

**Senate Bill No. 75**

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Passed the Senate June 14, 2013

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*Secretary of the Senate*

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Passed the Assembly June 14, 2013

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

CHAPTER \_\_\_\_\_

An act to amend Section 116.232 of the Code of Civil Procedure, to amend Sections 12419.10, 68086, 68502.5, 68511.7, 70628, and 77203 of, and to add Section 68502.6 to, the Government Code, to amend Sections 1203.2, 1229, 1230, 1231, 1232, 1233, 1233.1, 1233.15, 1233.2, 1233.3, 1233.4, 1233.6, 1233.61, and 3000.08 of, and to repeal Section 1233.8 of, the Penal Code, to amend, repeal, and add Section 19210 of the Public Contract Code, and to amend Section 903.45 of the Welfare and Institutions Code, relating to courts, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL’S DIGEST

SB 75, Committee on Budget and Fiscal Review. Courts.

(1) Existing law requires the small claims court to charge and collect a fee of \$10 from the plaintiff for each defendant on whom the court clerk serves a copy of the plaintiff’s claim by mail.

This bill would increase that fee to \$15 for each defendant to whom a copy of the claim is mailed by the small claims court clerk.

(2) Existing law requires the Controller, to the extent feasible, to offset any amount overdue and unpaid for a fine, penalty, assessment, bail, vehicle parking penalty, or court-ordered reimbursement for court-related services, from a person or entity, against any amount owing the person or entity by a state agency on a claim for a refund from the Franchise Tax Board under the Personal Income Tax Law or the Bank and Corporation Tax Law, from winnings in the California State Lottery, or from a cash payment of a claim for unclaimed property held by the state, as specified. Existing law requires the Controller to deduct and retain from any amount offset in favor of a city or county an amount sufficient to reimburse the administrative costs of processing the offset payment.

This bill would prohibit the Controller and the Franchise Tax Board from conditioning a request for offset on the submission of a person’s social security number. The bill would additionally require the Controller to deduct and retain from any amount offset in favor of a court an amount sufficient to reimburse the

administrative costs of processing the offset payment. The bill would authorize the Franchise Tax Board, if necessary to confirm the identity of a person before making an offset, and upon paying any necessary fees, to obtain a social security number from the Department of Motor Vehicles, as specified.

(3) Existing law requires the Legislature to make an annual appropriation to the Judicial Council for the general operations of the trial courts based on the request of the Judicial Council, which is submitted to the Governor and the Legislature. Existing law requires the Judicial Council to retain the ultimate responsibility to adopt a budget and allocate funding for the trial courts. Existing law requires the Judicial Council to set a preliminary allocation for each trial court in July of each fiscal year and to finalize those allocations in January, as specified. Existing law, until June 30, 2014, authorizes a trial court to carry unexpended funds over from one fiscal year to the next. Existing law, commencing June 30, 2014, authorizes a trial court to carry over unexpended funds in an amount not to exceed 1% of the court's operating budget from the prior fiscal year.

This bill would require the Judicial Council to include an estimate of the available trial court reserves as of June 30 of the prior fiscal year when setting its July preliminary allocation and to offset each court's allocation by the amount of reserves in excess of the amount authorized to be carried over, as specified. The bill would similarly require the Judicial Council to finalize its January allocations after review of available trial court reserves as of June 30 of the prior fiscal year and to offset each court's allocation as described above. The bill would exempt certain funds from the calculation of the 1% authorized to be carried over from the prior fiscal year.

(4) Existing law establishes the Trial Court Trust Fund to fund trial court operations, as specified.

This bill would authorize the Administrative Office of the Courts (AOC) to make loans to the Trial Court Trust Fund from specified funds if the cash balance of the Trial Court Trust Fund is insufficient to support trial court operations during the fiscal year, but would prohibit the total amount of outstanding loans from exceeding \$150,000,000, as specified. The bill would prohibit AOC from authorizing a loan pursuant to these provisions to provide cash resources to any court that has not first provided a

balanced budget approved by the Judicial Council. The bill would also authorize the AOC to transfer funds from the Trial Court Trust Fund for the repayment of these loans and would prohibit the charge or payment of interest, as specified. The bill would require that all loans made pursuant to these provisions be repaid within 2 years, as provided.

(5) Existing law requires, for each proceeding lasting less than one hour, a fee of \$30 to be charged for the reasonable cost of the services of an official court reporter.

This bill would require the proceeds of the fee to be distributed to the court in which the fee was collected.

(6) Existing law, until January 1, 2017, requires each trial court, prior to adopting a baseline budget plan for the fiscal year, to provide the public notice of, and an opportunity for input on, through submission of written documents or a public hearing, the trial court's proposed budget plan, and requires the baseline budget plan to be made available to the public at the courthouse and on the court's public Internet Web site no less than 3 court days prior to the hearing or, if there is no hearing, prior to adoption of the plan.

This bill would extend the operation of these provisions indefinitely.

(7) Existing law provides the fee for an exemplification of a record is \$20, in addition to other charges allowed.

This bill would increase the fee to \$50 for an exemplification, in addition to other charges allowed.

(8) Existing law provides that a person released from prison after serving a term for certain crimes is subject to parole supervision, as specified, and the jurisdiction of the court where the person is released or resides for the purpose of hearing petitions to revoke parole and impose a term of custody.

This bill would expand those provisions to provide that jurisdiction for that purpose also includes the jurisdiction of the court in any county where the supervised person is arrested. The bill would make additional conforming changes relating to persons subject to mandatory supervision and postrelease community supervision, as specified.

(9) Existing law, the California Community Corrections Performance Incentives Act of 2009, authorizes each county to establish a Community Corrections Performance Incentives Fund,

and authorizes the state to annually allocate moneys into a State Community Corrections Performance Incentives Fund to be used for specified purposes relating to improving local probation supervision practices and capacities, as specified. The act defines “community corrections” for these purposes to mean the placement of persons convicted of a felony offense under probation supervision, with conditions imposed by a court for a specified period.

This bill would expand those provisions to additionally include within “community corrections” the placement of persons convicted of a felony offense under mandatory supervision or postrelease community supervision, as specified. The bill would make additional conforming changes.

(10) Existing law, until January 1, 2015, requires the Administrative Office of the Courts, in consultation with the Chief Probation Officers of California, to specify and define minimum required outcome-based measures, which shall include, among other things, the percentage of persons on felony probation who are being supervised in accordance with evidence-based practices. Existing law requires the Administrative Office of the Courts, in consultation with the Chief Probation Officer of each county and the Department of Corrections and Rehabilitation, to provide a quarterly statistical report to the Department of Finance, including statistical information pertaining to felons and persons on felony probation for each county.

This bill would expand these provisions to include persons who were placed on mandatory supervision and postrelease community supervision on and after January 1, 2012, as specified. The bill would extend the operation of the provisions described in this paragraph indefinitely.

(11) Existing law requires the AOC, in consultation with the Chief Probation Officers of California, the Department of Corrections and Rehabilitation, and the Department of Finance, to submit a report to the Governor and the Legislature pertaining to community corrections programs for felony probationers, as specified.

This bill would expand these provisions to include data regarding persons who were placed on mandatory supervision and postrelease community supervision.

(12) Existing law provides for a probation failure reduction incentive payment for each eligible county, and establishes 2 tiers for evaluating counties for purposes of calculating that payment. Existing law also provides high performance grants to county probation departments for purposes of bolstering practices to reduce recidivism.

This bill would establish a 3rd tier for the purposes of calculating a probation failure reduction incentive payment. The bill would provide that a county that fails to submit specified required information to the AOC would not be eligible for the incentive payment or the grant, as specified. The bill would modify the funding and calculation of the incentive payments and grants. The bill would appropriate \$1,000,000 from the State Community Corrections Performance Incentive Fund to the judicial branch for the costs of implementing and administering the probation failure reduction incentive payment, as specified.

(13) Existing law, until January 1, 2015, requires after the conclusion of each calendar year, the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the AOC, to calculate the probation failure rate for counties and for the state, as specified.

This bill would additionally require calculation of mandatory supervision failure to prison rates and postrelease community supervision to failure to prison rates, for counties and for the state, as specified. The bill would extend the operation of these provisions indefinitely.

(14) Existing law, commencing not earlier than July 1, 2011, and not later than December 15, 2012, requires the California State Auditor to establish a pilot program to audit 6 trial courts, as provided, and to commence an audit of the trial courts on or before December 15, 2013. It also requires, not later than December 15, 2013, and biennially thereafter, an audit of the AOC, the Habeas Corpus Resource Center, and the appellate courts.

