

AMENDED IN SENATE JULY 9, 2013
AMENDED IN ASSEMBLY APRIL 25, 2013
AMENDED IN ASSEMBLY MARCH 21, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 924

Introduced by Assembly Member Bigelow

February 22, 2013

An act to amend *Section 8214.1 of the Government Code, to amend Sections 1265.5, 1337.9, and 1736.5 of the Health and Safety Code, and to amend Sections 186.2, 463, 487 and, 487a, 489, and 1202.5 of the Penal Code, relating to grand theft.*

LEGISLATIVE COUNSEL'S DIGEST

AB 924, as amended, Bigelow. Grand theft.

Under existing law, every person who feloniously steals, takes, carries, leads, or drives away the personal property of another, or who fraudulently appropriates the property which has been entrusted to him or her, among other things, is guilty of theft. Under existing law, grand theft is generally theft committed when the money, labor, or real or personal property taken is of a value exceeding \$950, or when certain kinds of property are taken. Under existing law, grand theft is committed when the property taken is a horse, mare, gelding, any bovine animal, any caprine animal, mule, jack, jenny, sheep, lamb, hog, sow, boar, gilt, barrow, or pig, or if a person steals the carcass or portion of the carcass of any bovine, caprine, equine, ovine, or suine animal, or of any mule, jack, or jenny. Under existing law, grand theft is punishable either as a felony or a misdemeanor.

This bill would make grand theft of the above-specified animals punishable as a felony or a misdemeanor, or by a fine not exceeding \$5,000, or by both that fine and imprisonment. The bill would require the proceeds of the fine to be allocated to the Bureau of Livestock Identification to be used upon appropriation for specified purposes. *The bill would make technical, nonsubstantive, and conforming changes.*

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

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

1 SECTION 1. Section 8214.1 of the Government Code is
2 amended to read:

3 8214.1. The Secretary of State may refuse to appoint any person
4 as notary public or may revoke or suspend the commission of any
5 notary public upon any of the following grounds:

6 (a) Substantial and material misstatement or omission in the
7 application submitted to the Secretary of State to become a notary
8 public.

9 (b) Conviction of a felony, a lesser offense involving moral
10 turpitude, or a lesser offense of a nature incompatible with the
11 duties of a notary public. A conviction after a plea of nolo
12 contendere is deemed to be a conviction within the meaning of
13 this subdivision.

14 (c) Revocation, suspension, restriction, or denial of a
15 professional license, if the revocation, suspension, restriction, or
16 denial was for misconduct based on dishonesty, or for any cause
17 substantially relating to the duties or responsibilities of a notary
18 public.

19 (d) Failure to discharge fully and faithfully any of the duties or
20 responsibilities required of a notary public.

21 (e) When adjudicated liable for damages in any suit grounded
22 in fraud, misrepresentation, or for a violation of the state regulatory
23 laws, or in any suit based upon a failure to discharge fully and
24 faithfully the duties as a notary public.

25 (f) The use of false or misleading advertising wherein the notary
26 public has represented that the notary public has duties, rights, or
27 privileges that he or she does not possess by law.

28 (g) The practice of law in violation of Section 6125 of the
29 Business and Professions Code.

- 1 (h) Charging more than the fees prescribed by this chapter.
- 2 (i) Commission of any act involving dishonesty, fraud, or deceit
- 3 with the intent to substantially benefit the notary public or another,
- 4 or substantially injure another.
- 5 (j) Failure to complete the acknowledgment at the time the
- 6 notary's signature and seal are affixed to the document.
- 7 (k) Failure to administer the oath or affirmation as required by
- 8 paragraph (3) of subdivision (a) of Section 8205.
- 9 (l) Execution of any certificate as a notary public containing a
- 10 statement known to the notary public to be false.
- 11 (m) Violation of Section 8223.
- 12 (n) Failure to submit any remittance payable upon demand by
- 13 the Secretary of State under this chapter or failure to satisfy any
- 14 court-ordered money judgment, including restitution.
- 15 (o) Failure to secure the sequential journal of official acts,
- 16 pursuant to Section 8206, or the official seal, pursuant to Section
- 17 8207, or willful failure to report the theft or loss of the sequential
- 18 journal, pursuant to subdivision (b) of Section 8206.
- 19 (p) Violation of Section 8219.5.
- 20 (q) Commission of an act in violation of Section 6203, 8214.2,
- 21 8225, or 8227.3 of the Government Code or of Section 115, 470,
- 22 487, *subdivision (a) of Section 487a*, or *Section 530.5* of the Penal
- 23 Code.
- 24 (r) Willful failure to provide access to the sequential journal of
- 25 official acts upon request by a peace officer.
- 26 *SEC. 2. Section 1265.5 of the Health and Safety Code is*
- 27 *amended to read:*
- 28 1265.5. (a) (1) Prior to the initial licensure or renewal of a
- 29 license of any person or persons to operate or manage an
- 30 intermediate care facility/developmentally disabled habilitative,
- 31 an intermediate care facility/developmentally disabled-nursing,
- 32 an intermediate care facility/developmentally disabled-continuous
- 33 nursing, or an intermediate care facility/developmentally disabled,
- 34 other than an intermediate care facility/developmentally disabled
- 35 operated by the state, that secures criminal record clearances for
- 36 its employees through a method other than as specified in this
- 37 section or upon the hiring of direct care staff by any of these
- 38 facilities, the department shall secure from the Department of
- 39 Justice criminal offender record information to determine whether
- 40 the applicant, facility administrator or manager, any direct care

1 staff, or any other adult living in the same location, has ever been
2 convicted of a crime other than a minor traffic violation.

3 (2) (A) The criminal record clearance shall require the applicant
4 to submit electronic fingerprint images and related information of
5 the facility administrator or manager, and any direct care staff, or
6 any other adult living in the same location, to the Department of
7 Justice. Applicants shall be responsible for any cost associated
8 with capturing or transmitting the fingerprint images and related
9 information.

10 (B) The criminal record clearance shall be completed prior to
11 direct staff contact with residents of the facility. A criminal record
12 clearance shall be complete when the department has obtained the
13 person's criminal record information from the Department of
14 Justice and has determined that he or she is not disqualified from
15 engaging in the activity for which clearance is required.

16 (3) (A) The Licensing and Certification Program shall issue an
17 All Facilities Letter (AFL) to facility licensees when it determines
18 that both of the following criteria have been met for a period of
19 30 days:

20 (i) The program receives, within three business days, 95 percent
21 of its total responses indicating no evidence of recorded criminal
22 information from the Department of Justice.

