~SEC. 14.~~ Section 14303 of the Penal Code is amended to read:

3 14303. (a) There is hereby created, in the General Fund, the
4 Environmental Enforcement and Training Account and up to two
5 million dollars (\$2,000,000) in the account may be expended
6 annually by the agency, upon appropriation by the Legislature, for
7 the purposes of this title.

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

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

17 (d) As of January 1, 2003, all unallocated funds in the Hazardous
18 Materials Enforcement and Training Account created pursuant to
19 Chapter 743 of the Statutes of 1992 that derive from court
20 judgments specifying that the funds may be used only for purposes
21 of this title shall be transferred to the Environmental Enforcement
22 and Training Account.

23 (e) (1) Any funds that are appropriated by the Legislature
24 pursuant to subdivision (a), allocated pursuant to Section 14314,
25 and declined by the commission, ~~may~~ *shall* be reallocated by the
26 secretary as described in Section 14314.

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

29 ~~SEC. 16.~~

30 ~~SEC. 15.~~ Section 14314 of the Penal Code is amended to read:

31 14314. Notwithstanding any other provision of this title, the
32 agency shall not implement this title until there is an amount of
33 one hundred thousand dollars (\$100,000) in the account.

34 Funds in the account shall be divided as follows:

35 (a) Twenty-five percent or one hundred thousand dollars
36 (\$100,000) to the commission, whichever is less. The commission
37 may decline all or part of the funds allocated to it pursuant to this
38 subdivision. Any funds so declined shall be reallocated by the
39 secretary to any of the entities listed in subdivisions (b), (c), and
40 (d) for the training of peace officers consistent with this title.

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

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

7 (d) (1) The balance to the secretary for grants awarded to
8 programs pursuant to Chapter 3 (commencing with Section 14306)
9 or Chapter 4 (commencing with Section 14309) based on need or
10 in order to sustain the current level of presence and enforcement
11 for those programs.

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

17 (e) The secretary shall develop an application process for
18 awarding funds to programs pursuant to subdivisions (b), (c), and
19 (d).

20 ~~SEC. 17:~~

21 *SEC. 16.* Section 10334 of the Public Contract Code, as
22 amended by Section 95 of Chapter 178 of the Statutes of 2010, is
23 amended to read:

24 10334. (a) No state employee shall acquire any goods from
25 the state, unless the goods are offered to the general public in the
26 regular course of the state's business on the same terms and
27 conditions as those applicable to the employee. "State employee,"
28 as used in this section, means any employee of the state included
29 within Section 82009 of the Government Code, and all officers
30 and employees included within Section 4 of Article VII of the
31 California Constitution, except those persons excluded from the
32 definition of "designated employee" under the last paragraph of
33 Section 82019 of the Government Code.

34 (b) Notwithstanding subdivision (a), any peace officer, as
35 defined in Chapter 4.5 (commencing with Section 830) of Title 3
36 of Part 2 of the Penal Code, employed by the State of California
37 for a period of more than 120 months who has been duly retired
38 through a service retirement or a peace officer retiring from a
39 job-incurred disability not related to a mental or emotional disorder
40 and who has been granted the legal right to carry a concealed

1 firearm pursuant to Article 2 (commencing with Section 25450)
2 of Chapter 2 of Division 5 of Title 4 of Part 6 of the Penal Code
3 may be authorized by the person's department head to purchase
4 his or her state-issued handgun. Disability retired peace officers
5 need not meet the 120-month employment requirement. The cost
6 of the handgun shall be the fair market value as listed in the annual
7 Blue Book of Gun Values or replacement cost, whichever is less,
8 of the handgun issued as determined by the appointing power, plus
9 a charge for the cost of handling. The retiring officer shall request
10 to purchase his or her handgun in writing to the department within
11 30 calendar days of his or her retirement date.