This bill would instead require the audit of the AOC, the Habeas Corpus Resource Center, the California Supreme Court, and the appellate courts to commence on or before July 1, 2013, and a copy of the final audit report of the AOC to be provided to specified entities on or before December 31, 2013. The bill would, on January 1, 2014, repeal these provisions, and would instead

require the California State Auditor to biennially audit 5 judicial branch entities and the AOC, as specified, subject to an appropriation for this purpose, and to provide a final audit report to the judicial branch entity, the Legislature, the Judicial Council, and the Department of Finance, as provided.

(15) Existing law authorizes the board of supervisors to designate a county financial evaluation officer to make financial evaluations of liability for reimbursement of the costs of support of a minor, as specified, and authorizes that officer to petition the court for an order requiring the person who is determined to be financially responsible to pay those costs. Under existing law, if the parent or guardian is currently receiving reunification services, and the court finds that repayment by the parent or guardian will pose a barrier to reunification with the child, as specified, the court shall not order repayment of those costs by the parent or guardian.

This bill would prohibit the county financial officer from petitioning the court for an order of repayment of those costs, and the court from ordering that repayment, based upon either the finding of the court or the determination of the county financial officer, that repayment by the parent or guardian will pose a barrier to reunification with the child, as specified.

(16) This bill would also require the Judicial Council to report to the appropriate budget and policy committees of the Legislature, the Joint Legislative Budget Committee, the Legislative Analyst's Office, and the Department of Finance, on or before June 30, 2014, on an evaluation of the Long Beach court building performance-based infrastructure project, as specified.

(17) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. Section 116.232 of the Code of Civil Procedure is amended to read:

116.232. A fee of fifteen dollars (\$15) shall be charged and collected from the plaintiff for each defendant to whom the court clerk mails a copy of the claim under Section 116.340. This fee shall be distributed to the court in which it was collected.

SEC. 2. Section 12419.10 of the Government Code is amended to read:

12419.10. (a) (1) The Controller shall, to the extent feasible, offset any amount overdue and unpaid for a fine, penalty, assessment, bail, vehicle parking penalty, or court-ordered reimbursement for court-related services, from a person or entity, against any amount owing the person or entity by a state agency on a claim for a refund from the Franchise Tax Board under the Personal Income Tax Law or the Bank and Corporation Tax Law, from winnings in the California State Lottery, or a cash payment of a claim for unclaimed property held by the state. Standards and procedures for submission of requests for offsets shall be as prescribed by the Controller. Neither the Controller nor the Franchise Tax Board shall condition a request for offset on the submission of a person's social security number. If sufficient funds are not available to satisfy an offset request, the Controller, after first applying the amounts available to any amount due a state agency, may allocate the balance among any other requests for offset.

(2) Any request for an offset for a vehicle parking penalty shall be submitted within three years of the date the penalty was incurred. This three year maximum term for refund offsets for parking tickets applies to requests submitted to the Controller on or after January 1, 2004.

(b) Once an offset request for a vehicle parking penalty is made, a local agency may not accrue additional interest charges, collection charges, penalties, or other charges on or after the date that the offset request is made. Payment of an offset request for a vehicle parking penalty shall be made on the condition that it constitutes full and final payment of that offset.

(c) The Controller shall deduct and retain from any amount offset in favor of a city, county, or court an amount sufficient to reimburse the Controller, the Franchise Tax Board, the California State Lottery, and the Department of Motor Vehicles for their administrative costs of processing the offset payment.

(d) If necessary to confirm the identity of a person before making an offset, the Franchise Tax Board may, upon paying any necessary fees, obtain a social security number from the Department of Motor Vehicles, as authorized by subdivision (f) of Section 1653.5 of the Vehicle Code.

(e) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1, or any other law, the social security number of a person obtained pursuant to Section 4150, 4150.2, or 12800 of the Vehicle Code is not a public record and shall only be provided by the Department of Motor Vehicles to an authorized agency for the sole purpose of making an offset pursuant to this section for an unpaid vehicle parking penalty or an unpaid fine, penalty, assessment, or bail of which the Department of Motor Vehicles has been notified pursuant to subdivision (a) of Section 40509 of the Vehicle Code or Section 1803 of the Vehicle Code, responding to information requests from the Franchise Tax Board for the purpose of tax administration, and responding to requests for information from an agency, operating pursuant to and carrying out the provisions of, Part A (Aid to Families with Dependent Children), or Part D (Child Support and Establishment of Paternity) of Subchapter IV of Chapter 7 of Title 42 of the United States Code. As used in this section, “authorized agency” means the Controller, the Franchise Tax Board, or the California State Lottery Commission.

SEC. 3. Section 68086 of the Government Code is amended to read:

68086. (a) The following provisions apply in superior court:

(1) In addition to any other fee required in civil actions or cases:

(A) For each proceeding lasting less than one hour, a fee of thirty dollars (\$30) shall be charged for the reasonable cost of the services of an official court reporter pursuant to Section 269 of the Code of Civil Procedure. The proceeds of the fee shall be distributed to the court in which the fee was collected.

(B) For each proceeding lasting more than one hour, a fee equal to the actual cost of providing that service shall be charged per one-half day of services to the parties, on a pro rata basis, for the services of an official court reporter on the first and each succeeding judicial day those services are provided pursuant to Section 269 of the Code of Civil Procedure.

(2) All parties shall deposit their pro rata shares of these fees with the clerk of the court as specified by the court, but not later than the conclusion of each day’s court session.

(3) For purposes of this section, “one-half day” means any period of judicial time, in excess of one hour, but not more than four hours, during either the morning or afternoon court session.

(4) The costs for the services of the official court reporter shall be recoverable as taxable costs by the prevailing party as otherwise provided by law.

(5) The Judicial Council shall adopt rules to ensure all of the following:

(A) That parties are given adequate and timely notice of the availability of an official court reporter.

(B) That if an official court reporter is not available, a party may arrange for the presence of a certified shorthand reporter to serve as an official pro tempore reporter, the costs therefor recoverable as provided in paragraph (4).

(C) That if the services of an official pro tempore reporter are utilized pursuant to subparagraph (B), no other charge shall be made to the parties.

(b) The fees collected pursuant to this section shall be used only to pay the cost for services of an official court reporter in civil proceedings.

(c) The Judicial Council shall report on or before February 1 of each year to the Joint Legislative Budget Committee on the fees collected by courts pursuant to this section and Section 68086.1 and on the total amount spent for services of official court reporters in civil proceedings statewide in the prior fiscal year.

SEC. 4. Section 68502.5 of the Government Code is amended to read:

68502.5. (a) The Judicial Council may, as part of its trial court budget process, seek input from groups and individuals as it deems appropriate including, but not limited to, advisory committees and the Administrative Director of the Courts. The trial court budget process may include, but is not limited to, the following:

(1) The receipt of budget requests from the trial courts.

(2) The review of the trial courts' budget requests and evaluate them against performance criteria established by the Judicial Council by which a court's performance, level of coordination, and efficiency can be measured.

(3) The annual adoption of the projected cost in the subsequent fiscal year of court operations as defined in Section 77003 for each trial court. This estimation shall serve as a basis for recommended court budgets, which shall be developed for comparison purposes and to delineate funding responsibilities.

(4) The annual approval of a schedule for the allocation of moneys to individual courts and an overall trial court budget for forwarding to the Governor for inclusion in the Governor's proposed State Budget. The schedule shall be based on the performance criteria established pursuant to paragraph (2), on a minimum standard established by the Judicial Council for the operation and staffing of all trial court operations, and on any other factors as determined by the Judicial Council. This minimum standard shall be modeled on court operations using all reasonable and available measures to increase court efficiency. The schedule of allocations shall assure that all trial courts receive funding for the minimum operating and staffing standards before funding operating and staffing requests above the minimum standards, and shall include incentives and rewards for any trial court's implementation of efficiencies and cost saving measures.

(5) The reallocation of funds during the course of the fiscal year to ensure equal access to the trial courts by the public, to improve trial court operations, and to meet trial court emergencies. Neither the state nor the counties shall have any obligation to replace moneys appropriated for trial courts and reallocated pursuant to this paragraph.

(6) The allocation of funds in the State Trial Court Improvement and Modernization Fund to ensure equal access to trial courts by the public, to improve trial court operations, and to meet trial court emergencies, as expressly authorized by statute.

(7) Upon approval of the trial courts' budget by the Legislature, the preparation during the course of the fiscal year of allocation schedules for payments to the trial courts, consistent with Section 68085, which shall be submitted to the Controller's office at least 15 days before the due date of any allocation.