23 (ii) The program processes 95 percent of its total responses
24 requiring disqualification in accordance with subdivision (b), with
25 notices mailed to the facility no later than 45 days after the date
26 that the criminal offender record information report is received
27 from the Department of Justice.

28 (B) After the AFL is issued, facilities shall not allow newly
29 hired facility administrators, managers, direct care staff, or any
30 other adult living in the same location to have direct contact with
31 clients or residents of the facility prior to completion of the criminal
32 record clearance. A criminal record clearance shall be complete
33 when the department has obtained the person's criminal offender
34 record information search response from the Department of Justice
35 and has determined that the person is not disqualified from
36 engaging in the activity for which clearance is required.

37 (C) An applicant or certificate holder who may be disqualified
38 on the basis of a criminal conviction shall provide the department
39 with a certified copy of the judgment of each conviction. In
40 addition, the individual may, during a period of two years after

1 the department receives the criminal record report, provide the
2 department with evidence of good character and rehabilitation in
3 accordance with subdivision (c). Upon receipt of a new application
4 for certification of the individual, the department may receive and
5 consider the evidence during the two-year period without requiring
6 additional fingerprint imaging to clear the individual.

7 (D) The department's Licensing and Certification Program shall
8 explore and implement methods for maximizing its efficiency in
9 processing criminal record clearances within the requirements of
10 law, including a streamlined clearance process for persons that
11 have been disqualified on the basis of criminal convictions that do
12 not require automatic denial pursuant to subdivision (b).

13 (4) An applicant and any other person specified in this
14 subdivision, as part of the background clearance process, shall
15 provide information as to whether or not the person has any prior
16 criminal convictions, has had any arrests within the past 12-month
17 period, or has any active arrests, and shall certify that, to the best
18 of his or her knowledge, the information provided is true. This
19 requirement is not intended to duplicate existing requirements for
20 individuals who are required to submit fingerprint images as part
21 of a criminal background clearance process. Every applicant shall
22 provide information on any prior administrative action taken
23 against him or her by any federal, state, or local governmental
24 agency and shall certify that, to the best of his or her knowledge,
25 the information provided is true. An applicant or other person
26 required to provide information pursuant to this section that
27 knowingly or willfully makes false statements, representations, or
28 omissions may be subject to administrative action, including, but
29 not limited to, denial of his or her application or exemption or
30 revocation of any exemption previously granted.

31 (b) (1) The application for licensure or renewal shall be denied
32 if the criminal record indicates that the person seeking initial
33 licensure or renewal of a license referred to in subdivision (a) has
34 been convicted of a violation or attempted violation of any one or
35 more of the following Penal Code provisions: Section 187,
36 subdivision (a) of Section 192, Section 203, 205, 206, 207, 209,
37 210, 210.5, 211, 220, 222, 243.4, 245, 261, 262, or 264.1, Sections
38 265 to 267, inclusive, Section 273a, 273d, 273.5, or 285,
39 subdivisions (c), (d), (f), and (g) of Section 286, Section 288,
40 subdivisions (c), (d), (f), and (g) of Section 288a, Section 288.5,

1 289, 289.5, 368, 451, 459, 470, 475, 484, or 484b, Sections 484d
2 to 484j, inclusive, ~~or~~ Section 487, *subdivision (a) of Section 487a,*
3 *or Section 488,* 496, 503, 518, or 666, unless any of the following
4 applies:

5 (A) The person was convicted of a felony and has obtained a
6 certificate of rehabilitation under Chapter 3.5 (commencing with
7 Section 4852.01) of Title 6 of Part 3 of the Penal Code and the
8 information or accusation against the person has been dismissed
9 pursuant to Section 1203.4 of the Penal Code with regard to that
10 felony.

11 (B) The person was convicted of a misdemeanor and the
12 information or accusation against the person has been dismissed
13 pursuant to Section 1203.4 or 1203.4a of the Penal Code.

14 (C) The person was convicted of a felony or a misdemeanor,
15 but has previously disclosed the fact of each conviction to the
16 department and the department has made a determination in
17 accordance with law that the conviction does not disqualify the
18 person.

19 (2) The application for licensure or renewal shall be denied if
20 the criminal record of the person includes a conviction in another
21 state for an offense that, if committed or attempted in this state,
22 would have been punishable as one or more of the offenses set
23 forth in paragraph (1), unless evidence of rehabilitation comparable
24 to the dismissal of a misdemeanor or a certificate of rehabilitation
25 as set forth in subparagraph (A) or (B) of paragraph (1) is provided
26 to the department.

27 (c) If the criminal record of a person described in subdivision
28 (a) indicates any conviction other than a minor traffic violation or
29 other than a conviction listed in subdivision (b), the department
30 may deny the application for licensure or renewal. In determining
31 whether or not to deny the application for licensure or renewal
32 pursuant to this subdivision, the department shall take into
33 consideration the following factors as evidence of good character
34 and rehabilitation:

35 (1) The nature and seriousness of the offense under consideration
36 and its relationship to their employment duties and responsibilities.

37 (2) Activities since conviction, including employment or
38 participation in therapy or education, that would indicate changed
39 behavior.

1 (3) The time that has elapsed since the commission of the
2 conduct or offense referred to in paragraph (1) or (2) and the
3 number of offenses.

4 (4) The extent to which the person has complied with any terms
5 of parole, probation, restitution, or any other sanction lawfully
6 imposed against the person.

7 (5) Any rehabilitation evidence, including character references,
8 submitted by the person.

9 (6) Employment history and current employer recommendations.

10 (7) Circumstances surrounding the commission of the offense
11 that would demonstrate the unlikelihood of repetition.

12 (8) The granting by the Governor of a full and unconditional
13 pardon.

14 (9) A certificate of rehabilitation from a superior court.

15 (d) Nothing in this section shall be construed to require a
16 criminal record check of a person receiving services in an
17 intermediate care facility/developmentally disabled habilitative,
18 intermediate care facility/developmentally disabled-nursing,
19 intermediate care facility/developmentally disabled-continuous
20 nursing, or intermediate care facility/developmentally disabled.

21 (e) For purposes of this section, “direct care staff” means all
22 facility staff who are trained and experienced in the care of persons
23 with developmental disabilities and who directly provide program
24 and nursing services to clients. Administrative and licensed
25 personnel shall be considered direct care staff when directly
26 providing program and nursing services to clients. Persons
27 employed as consultants and acting as direct care staff shall be
28 subject to the same requirements for a criminal record clearance
29 as other direct care staff. However, the employing facility shall
30 not be required to pay any costs associated with that criminal record
31 clearance.