12 (c) Notwithstanding subdivision (a), any peace officer described
13 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
14 2 of the Penal Code employed by the State of California who is
15 authorized to carry firearms may purchase his or her state-issued
16 service firearm if the person's department head directs the
17 department to change its state-issued service weapon system. The
18 cost of the service firearm shall be the fair market value as listed
19 in the annual Blue Book of Gun Values or replacement cost,
20 whichever is less, of the firearm issued as determined by the
21 department head, plus a charge for the cost of handling. The
22 requesting officer shall request to purchase his or her firearm in
23 writing to the department within 10 calendar days of receiving the
24 new state-issued weapon.

25 (d) Notwithstanding subdivision (a), the spouse of a peace
26 officer, as defined in Chapter 4.5 (commencing with Section 830)
27 of Title 3 of Part 2 of the Penal Code, employed by the state who
28 has died in the line of duty may be authorized by the deceased's
29 department head to purchase his or her spouse's state-issued
30 handgun. The cost of the handgun shall be the fair market value
31 as listed in the annual Blue Book of Gun Values or replacement
32 costs, whichever is less, of the handgun issued as determined by
33 the appointing power, plus a charge for the cost of handling. The
34 spouse shall request to purchase the handgun in writing to the
35 department within 30 calendar days of his or her spouse's date of
36 death.

37 ~~SEC. 18.~~

38 *SEC. 17.* Section 21203 of the Vehicle Code is amended to
39 read:

1 21203. No person riding upon any motorcycle, motorized
2 bicycle, toy vehicle, or any type of human-powered or
3 gravity-powered device, including, but not limited to, a bicycle,
4 tricycle, four-wheeled cycle, surrey, coaster, roller skates, roller
5 skis, wheeled shoes, skateboard, scooter, sled, or skis, shall attach
6 the same or himself *or herself* to any streetcar or vehicle on the
7 roadway.

8 ~~SEC. 19.~~

9 *SEC. 18.* Section 21712 of the Vehicle Code is amended to
10 read:

11 21712. (a) A person driving a motor vehicle shall not
12 knowingly permit a person to ride on a vehicle or upon a portion
13 of a vehicle that is not designed or intended for the use of
14 passengers.

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

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

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

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

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

23 (2) For a second violation occurring within one year of a prior
24 violation that resulted in a conviction, a fine of two hundred dollars
25 (\$200).

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

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

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

37 (h) A person shall not knowingly drive a motor vehicle that is
38 towing a person riding upon a motorcycle, motorized bicycle, toy
39 vehicle, or any type of human-powered or gravity-powered device,
40 including, but not limited to, a bicycle, tricycle, four-wheeled

1 cycle, surrey, coaster, roller skates, roller skis, wheeled shoes,
2 skateboard, scooter, sled, or skis.

3 (i) Subdivision (g) does not apply to a trailer coach that is towed
4 with a fifth-wheel device if the trailer coach is equipped with safety
5 glazing materials wherever glazing materials are used in windows
6 or doors, with an audible or visual signaling device that a passenger
7 inside the trailer coach can use to gain the attention of the motor
8 vehicle driver, and with at least one unobstructed exit capable of
9 being opened from both the interior and exterior of the trailer
10 coach.

11 ~~SEC. 20.~~

12 *SEC. 19.* Any section of any act, other than AB 1023, enacted
13 by the Legislature during the 2011 calendar year that takes effect
14 on or before January 1, 2012, and that amends, amends and
15 renumbers, adds, repeals and adds, or repeals any one or more of
16 the sections affected by this act shall prevail over this act, whether
17 this act is enacted prior to, or subsequent to, the enactment of that
18 act. The repeal, or repeal and addition, of any article, chapter, part,
19 title, or division of any code by this act shall not become operative
20 if any section of any other act, other than AB 1023, that is enacted
21 by the Legislature during the 2011 calendar year and takes effect
22 on or before January 1, 2012, amends, amends and renumbers,
23 adds, repeals and adds, or repeals any section contained in that
24 article, chapter, part, title, or division.

25 ~~SEC. 21.~~

26 *SEC. 20.* No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.