(8) The establishment of rules regarding a court's authority to transfer trial court funding moneys from one functional category to another in order to address needs in any functional category.

(9) At the request of the presiding judge of a trial court, an independent review of the funding level of the court to determine whether it is adequate to enable the court to discharge its statutory and constitutional responsibilities.

(10) From time to time, a review of the level of fees charged by the courts for various services and prepare recommended adjustments for forwarding to the Legislature.

(11) Provisions set forth in rules adopted pursuant to Section 77206 of the Government Code.

(b) Courts and counties shall establish procedures to allow for the sharing of information as it relates to approved budget proposals and expenditures that impact the respective court and county budgets. The procedures shall include, upon the request of a court or county, that a respective court or county shall provide the requesting court or county a copy of its approved budget and, to the extent possible, approved program expenditure component information and a description of budget changes that are anticipated to have an impact on the requesting court or county. The Judicial Council shall provide to the Legislature on December 31, 2001, and yearly thereafter, budget expenditure data at the program component level for each court.

(c) (1) The Judicial Council shall retain the ultimate responsibility to adopt a budget and allocate funding for the trial courts and perform the other activities listed in subdivision (a) that best assure their ability to carry out their functions, promote implementation of statewide policies, and promote the immediate implementation of efficiencies and cost saving measures in court operations, in order to guarantee equal access to the courts.

(2) (A) When setting the allocations for trial courts, the Judicial Council shall set a preliminary allocation in July of each fiscal year. The preliminary allocation shall include an estimate of available trial court reserves as of June 30 of the prior fiscal year and each court's preliminary allocation shall be offset by the amount of reserves in excess of the amount authorized to be carried over pursuant to subdivision (b) of Section 77203. In January of each fiscal year, after review of available trial court reserves as of June 30 of the prior fiscal year, the Judicial Council shall finalize allocations to trial courts and each court's finalized allocation shall be offset by the amount of reserves in excess of the amount authorized to be carried over pursuant to subdivision (b) of Section 77203.

(B) Upon preliminary determination of the allocations to trial courts pursuant to subparagraph (A), the Judicial Council shall set aside 2 percent of the total funds appropriated in Program 45.10 of Item 0250-101-0932 of the annual Budget Act and these funds shall remain in the Trial Court Trust Fund. These funds shall be administered by the Judicial Council and be allocated to trial courts

for unforeseen emergencies, unanticipated expenses for existing programs, or unavoidable funding shortfalls. Unavoidable funding shortfall requests for up to 1.5 percent of these funds shall be submitted by the trial courts to the Judicial Council no later than October 1 of each year. The Judicial Council shall, by October 31 of each year, review and evaluate all requests submitted, select trial courts to receive funds, and notify those selected trial courts. By March 15 of each year, the Judicial Council shall distribute the remaining funds if there has been a request from a trial court for unforeseen emergencies or unanticipated expenses that has been reviewed, evaluated, and approved. Any unexpended funds shall be distributed to the trial courts on a prorated basis.

(C) The Judicial Council shall, no later than April 15 of each year, report to the Legislature, pursuant to Section 9795 of the Government Code, and to the Department of Finance all requests and allocations made pursuant to subparagraph (B).

SEC. 5. Section 68502.6 is added to the Government Code, to read:

68502.6. (a) If the cash balance of the Trial Court Trust Fund is insufficient to support trial court operations during the fiscal year, the Administrative Office of the Courts may transfer funds from any fund identified in subdivision (c) as a loan to the Trial Court Trust Fund. The total amount of outstanding loans shall not exceed one hundred fifty million dollars (\$150,000,000) at any time during the fiscal year. The Administrative Office of the Courts shall not authorize a loan pursuant to this section to provide cash resources to any court that has not first provided a balanced budget approved by the Judicial Council.

(b) The Administrative Office of the Courts may transfer funds from the Trial Court Trust Fund for the repayment of the loan described in subdivision (a). Interest shall not be charged or paid on any loan authorized pursuant to this section and all loans shall be repaid within two years from the date on which the loan originated. The authority to transfer funds provided by this section shall not interfere with the objectives for which the funds identified in subdivision (c) were created. This section shall not be construed to provide additional expenditure authority to the Trial Court Trust Fund.

(c) Moneys in the following funds shall be available for transfer to the Trial Court Trust Fund as a loan for cash flow purposes:

- (1) The State Court Facilities Construction Fund.
- (2) The Immediate and Critical Needs Account of the State Court Facilities Construction Fund.
- (3) The Judicial Branch Workers' Compensation Fund.
- (d) For each loan executed pursuant to this section, the Administrative Office of the Courts shall, no later than August 30 of each year, report the following information to the Joint Legislative Budget Committee and the Department of Finance:
  - (1) The date of the loan.
  - (2) The amount loaned to each court.
  - (3) The funding source of the loan.
  - (4) The repayment date or proposed repayment date of the loan.

SEC. 6. Section 68511.7 of the Government Code is amended to read:

68511.7. (a) Prior to adopting a baseline budget plan for the fiscal year, each trial court shall provide the public notice of, and an opportunity for input on, the trial court's proposed budget plan, consistent with the requirements of this section.

(b) The court shall allow public input by the submission of written comments or by holding a public hearing on the trial court's proposed baseline budget plan. Any public hearing shall be conducted in a place reasonably accessible to the residents of the county in which the court is located, and allow for public comment. The court may conduct the public hearing at the courthouse in that county.

(c) (1) Prior to conducting a public hearing, the court shall make the proposed baseline budget plan available to the public and provide notice of the hearing date, time, and location, and the opportunity to submit written comments. Notice of the hearing and the opportunity to submit comments shall be by conspicuous posting within or about the court's facilities, on the court's public Internet Web site, and by electronic distribution to individuals that have subscribed to the court's electronic distribution service. The notice shall be posted not less than 10 court days prior to the date of the hearing.

(2) The baseline budget plan shall be made available to the public at the courthouse and on the court's public Internet Web site no less than three court days prior to the hearing or, if there is no hearing, adoption of the plan.

(d) This section shall not be construed to obligate courts to provide responses to the comments presented at the public hearing or to written comments received.

SEC. 7. Section 70628 of the Government Code is amended to read:

70628. For an exemplification of a record or other paper on file, the fee is fifty dollars (\$50), in addition to the charges allowed for copying or comparing each page of the record or other paper.

SEC. 8. Section 77203 of the Government Code is amended to read:

77203. (a) Prior to June 30, 2014, a trial court may carry over all unexpended funds from the courts operating budget from the prior fiscal year.

(b) Commencing June 30, 2014, a trial court may carry over unexpended funds in an amount not to exceed 1 percent of the court's operating budget from the prior fiscal year. The calculation of the 1 percent authorized to be carried over from the previous fiscal year shall not include funds received by the court pursuant to the following:

(1) Section 470.5 of the Business and Professions Code.

(2) Section 116.230 of the Code of Civil Procedure, except for those funds transmitted to the Controller for deposit in the Trial Court Trust Fund pursuant to subdivision (h) of that section.

(3) Subdivision (f) of Section 13963, Sections 26731, 66006, 68090.8, 70640, 70678, and 76223, subdivision (b) of Section 77207.5, and subdivision (h) of Section 77209.

(4) The portion of filing fees collected for conversion to micrographics pursuant to former Section 26863, as that section read immediately before its repeal, and Section 27361.4.

(5) Sections 1027 and 1463.007, subdivision (a) of Section 1463.22, and Sections 4750 and 6005, of the Penal Code.

(6) Sections 11205.2 and 40508.6 of the Vehicle Code.

SEC. 9. Section 1203.2 of the Penal Code is amended to read:

1203.2. (a) At any time during the period of supervision of a person (1) released on probation under the care of a probation officer pursuant to this chapter, (2) released on conditional sentence or summary probation not under the care of a probation officer, (3) placed on mandatory supervision pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170, (4) subject to revocation of postrelease community supervision pursuant to

Section 3455, or (5) subject to revocation of parole supervision pursuant to Section 3000.08, if any probation officer, parole officer, or peace officer has probable cause to believe that the supervised person is violating any term or condition of his or her supervision, the officer may, without warrant or other process and at any time until the final disposition of the case, rearrest the supervised person and bring him or her before the court or the court may, in its discretion, issue a warrant for his or her rearrest. Upon rearrest, or upon the issuance of a warrant for rearrest the court may revoke and terminate the supervision of the person if the interests of justice require and the court, in its judgment, has reason to believe from the report of the probation or parole officer or otherwise that the person has violated any of the conditions of his or her supervision, has become abandoned to improper associates or a vicious life, or has subsequently committed other offenses, regardless whether he or she has been prosecuted for those offenses. However, the court shall not terminate parole pursuant to this section. Supervision shall not be revoked for failure of a person to make restitution imposed as a condition of supervision unless the court determines that the defendant has willfully failed to pay and has the ability to pay. Restitution shall be consistent with a person's ability to pay. The revocation, summary or otherwise, shall serve to toll the running of the period of supervision.