32 (f) Upon the employment of any person specified in subdivision
33 (a), and prior to any contact with clients or residents, the facility
34 shall ensure that electronic fingerprint images are submitted to the
35 Department of Justice for the purpose of obtaining a criminal record
36 check.

37 (g) The department shall develop procedures to ensure that any
38 licensee, direct care staff, or certificate holder for whom a criminal
39 record has been obtained pursuant to this section or Section 1338.5

1 or 1736 shall not be required to obtain multiple criminal record
2 clearances.

3 (h) In addition to the persons who are not required to obtain
4 multiple criminal record clearances pursuant to subdivision (g), a
5 person shall not be required to obtain a separate criminal record
6 clearance if the person meets all of the following criteria:

7 (1) The person is employed as a consultant and acts as direct
8 care staff.

9 (2) The person is a registered nurse, licensed vocational nurse,
10 physical therapist, occupational therapist, or speech-language
11 pathologist.

12 (3) The person has obtained a criminal record clearance as a
13 prerequisite to holding a license or certificate to provide direct
14 care services.

15 (4) The person has a license or certificate to provide direct care
16 service that is in good standing with the appropriate licensing or
17 certification board.

18 (5) The person is providing time-limited specialized clinical
19 care or services.

20 (6) The person is not left alone with the client.

21 (i) If, at any time, the department determines that it does not
22 meet the standards specified in clauses (i) and (ii) of subparagraph
23 (A) of paragraph (3) of subdivision (a), for a period of 90
24 consecutive days, the requirements in paragraph (3) of subdivision
25 (a) shall be suspended until the department determines that it has
26 met those standards for a period of 90 consecutive days.

27 (j) During any period of time in which paragraph (3) of
28 subdivision (a) is inoperative, facilities may allow newly hired
29 facility administrators, managers, direct care staff, or any other
30 adult living in the same location to have direct contact with clients
31 or residents of the facility after those persons have submitted
32 live-scan fingerprint images to the Department of Justice, and the
33 department shall issue an AFL advising of this change in the
34 statutory requirement.

35 (k) Notwithstanding any other provision of law, the department
36 is authorized to provide an individual with a copy of his or her
37 state or federal level criminal offender record information search
38 response as provided to that department by the Department of
39 Justice if the department has denied a criminal background
40 clearance based on this information and the individual makes a

1 written request to the department for a copy specifying an address
2 to which it is to be sent. The state or federal level criminal offender
3 record information search response shall not be modified or altered
4 from its form or content as provided by the Department of Justice
5 and shall be provided to the address specified by the individual in
6 his or her written request. The department shall retain a copy of
7 the individual's written request and the response and date provided.

8 *SEC. 3. Section 1337.9 of the Health and Safety Code is*
9 *amended to read:*

10 1337.9. (a) (1) The state department may deny an application
11 for, initiate an action to suspend or revoke a certificate for, or deny
12 a training and examination application for a nurse assistant.

13 (2) The state department shall deny a training and examination
14 application and deny, suspend, or revoke a certificate issued under
15 this article if the applicant or certificate holder has been convicted
16 of a violation or attempted violation of any one or more of the
17 following Penal Code provisions: Section 187, subdivision (a) of
18 Section 192, Section 203, 205, 206, 207, 209, 210, 210.5, 211,
19 220, 222, 243.4, 245, 261, 262, or 264.1, Sections 265 to 267,
20 inclusive, Section 273a, 273d, 273.5, or 285, subdivisions (c), (d),
21 (f), and (g) of Section 286, Section 288, subdivisions (c), (d), (f),
22 and (g) of Section 288a, Section 288.5, 289, 289.5, 368, 451, 459,
23 470, 475, 484, or 484b, Sections 484d to 484j, inclusive, Section
24 487, *subdivision (a) of Section 487a*, or Section 488, 496, 503,
25 518, or 666, unless any of the following applies:

26 (A) The person was convicted of a felony and has obtained a
27 certificate of rehabilitation under Chapter 3.5 (commencing with
28 Section 4852.01) of Title 6 of Part 3 of the Penal Code and the
29 information or accusation against him or her has been dismissed
30 pursuant to Section 1203.4 of the Penal Code.

31 (B) The person was convicted of a misdemeanor and the
32 information or accusation against him or her has been dismissed
33 pursuant to Section 1203.4 or 1203.4a of the Penal Code.

34 (C) The certificate holder was convicted of a felony or a
35 misdemeanor, but has previously disclosed the fact of each
36 conviction to the department, and the department has made a
37 determination in accordance with law that the conviction does not
38 disqualify the applicant from certification.

39 (D) The person was convicted of a misdemeanor violation of
40 Section 488 or 496, is requesting a renewal of their certificate, and

1 has had no subsequent convictions in the last five years. This
2 paragraph shall become inoperative on August 1, 2001.

3 (b) An application or certificate shall be denied, suspended, or
4 revoked upon conviction in another state of an offense that, if
5 committed or attempted in this state, would have been punishable
6 as one or more of the offenses set forth in subdivision (a), unless
7 evidence of rehabilitation comparable to the certificate of
8 rehabilitation or dismissal of a misdemeanor set forth in paragraph
9 (1) or (2) of subdivision (a) is provided.

10 (c) The state department may deny an application or deny,
11 suspend, or revoke a certificate issued under this article for any of
12 the following:

13 (1) Unprofessional conduct, including, but not limited to,
14 incompetence, gross negligence, unless due to circumstances
15 beyond the nurse assistant's control, physical, mental, or verbal
16 abuse of patients, or misappropriation of property of patients or
17 others.

18 (2) Conviction of a crime substantially related to the
19 qualifications, functions, and duties of a certified nurse assistant,
20 irrespective of a subsequent order under Section 1203.4, 1203.4a,
21 or 4852.13 of the Penal Code, where the state department
22 determines that the applicant or certificate holder has not
23 adequately demonstrated that he or she has been rehabilitated and
24 will present a threat to the health, safety, or welfare of patients.

25 (3) Conviction for, or use of, any controlled substance as
26 defined in Division 10 (commencing with Section 11000), or any
27 dangerous drug, as defined in Section 4022 of the Business and
28 Professions Code, or alcoholic beverages, to an extent or in a
29 manner dangerous or injurious to the certified nurse assistant, any
30 other person, or the public, to the extent that this use would impair
31 the ability to conduct, with safety to the public, the practice
32 authorized by a certificate.

33 (4) Procuring a certified nurse assistant certificate by fraud or
34 misrepresentation or mistake.

35 (5) Making or giving any false statement or information in
36 conjunction with the application for issuance of a nurse assistant
37 certificate or training and examination application.

38 (6) Impersonating any applicant, or acting as proxy for an
39 applicant, in any examination required under this article for the
40 issuance of a certificate.

- 1 (7) Impersonating another certified nurse assistant, a licensed
2 vocational nurse, or a registered nurse, or permitting or allowing
3 another person to use a certificate for the purpose of providing
4 nursing services.
- 5 (8) Violating or attempting to violate, directly or indirectly, or
6 assisting in or abetting the violating of, or conspiring to violate
7 any provision or term of, this article.
- 8 (d) In determining whether or not to deny the application for
9 licensure or renewal pursuant to subdivision (c), the department
10 shall take into consideration the following factors as evidence of
11 good character and rehabilitation:
- 12 (1) The nature and seriousness of the conduct or crime under
13 consideration and its relationship to their employment duties and
14 responsibilities.
- 15 (2) Activities since conviction, including employment or
16 participation in therapy or education, that would indicate changed
17 behavior.
- 18 (3) The time that has elapsed since the commission of the
19 conduct or offense referred to in paragraph (1) or (2) and the
20 number of offenses.
- 21 (4) The extent to which the person has complied with any terms
22 of parole, probation, restitution, or any other sanction lawfully
23 imposed against the person.
- 24 (5) Any rehabilitation evidence, including character references,
25 submitted by the person.
- 26 (6) Employment history and current employer
27 recommendations.
- 28 (7) Circumstances surrounding the commission of the offense
29 that would demonstrate the unlikelihood of repetition.
- 30 (8) The granting by the Governor of a full and unconditional
31 pardon.
- 32 (9) A certificate of rehabilitation from a superior court.
- 33 (e) When the state department determines that a certificate shall
34 be suspended, the state department shall specify the period of actual
35 suspension. The state department may determine that the
36 suspension shall be stayed, placing the certificate holder on
37 probation with specified conditions for a period not to exceed two
38 years. When the state department determines that probation is the
39 appropriate action, the certificate holder shall be notified that in
40 lieu of the state department proceeding with a formal action to

1 suspend the certification and in lieu of an appeal pursuant to
2 subdivision (h), the certificate holder may request to enter into a
3 diversion program agreement. A diversion program agreement
4 shall specify terms and conditions related to matters, including,
5 but not limited to, work performance, rehabilitation, training,
6 counseling, progress reports, and treatment programs. If a
7 certificate holder successfully completes a diversion program, no
8 action shall be taken upon the allegations that were the basis for
9 the diversion agreement. Upon failure of the certificate holder to
10 comply with the terms and conditions of an agreement, the state
11 department may proceed with a formal action to suspend or revoke
12 the certification.

13 (f) A plea or verdict of guilty, or a conviction following a plea
14 of nolo contendere shall be deemed a conviction within the
15 meaning of this article. The state department may deny an
16 application or deny, suspend, or revoke a certification based on a
17 conviction as provided in this article when the judgment of
18 conviction is entered or when an order granting probation is made
19 suspending the imposition of sentence.

20 (g) Upon determination to deny an application or deny, revoke,
21 or suspend a certificate, the state department shall notify the
22 applicant or certificate holder in writing by certified mail of all of
23 the following:

24 (1) The reasons for the determination.

25 (2) The applicant's or certificate holder's right to appeal the
26 determination if the determination was made under subdivision
27 (c).

28 (h) (1) Upon written notification that the state department has
29 determined that an application shall be denied or a certificate shall
30 be denied, suspended, or revoked under subdivision (c), the
31 applicant or certificate holder may request an administrative
32 hearing by submitting a written request to the state department
33 within 20 business days of receipt of the written notification. Upon
34 receipt of a written request, the state department shall hold an
35 administrative hearing pursuant to the procedures specified in
36 Section 100171, except where those procedures are inconsistent
37 with this section.

38 (2) A hearing under this section shall be conducted within 60
39 days of the receipt of the written request of the applicant or
40 certificate holder submitted pursuant to paragraph (1) by a hearing

1 officer or administrative law judge designated by the director at a
2 location, other than the work facility, convenient to the applicant
3 or certificate holder unless the applicant or certificate holder agrees
4 to an extension. The hearing shall be tape recorded and a written
5 decision shall be sent by certified mail to the applicant or certificate
6 holder within 30 calendar days of the hearing. Except as specified
7 in subdivision (i), the effective date of an action to revoke or
8 suspend a certificate shall be specified in the written decision, or
9 if no administrative hearing is timely requested, the effective date
10 shall be 21 business days from written notification of the
11 department's determination to revoke or suspend.

12 (i) The state department may revoke or suspend a certificate
13 prior to any hearing when immediate action is necessary in the
14 judgment of the director to protect the public welfare. Notice of
15 this action, including a statement of the necessity of immediate
16 action to protect the public welfare, shall be sent in accordance
17 with subdivision (g). If the certificate holder requests an
18 administrative hearing pursuant to subdivision (h), the state
19 department shall hold the administrative hearing as soon as possible
20 but not later than 30 calendar days from receipt of the request for
21 a hearing. A written hearing decision upholding or setting aside
22 the action shall be sent by certified mail to the certificate holder
23 within 30 calendar days of the hearing.

24 (j) Upon the expiration of the term of suspension, he or she
25 shall be reinstated by the state department and shall be entitled to
26 resume practice unless it is established to the satisfaction of the
27 state department that the person has practiced as a certified nurse
28 assistant in this state during the term of suspension. In this event,
29 the state department shall revoke the person's certificate.

30 (k) Upon a determination to deny an application or deny,
31 revoke, or suspend a certificate, the state department shall notify
32 the employer of the applicant and certificate holder in writing of
33 that determination, and whether the determination is final, or
34 whether a hearing is pending relating to this determination. If a
35 licensee or facility is required to deny employment or terminate
36 employment of the employee based upon notice from the state that
37 the employee is determined to be unsuitable for employment under
38 this section, the licensee or facility shall not incur criminal, civil,
39 unemployment insurance, workers' compensation, or administrative
40 liability as a result of that denial or termination.