(b) (1) Upon its own motion or upon the petition of the supervised person, the probation or parole officer, or the district attorney, the court may modify, revoke, or terminate supervision of the person pursuant to this subdivision, except that the court shall not terminate parole pursuant to this section. The court has jurisdiction to hear the motion or petition in the county in which the person is supervised, or, for those persons on parole, either the county of supervision or the county in which the supervised person is arrested. A person supervised on parole or postrelease community supervision pursuant to Section 3455 shall not petition the court pursuant to this section for early release from supervision, and a petition under this section shall not be filed solely for the purpose of modifying parole. Nothing in this section shall prohibit the court from modifying parole when acting on its own motion or a petition to revoke parole for a supervised person who resides in, or has been arrested in, the county. The court shall give notice of its motion, and the probation or parole officer or the district

attorney shall give notice of his or her petition to the supervised person, his or her attorney of record, and the district attorney or the probation or parole officer, as the case may be. The supervised person shall give notice of his or her petition to the probation or parole officer and notice of any motion or petition shall be given to the district attorney in all cases. The court shall refer its motion or the petition to the probation or parole officer. After the receipt of a written report from the probation or parole officer, the court shall read and consider the report and either its motion or the petition and may modify, revoke, or terminate the supervision of the supervised person upon the grounds set forth in subdivision (a) if the interests of justice so require.

(2) The notice required by this subdivision may be given to the supervised person upon his or her first court appearance in the proceeding. Upon the agreement by the supervised person in writing to the specific terms of a modification or termination of a specific term of supervision, any requirement that the supervised person make a personal appearance in court for the purpose of a modification or termination shall be waived. Prior to the modification or termination and waiver of appearance, the supervised person shall be informed of his or her right to consult with counsel, and if indigent the right to secure court appointed counsel. If the supervised person waives his or her right to counsel a written waiver shall be required. If the supervised person consults with counsel and thereafter agrees to a modification, revocation, or termination of the term of supervision and waiver of personal appearance, the agreement shall be signed by counsel showing approval for the modification or termination and waiver.

(c) Upon any revocation and termination of probation the court may, if the sentence has been suspended, pronounce judgment for any time within the longest period for which the person might have been sentenced. However, if the judgment has been pronounced and the execution thereof has been suspended, the court may revoke the suspension and order that the judgment shall be in full force and effect. In either case, the person shall be delivered over to the proper officer to serve his or her sentence, less any credits.

(d) In any case of revocation and termination of probation, including, but not limited to, cases in which the judgment has been pronounced and the execution thereof has been suspended, upon the revocation and termination, the court may, in lieu of any other

sentence, commit the person to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, if he or she is otherwise eligible for that commitment.

(e) If probation has been revoked before the judgment has been pronounced, the order revoking probation may be set aside for good cause upon motion made before pronouncement of judgment. If probation has been revoked after the judgment has been pronounced, the judgment and the order that revoked the probation may be set aside for good cause within 30 days after the court has notice that the execution of the sentence has commenced. If an order setting aside the judgment, the revocation of probation, or both is made after the expiration of the probationary period, the court may again place the person on probation for that period and with those terms and conditions as it could have done immediately following conviction.

(f) As used in this section, the following definitions shall apply:

(1) “Court” means a judge, magistrate, or revocation hearing officer described in Section 71622.5 of the Government Code.

(2) “Probation officer” means a probation officer as described in Section 1203 or an officer of the agency designated by the board of supervisors of a county to implement postrelease community supervision pursuant to Section 3451.

(3) “Supervised person” means a person who satisfies any of the following:

(A) He or she is released on probation subject to the supervision of a probation officer.

(B) He or she is released on conditional sentence or summary probation not under the care of a probation officer.

(C) He or she is subject to mandatory supervision pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170.

(D) He or she is subject to revocation of postrelease community supervision pursuant to Section 3455.

(E) He or she is subject to revocation of parole pursuant to Section 3000.08.

(g) Nothing in this section affects the authority of the supervising agency to impose intermediate sanctions, including flash incarceration, to persons supervised on parole pursuant to Section 3000.8 or postrelease community supervision pursuant to Part 3 (commencing with Section 3450) of Title 2.05.

SEC. 10. Section 1229 of the Penal Code is amended to read:

1229. As used in this chapter, the following definitions apply:

(a) “Community corrections” means the placement of persons convicted of a felony offense under probation supervision, mandatory supervision, or postrelease community supervision for a specified period.

(b) “Chief probation officer” or “CPO” means the chief probation officer for the county or city and county in which an adult offender is subject to probation for the conviction of a felony offense.

(c) “Community corrections program” means a program established pursuant to this act consisting of a system of services for felony offenders under local supervision dedicated to all of the following goals:

(1) Enhancing public safety through the management and reduction of offender risk while under local supervision and upon reentry from jail or prison into the community.

(2) Providing a range of supervision tools, sanctions, and services applied to felony offenders subject to local supervision based on a risk and needs assessment for the purpose of reducing criminal conduct and promoting behavioral change that results in reducing recidivism and promoting the successful reintegration of offenders into the community.

(3) Maximizing offender restitution, reconciliation, and restorative services to victims of crime.

(4) Holding offenders accountable for their criminal behaviors and for successful compliance with applicable court orders and conditions of supervision.

(5) Improving public safety outcomes for persons subject to local supervision for a felony offense, as measured by their successful completion of the period of local supervision and the commensurate reduction in the rate of offenders sent to prison as a result of a revocation of supervision or conviction of a new crime.

(d) “Evidence-based practices” refers to supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under local supervision.

(e) “Local supervision” means the supervision of an adult felony offender on probation, mandatory supervision, or postrelease community supervision.

SEC. 11. Section 1230 of the Penal Code is amended to read:

1230. (a) Each county is hereby authorized to establish in each county treasury a Community Corrections Performance Incentives Fund (CCPIF), to receive all amounts allocated to that county for purposes of implementing this chapter.

(b) Notwithstanding any other law, in any fiscal year for which a county receives moneys to be expended for the implementation of this chapter, the moneys, including any interest, shall be made available to the CPO of that county, within 30 days of the deposit of those moneys into the fund, for the implementation of the community corrections program authorized by this chapter.

(1) The community corrections program shall be developed and implemented by probation and advised by a local Community Corrections Partnership.

(2) The local Community Corrections Partnership shall be chaired by the CPO and comprised of the following membership:

(A) The presiding judge of the superior court, or his or her designee.

(B) A county supervisor or the chief administrative officer for the county or a designee of the board of supervisors.

(C) The district attorney.

(D) The public defender.

(E) The sheriff.

(F) A chief of police.

(G) The head of the county department of social services.

(H) The head of the county department of mental health.

(I) The head of the county department of employment.

(J) The head of the county alcohol and substance abuse programs.

(K) The head of the county office of education.

(L) A representative from a community-based organization with experience in successfully providing rehabilitative services to persons who have been convicted of a criminal offense.

(M) An individual who represents the interests of victims.

(3) Funds allocated to probation pursuant to this act shall be used to provide supervision and rehabilitative services for adult felony offenders subject to local supervision, and shall be spent on evidence-based community corrections practices and programs, as defined in subdivision (d) of Section 1229, which may include, but are not limited to, the following:

(A) Implementing and expanding evidence-based risk and needs assessments.

(B) Implementing and expanding intermediate sanctions that include, but are not limited to, electronic monitoring, mandatory community service, home detention, day reporting, restorative justice programs, work furlough programs, and incarceration in county jail for up to 90 days.

(C) Providing more intensive local supervision.

(D) Expanding the availability of evidence-based rehabilitation programs including, but not limited to, drug and alcohol treatment, mental health treatment, anger management, cognitive behavior programs, and job training and employment services.

(E) Evaluating the effectiveness of rehabilitation and supervision programs and ensuring program fidelity.