1 SEC. 4. Section 1736.5 of the Health and Safety Code is
 2 amended to read:

3 1736.5. (a) The department shall deny a training application
 4 and deny, suspend, or revoke a certificate issued under this article
 5 if the applicant or certificate holder has been convicted of a
 6 violation or attempted violation of any of the following Penal Code
 7 provisions: Section 187, subdivision (a) of Section 192, Section
 8 203, 205, 206, 207, 209, 210, 210.5, 211, 220, 222, 243.4, 245,
 9 261, 262, or 264.1, Sections 265 to 267, inclusive, Section 273a,
 10 273d, 273.5, or 285, subdivisions (c), (d), (f), and (g) of Section
 11 286, Section 288, subdivisions (c), (d), (f), and (g) of Section 288a,
 12 Section 288.5, 289, 289.5, 368, 451, 459, 470, 475, 484, or 484b,
 13 Sections 484d to 484j, inclusive, ~~or~~ Section 487, *subdivision (a)*
 14 *of Section 487a*, or Section 488, 496, 503, 518, or 666, unless any
 15 of the following applies:

16 (1) The person was convicted of a felony and has obtained a
 17 certificate of rehabilitation under Chapter 3.5 (commencing with
 18 Section 4852.01) of Title 6 of Part 3 of the Penal Code and the
 19 information or accusation against him or her has been dismissed
 20 pursuant to Section 1203.4 of the Penal Code.

21 (2) The person was convicted of a misdemeanor and the
 22 information or accusation against him or her has been dismissed
 23 pursuant to Section 1203.4 or 1203.4a of the Penal Code.

24 (3) The certificate holder was convicted of a felony or a
 25 misdemeanor, but has previously disclosed the fact of each
 26 conviction to the department, and the department has made a
 27 determination in accordance with law that the conviction does not
 28 disqualify the applicant from certification.

29 (b) An application or certificate shall be denied, suspended, or
 30 revoked upon conviction in another state of an offense that, if
 31 committed or attempted in this state, would have been punishable
 32 as one or more of the offenses set forth in subdivision (a), unless
 33 evidence of rehabilitation comparable to the certificate of
 34 rehabilitation or dismissal of a misdemeanor set forth in paragraph
 35 (1) or (2) of subdivision (a) is provided.

36 (c) (1) The department may deny an application or deny,
 37 suspend, or revoke a certificate issued under this article for any of
 38 the following:

1 (A) Unprofessional conduct, including, but not limited to,
2 incompetence, gross negligence, physical, mental, or verbal abuse
3 of patients, or misappropriation of property of patients or others.

4 (B) Conviction of a crime substantially related to the
5 qualifications, functions, and duties of a home health aide,
6 irrespective of a subsequent order under Section 1203.4, 1203.4a,
7 or 4852.13 of the Penal Code, where the department determines
8 that the applicant or certificate holder has not adequately
9 demonstrated that he or she has been rehabilitated and will present
10 a threat to the health, safety, or welfare of patients.

11 (C) Conviction for, or use of, any controlled substance as defined
12 in Division 10 (commencing with Section 11000) of this code, or
13 any dangerous drug, as defined in Section 4022 of the Business
14 and Professions Code, or alcoholic beverages, to an extent or in a
15 manner dangerous or injurious to the home health aide, any other
16 person, or the public, to the extent that this use would impair the
17 ability to conduct, with safety to the public, the practice authorized
18 by a certificate.

19 (D) Procuring a home health aide certificate by fraud,
20 misrepresentation, or mistake.

21 (E) Making or giving any false statement or information in
22 conjunction with the application for issuance of a home health aide
23 certificate or training and examination application.

24 (F) Impersonating any applicant, or acting as proxy for an
25 applicant, in any examination required under this article for the
26 issuance of a certificate.

27 (G) Impersonating another home health aide, a licensed
28 vocational nurse, or a registered nurse, or permitting or allowing
29 another person to use a certificate for the purpose of providing
30 nursing services.

31 (H) Violating or attempting to violate, directly or indirectly, or
32 assisting in or abetting the violation of, or conspiring to violate
33 any provision or term of, this article.

34 (2) In determining whether or not to deny an application or
35 deny, suspend, or revoke a certificate issued under this article
36 pursuant to this subdivision, the department shall take into
37 consideration the following factors as evidence of good character
38 and rehabilitation:

1 (A) The nature and seriousness of the offense under
2 consideration and its relationship to the person's employment
3 duties and responsibilities.

4 (B) Activities since conviction, including employment or
5 participation in therapy or education, that would indicate changed
6 behavior.

7 (C) The time that has elapsed since the commission of the
8 conduct or offense referred to in subparagraph (A) or (B) and the
9 number of offenses.

10 (D) The extent to which the person has complied with any terms
11 of parole, probation, restitution, or any other sanction lawfully
12 imposed against the person.

13 (E) Any rehabilitation evidence, including character references,
14 submitted by the person.

15 (F) Employment history and current employer recommendations.

16 (G) Circumstances surrounding the commission of the offense
17 that would demonstrate the unlikelihood of repetition.

18 (H) Granting by the Governor of a full and unconditional pardon.

19 (I) A certificate of rehabilitation from a superior court.

20 (d) When the department determines that a certificate shall be
21 suspended, the department shall specify the period of actual
22 suspension. The department may determine that the suspension
23 shall be stayed, placing the certificate holder on probation with
24 specified conditions for a period not to exceed two years. When
25 the department determines that probation is the appropriate action,
26 the certificate holder shall be notified that in lieu of the department
27 proceeding with a formal action to suspend the certification and
28 in lieu of an appeal pursuant to subdivision (g), the certificate
29 holder may request to enter into a diversion program agreement.
30 A diversion program agreement shall specify terms and conditions
31 related to matters including, but not limited to, work performance,
32 rehabilitation, training, counseling, progress reports, and treatment
33 programs. If a certificate holder successfully completes a diversion
34 program, no action shall be taken upon the allegations that were
35 the basis for the diversion agreement. Upon failure of the certificate
36 holder to comply with the terms and conditions of an agreement,
37 the department may proceed with a formal action to suspend or
38 revoke the certification.

39 (e) A plea or verdict of guilty, or a conviction following a plea
40 of nolo contendere, shall be deemed a conviction within the

1 meaning of this article. The department may deny an application
2 or deny, suspend, or revoke a certification based on a conviction
3 as provided in this article when the judgment of conviction is
4 entered or when an order granting probation is made suspending
5 the imposition of sentence.

6 (f) Upon determination to deny an application or deny, revoke,
7 or suspend a certificate, the department shall notify the applicant
8 or certificate holder in writing by certified mail of both of the
9 following:

10 (1) The reasons for the determination.

11 (2) The applicant's or certificate holder's right to appeal the
12 determination if the determination was made under subdivision
13 (c).