(4) Notwithstanding any other law, the CPO shall have discretion to spend funds on any of the above practices and programs consistent with this act but, at a minimum, shall devote at least 5 percent of all funding received to evaluate the effectiveness of those programs and practices implemented with the funds provided pursuant to this chapter. A CPO may petition the Administrative Office of the Courts to have this restriction waived, and the Administrative Office of the Courts shall have the authority to grant such a petition, if the CPO can demonstrate that the department is already devoting sufficient funds to the evaluation of these programs and practices.

(5) Each probation department receiving funds under this chapter shall maintain a complete and accurate accounting of all funds received pursuant to this chapter.

SEC. 12. Section 1231 of the Penal Code is amended to read:

1231. (a) Community corrections programs funded pursuant to this act shall identify and track specific outcome-based measures consistent with the goals of this act.

(b) The Administrative Office of the Courts, in consultation with the Chief Probation Officers of California, shall specify and define minimum required outcome-based measures, which shall include, but not be limited to, all of the following:

(1) The percentage of persons subject to local supervision who are being supervised in accordance with evidence-based practices.

(2) The percentage of state moneys expended for programs that are evidence based, and a descriptive list of all programs that are evidence based.

(3) Specification of supervision policies, procedures, programs, and practices that were eliminated.

(4) The percentage of persons subject to local supervision who successfully complete the period of supervision.

(c) Each CPO receiving funding pursuant to Sections 1233 to 1233.6, inclusive, shall provide an annual written report to the Administrative Office of the Courts evaluating the effectiveness of the community corrections program, including, but not limited to, the data described in subdivision (b).

(d) The Administrative Office of the Courts shall, in consultation with the CPO of each county and the Department of Corrections and Rehabilitation, provide a quarterly statistical report to the Department of Finance including, but not limited to, the following statistical information for each county:

(1) The number of felony filings.

(2) The number of felony convictions.

(3) The number of felony convictions in which the defendant was sentenced to the state prison.

(4) The number of felony convictions in which the defendant was granted probation.

(5) The adult felon probation population.

(6) The number of felons who had their probation revoked and were sent to prison for that revocation.

(7) The number of adult felony probationers sent to state prison for a conviction of a new felony offense, including when probation was revoked or terminated.

(8) The number of felons who had their probation revoked and were sent to county jail for that revocation.

(9) The number of adult felony probationers sent to county jail for a conviction of a new felony offense, including when probation was revoked or terminated.

(10) The number of felons who would have been subject to the sentencing provisions contained in paragraph (5) of subdivision (h) of Section 1170 if felony probation had not been granted, commencing January 1, 2012.

(11) The number of felons placed on postrelease community supervision, commencing January 1, 2012.

(12) The number of felons placed on mandatory supervision, commencing January 1, 2012.

(13) The mandatory supervision population, commencing January 1, 2012.

(14) The postrelease community supervision population, commencing January 1, 2012.

(15) The number of felons on postrelease community supervision sentenced to state prison for a conviction of a new felony offense, commencing January 1, 2012.

(16) The number of felons on mandatory supervision sentenced to state prison for a conviction of a new felony offense, commencing January 1, 2012.

(17) The number of felons who had their postrelease community supervision revoked and were sent to county jail for that revocation, commencing January 1, 2012.

(18) The number of felons on postrelease community supervision sentenced to county jail for a conviction of a new felony offense, including when postrelease community supervision was revoked or terminated, commencing January 1, 2012.

(19) The number of felons who had their mandatory supervision revoked and were sentenced to county jail for that revocation, commencing January 1, 2012.

(20) The number of felons on mandatory supervision sentenced to county jail for a conviction of a new felony offense, including when mandatory supervision was revoked or terminated, commencing January 1, 2012.

SEC. 13. Section 1232 of the Penal Code is amended to read:

1232. Commencing no later than 18 months following the initial receipt of funding pursuant to this act and annually thereafter, the Administrative Office of the Courts, in consultation with the Department of Corrections and Rehabilitation, the Department of Finance, and the Chief Probation Officers of California, shall submit to the Governor and the Legislature a comprehensive report on the implementation of this act. The report shall include, but not be limited to, all of the following information:

(a) The effectiveness of the community corrections program based on the reports of performance-based outcome measures required in Section 1231.

(b) The percentage of offenders subject to local supervision whose supervision was revoked and who were sent to prison or jail for the year on which the report is being made.

(c) The percentage of offenders subject to local supervision who were convicted of crimes during their term of supervision for the year on which the report is being made.

(d) The impact of the moneys appropriated pursuant to this act to enhance public safety by reducing the percentage and number of offenders subject to local supervision whose supervision was revoked for the year being reported on for violations or new convictions, and to reduce the number of offenders subject to local supervision who are sentenced to prison or jail for a new conviction for the year on which the report is being made.

(e) Any recommendations regarding resource allocations or additional collaboration with other state, regional, federal, or local entities for improvements to this act.

SEC. 14. Section 1233 of the Penal Code is amended to read:

1233. (a) The Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, shall, for each county, calculate a baseline probation failure rate that equals the weighted average number of adult felony probationers sent to state prison during calendar years 2006 to 2008, inclusive, as a percentage of the weighted average adult felony probation population during the same period.

(b) For purposes of calculating the baseline probation failure rate, the number of adult felony probationers sent to prison shall include those adult felony probationers sent to state prison for a revocation of probation, as well as adult felony probationers sent to state prison for a conviction of a new felony offense. The calculation shall also include adult felony probationers sent to prison for conviction of a new crime who simultaneously have their probation term terminated.

SEC. 15. Section 1233.1 of the Penal Code is amended to read:

1233.1. After the conclusion of each calendar year following the enactment of this section, the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation

Officers of California, and the Administrative Office of the Courts, shall calculate the following for that calendar year:

(a) The cost to the state to incarcerate in prison and supervise on parole an offender who fails local supervision and is sent to prison. This calculation shall take into consideration factors, including, but not limited to, the average length of stay in prison and on parole for offenders subject to local supervision, as well as the associated parole revocation rates, and revocation costs.

(b) (1) The statewide probation failure rate. The statewide probation failure rate shall be calculated as the total number of adult felony probationers statewide sent to prison in the previous year as a percentage of the average statewide adult felony probation population for that year.

(2) The statewide probation failure rate for the 2012 calendar year shall be calculated as the total number of adult felony probationers statewide sent to prison, or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170, as a percentage of the average statewide adult felony probation population for that year.

(c) (1) A probation failure rate for each county. Each county's probation failure rate shall be calculated as the number of adult felony probationers sent to prison from that county in the previous year as a percentage of the county's average adult felony probation population for that year.

(2) The probation failure rate for each county for the 2012 calendar year shall be calculated as the total number of adult felony probationers sent to prison, or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170, from that county as a percentage of the county's average adult felony probation population for that year.

(d) An estimate of the number of adult felony probationers each county successfully prevented from being incarcerated. For each county, this estimate shall be calculated based on the reduction in the county's probation failure rate as calculated annually pursuant to subdivision (c) of this section and the county's baseline probation failure rate as calculated pursuant to Section 1233. In making this estimate, the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, shall adjust

the calculations to account for changes in each county's adult felony probation caseload in the most recent completed calendar year as compared to the county's adult felony probation population during the period 2006 to 2008, inclusive.

(e) (1) In calculating probation failure rates for the state and individual counties, the number of adult felony probationers sent to prison shall include those adult felony probationers sent to state prison for a revocation of probation, as well as adult felony probationers sent to state prison for a conviction of a new felony offense. The calculation shall also include adult felony probationers who are sent to prison for conviction of a new crime and who simultaneously have their probation terms terminated.

(2) In calculating probation failure rates for the state and individual counties for the 2012 calendar year, the number of adult felony probationers sent to prison, or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170, shall include those adult felony probationers sent to prison, or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170, for a revocation of probation, as well as adult felony probationers sent to prison, or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170, for a conviction of a new felony offense. The calculation shall also include adult felony probationers who are sent to prison, or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170, for a conviction of a new crime and who simultaneously have their probation terms terminated.

(f) The statewide mandatory supervision failure to prison rate. The statewide mandatory supervision failure to prison rate shall be calculated as the total number of offenders supervised under mandatory supervision statewide sent to prison in the previous year as a percentage of the average statewide mandatory supervision population for that year.

(g) A mandatory supervision failure to prison rate for each county. Each county's mandatory supervision failure to prison rate shall be calculated as the number of offenders supervised under mandatory supervision sent to prison from that county in the previous year as a percentage of the county's average mandatory supervision population for that year.

(h) The statewide postrelease community supervision failure to prison rate. The statewide postrelease community supervision failure to prison rate shall be calculated as the total number of

offenders supervised under postrelease community supervision statewide sent to prison in the previous year as a percentage of the average statewide postrelease community supervision population for that year.

(i) A postrelease community supervision failure to prison rate for each county. Each county's postrelease community supervision failure to prison rate shall be calculated as the number of offenders supervised under postrelease community supervision sent to prison from that county in the previous year as a percentage of the county's average postrelease community supervision population for that year.

SEC. 16. Section 1233.15 of the Penal Code is amended to read:

1233.15. The Director of Finance, in consultation with the Administrative Office of the Courts, the Department of Corrections and Rehabilitation, and the Chief Probation Officers of California, shall develop a revised formula for the California Community Corrections Performance Incentives Act of 2009 that takes into consideration the significant changes to the eligibility of some felony probationers for revocation to the state prison resulting from the implementation of the 2011 Public Safety realignment, and may also take into consideration the data calculated pursuant to subdivisions (f) to (i), inclusive, of Section 1233.1. The revised formula may include adjustments to the baseline failure rate for each county.

SEC. 17. Section 1233.2 of the Penal Code is amended to read:

1233.2. Annually, after the conclusion of each calendar year, the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, shall identify the appropriate Probation Revocation Tier for each county for which it was estimated that the county successfully prevented any number of adult felony probationers from being incarcerated, as provided in subdivision (d) of Section 1233.1. The tiers shall be defined as follows:

(a) Tier 1. A Tier 1 county is one that has a probation failure rate, as defined in subdivision (c) of Section 1233.1, no more than 25 percent higher than the statewide probation failure rate, as defined in subdivision (b) of Section 1233.1.

(b) Tier 2. A Tier 2 county is one that has a probation failure rate, as defined in subdivision (c) of Section 1233.1, more than 25 percent above the statewide probation failure rate, as defined in subdivision (b) of Section 1233.1, but less than or equal to the 2006–08 established baseline rate of 7.88 percent.

(c) Tier 3. A Tier 3 county is one that has a probation failure rate higher than the 2006–08 established baseline rate of 7.88 percent.

SEC. 18. Section 1233.3 of the Penal Code is amended to read:

1233.3. Annually, the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, shall calculate a probation failure reduction incentive payment for each eligible county, pursuant to Section 1233.2, for the most recently completed calendar year, as follows:

(a) For a county identified as being in Tier 1, as defined in subdivision (a) of Section 1233.2, its probation failure reduction incentive payment shall equal the estimated number of probationers successfully prevented from being incarcerated, as defined by subdivision (d) of Section 1233.1, multiplied by 45 percent of the costs to the state to incarcerate in prison and supervise on parole a probationer who was sent to prison, as defined in subdivision (a) of Section 1233.1.

(b) For a county identified as being in Tier 2, as defined in subdivision (b) of Section 1233.2, its probation failure reduction incentive payment shall equal the estimated number of probationers successfully prevented from being incarcerated, as defined by subdivision (d) of Section 1233.1, multiplied by 40 percent of the costs to the state to incarcerate in prison and supervise on parole a probationer who was sent to prison, as defined in subdivision (a) of Section 1233.1.

(c) For a county identified as being in Tier 3, as defined in subdivision (c) of Section 1233.2, its probation failure reduction incentive payment shall equal the estimated number of probationers successfully prevented from being incarcerated, as defined by subdivision (d) of Section 1233.1, multiplied by 30 percent of the costs to the state to incarcerate in prison and supervise on parole a probationer who was sent to prison, as defined in subdivision (a) of Section 1233.1.

(d) A county that fails to provide information specified in Section 1231 to the Administrative Office of the Courts shall not be eligible for a probation failure reduction incentive payment.

SEC. 19. Section 1233.4 of the Penal Code is amended to read:

1233.4. (a) It is the intent of the Legislature for counties demonstrating high success rates with adult felony probationers to have access to performance-based funding as provided for in this section.

(b) On an annual basis, the Department of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, shall calculate 5 percent of the total statewide estimated number of probationers successfully prevented from being incarcerated for counties that successfully reduce the number of adult felony probationers incarcerated multiplied by the costs to the state to incarcerate in prison and supervise on parole a probationer who was sent to prison, as defined in subdivision (a) of Section 1233.1.

(c) The amount estimated pursuant to subdivision (b) shall be used to provide high performance grants to county probation departments for the purpose of bolstering evidence-based probation practices designed to reduce recidivism among adult felony probationers.

(d) County probation departments eligible for these high performance grants shall be those with adult probation failure rates more than 50 percent below the statewide average in the most recently completed calendar year.

(e) A county probation department that qualifies for a probation failure reduction incentive payment, as provided in Section 1233.3, and a high performance grant payment in the same year shall choose to receive either the probation failure incentive payment or the high performance grant payment. The CPO of a county that qualifies for both a high performance grant and a probation failure reduction incentive payment shall indicate to the Administrative Office of the Courts, by a date designated by the Administrative Office of the Courts, whether the CPO chooses to receive the high performance grant or probation failure reduction payment.

(f) The grants provided for in this section shall be administered by the Administrative Office of the Courts. The Administrative Office of the Courts shall seek to ensure that all qualifying

probation departments that submit qualifying applications receive a proportionate share of the grant funding available based on the population of adults ages 18 to 25, inclusive, in each of the counties qualifying for the grants.

(g) A county that fails to provide the information specified in Section 1231 to the Administrative Office of the Courts shall not be eligible for a high performance grant payment.

SEC. 20. Section 1233.6 of the Penal Code is amended to read:

1233.6. (a) Probation failure reduction incentive payments and high performance grants calculated for any calendar year shall be provided to counties in the following fiscal year. The total annual payment to each county shall be divided into four equal quarterly payments.

(b) The Department of Finance shall include an estimate of the total probation failure reduction incentive payments and high performance grants to be provided to counties in the coming fiscal year as part of the Governor's proposed budget released no later than January 10 of each year. This estimate shall be adjusted by the Department of Finance, as necessary, to reflect the actual calculations of probation failure reduction incentive payments and high performance grants completed by the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts. This adjustment shall occur as part of standard budget revision processes completed by the Department of Finance in April and May of each year.

(c) There is hereby established, in the State Treasury, the State Community Corrections Performance Incentives Fund, which is continuously appropriated. Moneys appropriated for purposes of providing probation failure reduction incentive payments and high performance grants authorized in Sections 1230 to 1233.6, inclusive, shall be transferred into this fund from the General Fund. Any moneys transferred into this fund from the General Fund shall be administered by the Administrative Office of the Courts and the share calculated for each county probation department shall be transferred to its Community Corrections Performance Incentives Fund authorized in Section 1230.

(d) For each fiscal year, the Director of Finance shall determine the total amount of the State Community Corrections Performance

Incentives Fund and the amount to be allocated to each county, pursuant to this section and Sections 1230 to 1233.5, inclusive, and shall report those amounts to the Controller. The Controller shall make an allocation from the State Community Corrections Performance Incentives Fund authorized in subdivision (c) to each county in accordance with the amounts provided.

(e) The amount of one million dollars (\$1,000,000) is hereby appropriated from the State Community Corrections Performance Incentive Fund to the judicial branch for the costs of implementing and administering this program, pursuant to subdivision (c), and the 2011 realignment legislation addressing public safety. These funds shall be available for encumbrance and expenditure until June 30, 2014.

SEC. 21. Section 1233.61 of the Penal Code is amended to read:

1233.61. Notwithstanding any other law, any moneys remaining in the State Community Corrections Performance Incentives Fund, after the calculation and award determination of each county's tier payments or high performance grant payments pursuant to Sections 1233.3 and 1233.4, shall be distributed to county probation departments as follows:

(a) The Department of Finance shall increase the award amount for any county whose tier payment or high performance grant payment, as calculated pursuant to Sections 1233.3 and 1233.4, totals less than two hundred thousand dollars (\$200,000) to no more than two hundred thousand dollars (\$200,000).

(b) The Department of Finance shall adjust the award amount for any county that has a probation failure rate, as defined in subdivision (c) of Section 1233.1, that is below the statewide average, as defined in subdivision (b) of Section 1233.1, so that these counties receive no less than two hundred thousand dollars (\$200,000).

(c) The Department of Finance shall evenly distribute any remaining funds to those counties that did not receive a tier payment or a high performance grant payment, as calculated pursuant to Sections 1233.3 and 1233.4.

(d) At no time shall an award provided to a county through subdivision (c) exceed the amount of a grant award provided to counties that are eligible to receive increased award amounts pursuant to subdivision (a) or (b).