14 (g) (1) Upon written notification that the department has
15 determined that an application shall be denied or a certificate shall
16 be denied, suspended, or revoked under subdivision (c), the
17 applicant or certificate holder may request an administrative
18 hearing by submitting a written request to the department within
19 20 business days of receipt of the written notification. Upon receipt
20 of a written request, the department shall hold an administrative
21 hearing pursuant to the procedures specified in Section 100171,
22 except where those procedures are inconsistent with this section.

23 (2) A hearing under this section shall be conducted by a hearing
24 officer or administrative law judge designated by the director at a
25 location, other than the work facility, that is convenient to the
26 applicant or certificate holder. The hearing shall be audio or video
27 recorded and a written decision shall be sent by certified mail to
28 the applicant or certificate holder within 30 calendar days of the
29 hearing. Except as specified in subdivision (h), the effective date
30 of an action to revoke or suspend a certificate shall be specified
31 in the written decision, or if no administrative hearing is timely
32 requested, the effective date shall be 21 business days from written
33 notification of the department's determination to revoke or suspend.

34 (h) The department may revoke or suspend a certificate prior
35 to any hearing when immediate action is necessary in the judgment
36 of the director to protect the public welfare. Notice of this action,
37 including a statement of the necessity of immediate action to
38 protect the public welfare, shall be sent in accordance with
39 subdivision (f). If the certificate holder requests an administrative
40 hearing pursuant to subdivision (g), the department shall hold the

1 administrative hearing as soon as possible but not later than 30
2 calendar days from receipt of the request for a hearing. A written
3 hearing decision upholding or setting aside the action shall be sent
4 by certified mail to the certificate holder within 30 calendar days
5 of the hearing.

6 (i) Upon the expiration of the term of suspension, the certificate
7 holder shall be reinstated by the department and shall be entitled
8 to resume practice unless it is established to the satisfaction of the
9 department that the person has practiced as a home health aide in
10 California during the term of suspension. In this event, the
11 department shall revoke the person's certificate.

12 (j) Upon a determination to deny an application or deny, revoke,
13 or suspend a certificate, the department shall notify the employer
14 of the applicant or certificate holder in writing of that
15 determination, and whether the determination is final, or whether
16 a hearing is pending relating to this determination. If a licensee or
17 facility is required to deny employment or terminate employment
18 of the employee based upon notice from the state that the employee
19 is determined to be unsuitable for employment under this section,
20 the licensee or facility shall not incur criminal, civil, unemployment
21 insurance, workers' compensation, or administrative liability as a
22 result of that denial or termination.

23 *SEC. 5. Section 186.2 of the Penal Code is amended to read:*

24 186.2. For purposes of this chapter, the following definitions
25 apply:

26 (a) "Criminal profiteering activity" means any act committed
27 or attempted or any threat made for financial gain or advantage,
28 which act or threat may be charged as a crime under any of the
29 following sections:

- 30 (1) Arson, as defined in Section 451.
- 31 (2) Bribery, as defined in Sections 67, 67.5, and 68.
- 32 (3) Child pornography or exploitation, as defined in subdivision
33 (b) of Section 311.2, or Section 311.3 or 311.4, which may be
34 prosecuted as a felony.
- 35 (4) Felonious assault, as defined in Section 245.
- 36 (5) Embezzlement, as defined in Sections 424 and 503.
- 37 (6) Extortion, as defined in Section 518.
- 38 (7) Forgery, as defined in Section 470.

- 1 (8) Gambling, as defined in Sections 337a to 337f, inclusive,
2 and Section 337i, except the activities of a person who participates
3 solely as an individual bettor.
- 4 (9) Kidnapping, as defined in Section 207.
- 5 (10) Mayhem, as defined in Section 203.
- 6 (11) Murder, as defined in Section 187.
- 7 (12) Pimping and pandering, as defined in Section 266.
- 8 (13) Receiving stolen property, as defined in Section 496.
- 9 (14) Robbery, as defined in Section 211.
- 10 (15) Solicitation of crimes, as defined in Section 653f.
- 11 (16) Grand theft, as defined in Section 487 *or subdivision (a)*
12 *of Section 487a.*
- 13 (17) Trafficking in controlled substances, as defined in Sections
14 11351, 11352, and 11353 of the Health and Safety Code.
- 15 (18) Violation of the laws governing corporate securities, as
16 defined in Section 25541 of the Corporations Code.
- 17 (19) Any of the offenses contained in Chapter 7.5 (commencing
18 with Section 311) of Title 9, relating to obscene matter, or in
19 Chapter 7.6 (commencing with Section 313) of Title 9, relating to
20 harmful matter that may be prosecuted as a felony.
- 21 (20) Presentation of a false or fraudulent claim, as defined in
22 Section 550.
- 23 (21) False or fraudulent activities, schemes, or artifices, as
24 described in Section 14107 of the Welfare and Institutions Code.
- 25 (22) Money laundering, as defined in Section 186.10.
- 26 (23) Offenses relating to the counterfeit of a registered mark,
27 as specified in Section 350.
- 28 (24) Offenses relating to the unauthorized access to computers,
29 computer systems, and computer data, as specified in Section 502.
- 30 (25) Conspiracy to commit any of the crimes listed above, as
31 defined in Section 182.
- 32 (26) Subdivision (a) of Section 186.22, or a felony subject to
33 enhancement as specified in subdivision (b) of Section 186.22.
- 34 (27) Any offenses related to fraud or theft against the state's
35 beverage container recycling program, including, but not limited
36 to, those offenses specified in this subdivision and those criminal
37 offenses specified in the California Beverage Container Recycling
38 and Litter Reduction Act, commencing at Section 14500 of the
39 Public Resources Code.
- 40 (28) Human trafficking, as defined in Section 236.1.

1 (29) Any crime in which the perpetrator induces, encourages,
2 or persuades a person under 18 years of age to engage in a
3 commercial sex act. For purposes of this paragraph, a commercial
4 sex act means any sexual conduct on account of which anything
5 of value is given or received by any person.

6 (30) Any crime in which the perpetrator, through force, fear,
7 coercion, deceit, violence, duress, menace, or threat of unlawful
8 injury to the victim or to another person, causes a person under 18
9 years of age to engage in a commercial sex act. For purposes of
10 this paragraph, a commercial sex act means any sexual conduct
11 on account of which anything of value is given or received by any
12 person.

13 (31) Theft of personal identifying information, as defined in
14 Section 530.5.

15 (32) Offenses involving the theft of a motor vehicle, as specified
16 in Section 10851 of the Vehicle Code.

17 (33) Abduction or procurement by fraudulent inducement for
18 prostitution, as defined in Section 266a.

19 (b) (1) “Pattern of criminal profiteering activity” means
20 engaging in at least two incidents of criminal profiteering, as
21 defined by this chapter, that meet the following requirements:

22 (A) Have the same or a similar purpose, result, principals,
23 victims, or methods of commission, or are otherwise interrelated
24 by distinguishing characteristics.

25 (B) Are not isolated events.

26 (C) Were committed as a criminal activity of organized crime.

27 (2) Acts that would constitute a “pattern of criminal profiteering
28 activity” may not be used by a prosecuting agency to seek the
29 remedies provided by this chapter unless the underlying offense
30 occurred after the effective date of this chapter and the prior act
31 occurred within 10 years, excluding any period of imprisonment,
32 of the commission of the underlying offense. A prior act may not
33 be used by a prosecuting agency to seek remedies provided by this
34 chapter if a prosecution for that act resulted in an acquittal.

35 (c) “Prosecuting agency” means the Attorney General or the
36 district attorney of any county.

37 (d) “Organized crime” means crime that is of a conspiratorial
38 nature and that is either of an organized nature and seeks to supply
39 illegal goods and services such as narcotics, prostitution,
40 loan-sharking, gambling, and pornography, or that, through

1 planning and coordination of individual efforts, seeks to conduct
2 the illegal activities of arson for profit, hijacking, insurance fraud,
3 smuggling, operating vehicle theft rings, fraud against the beverage
4 container recycling program, or systematically encumbering the
5 assets of a business for the purpose of defrauding creditors.
6 “Organized crime” also means crime committed by a criminal
7 street gang, as defined in subdivision (f) of Section 186.22.
8 “Organized crime” also means false or fraudulent activities,
9 schemes, or artifices, as described in Section 14107 of the Welfare
10 and Institutions Code, and the theft of personal identifying
11 information, as defined in Section 530.5.

12 (e) “Underlying offense” means an offense enumerated in
13 subdivision (a) for which the defendant is being prosecuted.

14 *SEC. 6. Section 463 of the Penal Code is amended to read:*

15 463. (a) Every person who violates Section 459, punishable
16 as a second-degree burglary pursuant to subdivision (b) of Section
17 461, during and within an affected county in a “state of emergency”
18 or a “local emergency” resulting from an earthquake, fire, flood,
19 riot, or other natural or manmade disaster shall be guilty of the
20 crime of looting, punishable by imprisonment in a county jail for
21 one year or pursuant to subdivision (h) of Section 1170. Any person
22 convicted under this subdivision who is eligible for probation and
23 who is granted probation shall, as a condition thereof, be confined
24 in a county jail for at least 180 days, except that the court may, in
25 the case where the interest of justice would best be served, reduce
26 or eliminate that mandatory jail sentence, if the court specifies on
27 the record and enters into the minutes the circumstances indicating
28 that the interest of justice would best be served by that disposition.
29 In addition to whatever custody is ordered, the court, in its
30 discretion, may require any person granted probation following
31 conviction under this subdivision to serve up to 240 hours of
32 community service in any program deemed appropriate by the
33 court, including any program created to rebuild the community.

34 For purposes of this section, the fact that the structure entered
35 has been damaged by the earthquake, fire, flood, or other natural
36 or manmade disaster shall not, in and of itself, preclude conviction.

37 (b) Every person who commits the crime of grand theft, as
38 defined in Section 487 or subdivision (a) of Section 487a, except
39 grand theft of a firearm, during and within an affected county in
40 a “state of emergency” or a “local emergency” resulting from an

1 earthquake, fire, flood, riot, or other natural or unnatural disaster
2 shall be guilty of the crime of looting, punishable by imprisonment
3 in a county jail for one year or pursuant to subdivision (h) of
4 Section 1170. Every person who commits the crime of grand theft
5 of a firearm, as defined in Section 487, during and within an
6 affected county in a “state of emergency” or a “local emergency”
7 resulting from an earthquake, fire, flood, riot, or other natural or
8 unnatural disaster shall be guilty of the crime of looting, punishable
9 by imprisonment in the state prison, as set forth in subdivision (a)
10 of Section 489. Any person convicted under this subdivision who
11 is eligible for probation and who is granted probation shall, as a
12 condition thereof, be confined in a county jail for at least 180 days,
13 except that the court may, in the case where the interest of justice
14 would best be served, reduce or eliminate that mandatory jail
15 sentence, if the court specifies on the record and enters into the
16 minutes the circumstances indicating that the interest of justice
17 would best be served by that disposition. In addition to whatever
18 custody is ordered, the court, in its discretion, may require any
19 person granted probation following conviction under this
20 subdivision to serve up to 160 hours of community service in any
21 program deemed appropriate by the court, including any program
22 created to rebuild the community.

23 (c) Every person who commits the crime of petty theft, as
24 defined in Section 488, during and within an affected county in a
25 “state of emergency” or a “local emergency” resulting from an
26 earthquake, fire, flood, riot, or other natural or manmade disaster
27 shall be guilty of a misdemeanor, punishable by imprisonment in
28 a county jail for six months. Any person convicted under this
29 subdivision who is eligible for probation and who is granted
30 probation shall, as a condition thereof, be confined in a county jail
31 for at least 90 days, except that the court may, in the case where
32 the interest of justice would best be served, reduce or eliminate
33 that mandatory minimum jail sentence, if the court specifies on
34 the record and enters into the minutes the circumstances indicating
35 that the interest of justice would best be served by that disposition.
36 In addition to whatever custody is ordered, the court, in its
37 discretion, may require any person granted probation following
38 conviction under this subdivision to serve up to 80 hours of
39 community service in any program deemed appropriate by the
40 court, including any program created to rebuild the community.

1 (d) (1) For purposes of this section, “state of emergency” means
 2 conditions which, by reason of their magnitude, are, or are likely
 3 to be, beyond the control of the services, personnel, equipment,
 4 and facilities of any single county, city and county, or city and
 5 require the combined forces of a mutual aid region or regions to
 6 combat.

7 (2) For purposes of this section, “local emergency” means
 8 conditions which, by reason of their magnitude, are, or are likely
 9 to be, beyond the control of the services, personnel, equipment,
 10 and facilities of any single county, city and county, or city and
 11 require the combined forces of a mutual aid region or regions to
 12 combat.

13 (3) For purposes of this section, a “state of emergency” shall
 14 exist from the time of the proclamation of the condition of the
 15 emergency until terminated pursuant to Section 8629 of the
 16 Government Code. For purposes of this section only, a “local
 17 emergency” shall exist from the time of the proclamation of the
 18 condition of the emergency by the local governing body until
 19 terminated pursuant to Section 8630 of the Government Code.