(e) Any county receiving funding through subdivision (c) shall submit a report to the Administrative Office of the Courts and the Chief Probation Officers of California describing how it plans on using the funds to enhance its ability to be successful under this act. Commencing January 1, 2014, a county that fails to submit this report by March 1 annually shall not receive funding pursuant to subdivision (c) in the subsequent fiscal year.

(f) A county that fails to provide the information specified in Section 1231 to the Administrative Office of the Courts shall not be eligible for payment pursuant to this section.

SEC. 22. Section 1233.8 of the Penal Code is repealed.

SEC. 23. Section 3000.08 of the Penal Code, as amended by Section 35 of Chapter 43 of the Statutes of 2012, is amended to read:

3000.08. (a) Persons released from state prison prior to or on or after July 1, 2013, after serving a prison term or, whose sentence has been deemed served pursuant to Section 2900.5, for any of the following crimes shall be subject to parole supervision by the Department of Corrections and Rehabilitation and the jurisdiction of the court in the county where the parolee is released or resides, or any county in which the supervised person is arrested, for the purpose of hearing petitions to revoke parole and impose a term of custody:

(1) A serious felony as described in subdivision (c) of Section 1192.7.

(2) A violent felony as described in subdivision (c) of Section 667.5.

(3) A crime for which the person was sentenced pursuant to paragraph (2) of subdivision (e) of Section 667 or paragraph (2) of subdivision (c) of Section 1170.12.

(4) Any crime where the person eligible for release from prison is classified as a High Risk Sex Offender.

(5) Any crime where the person is required, as a condition of parole, to undergo treatment by the Department of Mental Health pursuant to Section 2962.

(b) Notwithstanding any other law, all other offenders released from prison shall be placed on postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450).

(c) At any time during the period of parole of a person subject to this section, if any parole agent or peace officer has probable

cause to believe that the parolee is violating any term or condition of his or her parole, the agent or officer may, without warrant or other process and at any time until the final disposition of the case, arrest the person and bring him or her before the court, or the court may, in its discretion, issue a warrant for that person's arrest pursuant to Section 1203.2.

(d) Upon review of the alleged violation and a finding of good cause that the parolee has committed a violation of law or violated his or her conditions of parole, the supervising parole agency may impose additional and appropriate conditions of supervision, including rehabilitation and treatment services and appropriate incentives for compliance, and impose immediate, structured, and intermediate sanctions for parole violations, including flash incarceration in a county jail. Periods of "flash incarceration," as defined in subdivision (e) are encouraged as one method of punishment for violations of a parolee's conditions of parole. Nothing in this section is intended to preclude referrals to a reentry court pursuant to Section 3015.

(e) "Flash incarceration" is a period of detention in county jail due to a violation of a parolee's conditions of parole. The length of the detention period can range between one and 10 consecutive days. Shorter, but if necessary more frequent, periods of detention for violations of a parolee's conditions of parole shall appropriately punish a parolee while preventing the disruption in a work or home establishment that typically arises from longer periods of detention.

(f) If the supervising parole agency has determined, following application of its assessment processes, that intermediate sanctions up to and including flash incarceration are not appropriate, the supervising parole agency shall, pursuant to Section 1203.2, petition the court in the county in which the parolee is being supervised, or any county in which the supervised person is arrested, to revoke parole. At any point during the process initiated pursuant to this section, a parolee may waive, in writing, his or her right to counsel, admit the parole violation, waive a court hearing, and accept the proposed parole modification or revocation. The petition shall include a written report that contains additional information regarding the petition, including the relevant terms and conditions of parole, the circumstances of the alleged underlying violation, the history and background of the parolee, and any recommendations. The Judicial Council shall adopt forms

and rules of court to establish uniform statewide procedures to implement this subdivision, including the minimum contents of supervision agency reports. Upon a finding that the person has violated the conditions of parole, the court shall have authority to do any of the following:

(1) Return the person to parole supervision with modifications of conditions, if appropriate, including a period of incarceration in county jail.

(2) Revoke parole and order the person to confinement in county jail.

(3) Refer the person to a reentry court pursuant to Section 3015 or other evidence-based program in the court's discretion.

(g) Confinement pursuant to paragraphs (1) and (2) of subdivision (f) shall not exceed a period of 180 days in county jail.

(h) Notwithstanding any other law, in any case where Section 3000.1 or paragraph (4) of subdivision (b) of Section 3000 applies to a person who is on parole and the court determines that the person has committed a violation of law or violated his or her conditions of parole, the person on parole shall be remanded to the custody of the Department of Corrections and Rehabilitation and the jurisdiction of the Board of Parole Hearings for the purpose of future parole consideration.

(i) Notwithstanding subdivision (a), any of the following persons released from state prison shall be subject to the jurisdiction of, and parole supervision by, the Department of Corrections and Rehabilitation for a period of parole up to three years or the parole term the person was subject to at the time of the commission of the offense, whichever is greater:

(1) The person is required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1, and was subject to a period of parole exceeding three years at the time he or she committed a felony for which he or she was convicted and subsequently sentenced to state prison.

(2) The person was subject to parole for life pursuant to Section 3000.1 at the time of the commission of the offense that resulted in a conviction and state prison sentence.

(j) Parolees subject to this section who have a pending adjudication for a parole violation on July 1, 2013, shall be subject to the jurisdiction of the Board of Parole Hearings. Parole revocation proceedings conducted by the Board of Parole Hearings

prior to July 1, 2013, if reopened on or after July 1, 2013, shall be subject to the jurisdiction of the Board of Parole Hearings.

(k) Except as described in subdivision (c), any person who is convicted of a felony that requires community supervision and who still has a period of state parole to serve shall discharge from state parole at the time of release to community supervision.

(l) This section shall become operative on July 1, 2013.

SEC. 24. Section 19210 of the Public Contract Code is amended to read:

19210. (a) Commencing not earlier than July 1, 2011, and not later than December 15, 2012, the State Auditor shall establish a pilot program to audit six trial courts. That entity shall select the trial courts using the following criteria:

(1) Two trial courts selected from counties with a population of 200,000 or less.

(2) Two trial courts selected from counties with a population greater than 200,000 and less than 750,000.

(3) Two trial courts selected from counties with a population of 750,000 or greater.

The audits shall assess the implementation of this part by the judicial branch.

(b) Based on the results of the pilot program audits described in subdivision (a), the State Auditor shall, on or before December 15, 2013, commence an audit of the trial courts, provided that every trial court is audited in the manner prescribed by this section at least once every four years. The audits shall assess the implementation of this part by the judicial branch. The audits required by this paragraph shall be in addition to any audit regularly conducted pursuant to any other provision of law.

(c) Notwithstanding Section 10231.5 of the Government Code, the State Auditor shall compile the trial court audit findings and report the results of these audits to the Legislature, the Judicial Council, and the Department of Finance no later than April 1 of each year. An audit report shall not be considered final until the audited entity is provided a reasonable opportunity to respond and the response is included with, or incorporated into, the report.

(d) The reasonable and necessary contracted cost of the audits conducted pursuant to this section shall be paid from funds of the local trial court being audited.

(e) (1) Commencing on or before July 1, 2013, the State Auditor shall perform an audit of the Administrative Office of the Courts, the Habeas Corpus Resource Center, the California Supreme Court, and the appellate courts to assess their implementation of this part.

(2) The State Auditor shall, on or before December 31, 2013, provide a copy of the final audit report of the Administrative Office of the Courts to the Legislature, the Judicial Council, and the Department of Finance. An audit report shall not be considered final until the audited entity is provided a reasonable opportunity to respond and the response is included with, or incorporated into, the report.

(3) Each judicial branch entity shall pay all reasonable and necessary costs incurred by the State Auditor pursuant to this subdivision in auditing that entity.

(f) The State Auditor shall conduct the audits required pursuant to this section in accordance with Chapter 6.5 (commencing with Section 8543) of Division 1 of Title 2 of the Government Code.

(g) If the State Auditor is selected as the auditing entity pursuant to subdivision (j) of Section 77206 of the Government Code, then the State Auditor may combine the results of any audit of a trial court conducted pursuant to that section with an audit of the same trial court conducted pursuant to this section. The State Auditor may also combine the results of an audit of the Administrative Office of the Courts pursuant to Section 77206 of the Government Code with the results of an audit of the Administrative Office of the Courts pursuant to this section.