20 (4) Consensual entry into a commercial structure with the intent
 21 to commit a violation of Section 470, 476, 476a, 484f, or 484g of
 22 the Penal Code, shall not be charged as a violation under this
 23 section.

24 **SECTION 1.**

25 *SEC. 7.* Section 487 of the Penal Code is amended to read:

26 487. Grand theft is theft committed in any of the following
 27 cases:

28 (a) When the money, labor, or real or personal property taken
 29 is of a value exceeding nine hundred fifty dollars (\$950), except
 30 as provided in subdivision (b).

31 (b) Notwithstanding subdivision (a), grand theft is committed
 32 in any of the following cases:

33 (1) (A) When domestic fowls, avocados, olives, citrus or
 34 deciduous fruits, other fruits, vegetables, nuts, artichokes, or other
 35 farm crops are taken of a value exceeding two hundred fifty dollars
 36 (\$250).

37 (B) For the purposes of establishing that the value of domestic
 38 fowls, avocados, olives, citrus or deciduous fruits, other fruits,
 39 vegetables, nuts, artichokes, or other farm crops under this
 40 paragraph exceeds two hundred fifty dollars (\$250), that value

1 may be shown by the presentation of credible evidence which
 2 establishes that on the day of the theft domestic fowls, avocados,
 3 olives, citrus or deciduous fruits, other fruits, vegetables, nuts,
 4 artichokes, or other farm crops of the same variety and weight
 5 exceeded two hundred fifty dollars (\$250) in wholesale value.

6 (2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or
 7 other aquacultural products are taken from a commercial or
 8 research operation which is producing that product, of a value
 9 exceeding two hundred fifty dollars (\$250).

10 (3) Where the money, labor, or real or personal property is taken
 11 by a servant, agent, or employee from his or her principal or
 12 employer and aggregates nine hundred fifty dollars (\$950) or more
 13 in any 12 consecutive month period.

14 (c) When the property is taken from the person of another.

15 (d) When the property taken is any of the following:

16 ~~(1) A horse, mare, gelding, any bovine animal, any caprine~~
 17 ~~animal, mule, jack, jenny, sheep, lamb, hog, sow, boar, gilt, barrow,~~
 18 ~~or pig.~~

19 ~~(2)~~

20 (1) An automobile.

21 ~~(3)~~

22 (2) A firearm.

23 *SEC. 8. Section 487a of the Penal Code is amended to read:*

24 487a. (a) *Every person who feloniously steals, takes, carries,*
 25 *leads, or drives away any horse, mare, gelding, any bovine animal,*
 26 *any caprine animal, mule, jack, jenny, sheep, lamb, hog, sow, boar,*
 27 *gilt, barrow, or pig, which is the personal property of another, or*
 28 *who fraudulently appropriates that same property which has been*
 29 *entrusted to him or her, or who knowingly and designedly, by any*
 30 *false or fraudulent representation or pretense, defrauds any other*
 31 *person of that same property, or who causes or procures others*
 32 *to report falsely of his or her wealth or mercantile character and*
 33 *by thus imposing upon any person, obtains credit and thereby*
 34 *fraudulently gets or obtains possession of that same property, is*
 35 *guilty of grand theft.*

36 (b) Every person who shall feloniously steal, take, transport or
 37 carry the carcass of any bovine, caprine, equine, ovine, or suine
 38 animal or of any mule, jack or jenny, which is the personal property
 39 of another, or who shall fraudulently appropriate such property
 40 which has been entrusted to him, is guilty of grand theft.

1 ~~(b)~~

2 (c) Every person who shall feloniously steal, take, transport, or
3 carry any portion of the carcass of any bovine, caprine, equine,
4 ovine, or suine animal or of any mule, jack, or jenny, which has
5 been killed without the consent of the owner thereof, is guilty of
6 grand theft.

7 ~~SEC. 2.~~

8 SEC. 9. Section 489 of the Penal Code is amended to read:

9 489. Grand theft is punishable as follows:

10 (a) If the grand theft involves the theft of a firearm, by
11 imprisonment in the state prison for 16 months, ~~two~~, or two or
12 three years.

13 (b) If the grand theft involves a violation of ~~paragraph (1) of~~
14 ~~subdivision (d) of Section 487 or Section 487a~~, by imprisonment
15 in a county jail not exceeding one year or pursuant to subdivision
16 (h) of Section 1170, or by a fine not exceeding five thousand
17 dollars (\$5,000), or by both that fine and imprisonment. The
18 proceeds of this fine shall be allocated to the Bureau of Livestock
19 Identification to be used, upon appropriation by the Legislature,
20 for purposes relating to the investigation of cases involving grand
21 theft of any animal or animals ~~specified in paragraph (1) of~~
22 ~~subdivision (d) of Section 487~~, or of the carcass or carcasses of,
23 or any portion of the carcass or carcasses of, any animal specified
24 in Section 487a.

25 (c) In all other cases, by imprisonment in a county jail not
26 exceeding one year or pursuant to subdivision (h) of Section 1170.

27 SEC. 10. Section 1202.5 of the Penal Code is amended to read:

28 1202.5. (a) In any case in which a defendant is convicted of
29 any of the offenses enumerated in Section 211, 215, 459, 470, 484,
30 487, *subdivision (a) of Section 487a*, or Section 488, or 594, the
31 court shall order the defendant to pay a fine of ten dollars (\$10)
32 in addition to any other penalty or fine imposed. If the court
33 determines that the defendant has the ability to pay all or part of
34 the fine, the court shall set the amount to be reimbursed and order
35 the defendant to pay that sum to the county in the manner in which
36 the court believes reasonable and compatible with the defendant's
37 financial ability. In making a determination of whether a defendant
38 has the ability to pay, the court shall take into account the amount
39 of any other fine imposed upon the defendant and any amount the
40 defendant has been ordered to pay in restitution.

1 (b) (1) All fines collected pursuant to this section shall be held
2 in trust by the county collecting them, until transferred to the local
3 law enforcement agency to be used exclusively for the jurisdiction
4 where the offense took place. All moneys collected shall
5 implement, support, and continue local crime prevention programs.
6 (2) All amounts collected pursuant to this section shall be in
7 addition to, and shall not supplant funds received for crime
8 prevention purposes from other sources.
9 (c) As used in this section, “law enforcement agency” includes,
10 but is not limited to, police departments, sheriffs departments, and
11 probation departments.

O