(h) A report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(i) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 25. Section 19210 is added to the Public Contract Code, to read:

19210. (a) The State Auditor shall do the following:

(1) On or before March 15, 2014, and biennially thereafter, identify five judicial branch entities, excluding the Administrative Office of the Courts, for audit to assess the implementation of this part by the judicial branch entity based upon risk factors that include, but are not limited to, all of the following:

(A) Significant changes in legal or other requirements that have occurred that impact compliance with this part.

(B) The amount of time since the last audit performed of the identified judicial branch entity to assess its implementation and compliance with this part.

(C) Previous audit results or known deficiencies.

(D) Significant or unusual changes in management or high employee turnover.

(E) The complexity and size of the judicial branch entity.

(F) The level of sophistication and complexity of existing contracting practices and procedures.

(G) The total volume and type of procurement made by the judicial branch entity compared with overall judicial branch procurement.

(H) Substantial changes in total procurements, including, but not limited to, number and allotted amount, from one year to the next.

(2) On or before March 15 of the year in which the judicial branch entities are identified pursuant to paragraph (1), notify the Joint Legislative Budget Committee and the Joint Legislative Audit Committee of the five judicial branch entities identified and the estimated cost to conduct an audit of each judicial branch entity.

(3) On or before July 1 of the year in which the judicial branch entities are identified, commence an audit of each identified judicial branch entity, subject to an appropriation for this audit whereby moneys are allocated in the annual Budget Act to one or more funds that are available for use by judicial branch entities. Upon completion of the final audit report, as identified in paragraph (4), the Administrative Office of the Courts shall reimburse the California State Auditor for the actual costs of the work performed.

(4) Provide the judicial branch entity with a reasonable opportunity to respond to the findings of the audit. An audit report shall not be considered final until this opportunity is provided and any response is included or incorporated into the audit report.

(5) On or before January 15 of the fiscal year for which the appropriation for the audit was made, report the judicial branch entity audit findings, including any response by the judicial branch entity, to the judicial branch entity, the Legislature, the Judicial Council, and the Department of Finance.

(6) Annually provide updates to the Legislature on the status of the judicial branch entity implementation of an audit recommendation.

(b) If, on or before March 15 of the year in which the judicial branch entities are identified pursuant to subdivision (a), the California State Auditor identifies, on the basis of the risk factors described in subdivision (a), judicial branch entities for audit in addition to the five identified pursuant to subdivision (a) and notifies the Joint Legislative Budget Committee and the Joint Legislative Audit Committee of these additional entities, along with the estimated cost of each audit, and an appropriation is made for this purpose in the same manner as described in paragraph (3) of subdivision (a), the California State Auditor shall then audit the additional judicial branch entities and provide a final audit report as described in paragraphs (4) and (5) of subdivision (a).

(c) On or before July 1, 2015, and biennially thereafter, the California State Auditor shall commence an audit of the Administrative Office of the Courts, to assess the implementation of, and compliance with, this part, subject to an appropriation by the Legislature to the Judicial Council for transfer to the State Audit Fund for this purpose, and provide a final audit report in the manner described in paragraphs (4) and (5) of subdivision (a).

(d) The California State Auditor may follow up on a prior audit finding at any time.

(e) The California State Auditor shall conduct an audit pursuant to this section in accordance with Chapter 6.5 (commencing with Section 8543) of Division 1 of Title 2 of the Government Code. Pursuant to Section 8546.2 of the Government Code, the California State Auditor shall request updates from an audited judicial branch entity regarding its progress in implementing audit recommendations made pursuant to this section. The audited judicial branch entity shall provide these updates at intervals prescribed by the California State Auditor so that the California State Auditor may conduct appropriate followup activities.

(f) Moneys that have been transferred to the State Audit Fund pursuant to this section to audit a specific judicial branch entity, but have not been expended by the California State Auditor at the time the California State Auditor provides its final audit report for that judicial branch entity, shall revert back to the fund from which the moneys were transferred.

(g) A report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(h) If the California State Auditor is selected as the auditing entity pursuant to subdivision (j) of Section 77206 of the Government Code, then the California State Auditor may combine the results of an audit of a trial court conducted pursuant to that section with an audit of the same trial court conducted pursuant to this section. The California State Auditor may also combine the results of an audit of the Administrative Office of the Courts pursuant to Section 77206 of the Government Code with the results of an audit of the Administrative Office of the Courts pursuant to this section.

(i) This section shall become operative on January 1, 2014.

SEC. 26. Section 903.45 of the Welfare and Institutions Code is amended to read:

903.45. (a) The board of supervisors may designate a county financial evaluation officer pursuant to Section 27750 of the Government Code to make financial evaluations of liability for reimbursement pursuant to Sections 207.2, 903, 903.1, 903.2, 903.25, 903.3, and 903.5, and other reimbursable costs allowed by law, as set forth in this section.

(b) In a county where a board of supervisors has designated a county financial evaluation officer, the juvenile court shall, at the close of the disposition hearing, order any person liable for the cost of support, pursuant to Section 903, the cost of legal services as provided for in Section 903.1, probation costs as provided for in Section 903.2, or any other reimbursable costs allowed under this code, to appear before the county financial evaluation officer for a financial evaluation of his or her ability to pay those costs. If the responsible person is not present at the disposition hearing, the court shall cite him or her to appear for a financial evaluation. In the case of a parent, guardian, or other person assessed for the costs of transport, food, shelter, or care of a minor under Section 207.2 or 903.25, the juvenile court shall, upon request of the county probation department, order the appearance of the parent, guardian, or other person before the county financial evaluation officer for a financial evaluation of his or her ability to pay the costs assessed.

If the county financial evaluation officer determines that a person so responsible has the ability to pay all or part of the costs, the county financial evaluation officer shall petition the court for an

order requiring the person to pay that sum to the county or court, depending on which entity incurred the expense. If the parent or guardian is liable for costs for legal services pursuant to Section 903.1, the parent or guardian has been reunified with the child pursuant to a court order, and the county financial evaluation officer determines that repayment of the costs would harm the ability of the parent or guardian to support the child, then the county financial evaluation officer shall not petition the court for an order of repayment, and the court shall not make that order. In addition, if the parent or guardian is currently receiving reunification services, and the court finds, or the county financial officer determines, that repayment by the parent or guardian will pose a barrier to reunification with the child because it will limit the ability of the parent or guardian to comply with the requirements of the reunification plan or compromise the parent's or guardian's current or future ability to meet the financial needs of the child, or in any case in which the court finds that the repayment would be unjust under the circumstances of the case, then the county financial evaluation officer shall not petition the court for an order of repayment, and the court shall not order repayment by the parent or guardian. In evaluating a person's ability to pay under this section, the county financial evaluation officer and the court shall take into consideration the family's income, the necessary obligations of the family, and the number of persons dependent upon this income. A person appearing for a financial evaluation has the right to dispute the county financial evaluation officer's determination, in which case he or she is entitled to a hearing before the juvenile court. The county financial evaluation officer, at the time of the financial evaluation, shall advise the person of his or her right to a hearing and of his or her rights pursuant to subdivision (c).

At the hearing, a person responsible for costs is entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, to confront and cross-examine adverse witnesses, to disclosure of the evidence against him or her, and to receive a written statement of the findings of the court. The person has the right to be represented by counsel, and, if the person is unable to afford counsel, the right to appointed counsel. If the court determines that the person has the ability to pay all or part of the costs, including the costs of any

counsel appointed to represent the person at the hearing, the court shall set the amount to be reimbursed and order him or her to pay that sum to the county or court, depending on which entity incurred the expense, in a manner in which the court believes reasonable and compatible with the person's financial ability.

If the person, after having been ordered to appear before the county financial evaluation officer, has been given proper notice and fails to appear as ordered, the county financial evaluation officer shall recommend to the court that the person be ordered to pay the full amount of the costs. Proper notice to the person shall contain all of the following:

(1) That the person has a right to a statement of the costs as soon as it is available.

(2) The person's procedural rights under Section 27755 of the Government Code.

(3) The time limit within which the person's appearance is required.

(4) A warning that if the person fails to appear before the county financial evaluation officer, the officer will recommend that the court order the person to pay the costs in full.

If the county financial evaluation officer determines that the person has the ability to pay all or a portion of these costs, with or without terms, and the person concurs in this determination and agrees to the terms of payment, the county financial evaluation officer, upon his or her written evaluation and the person's written agreement, shall petition the court for an order requiring the person to pay that sum to the county or the court in a manner that is reasonable and compatible with the person's financial ability. This order may be granted without further notice to the person, provided a copy of the order is served on the person by mail.

However, if the county financial evaluation officer cannot reach an agreement with the person with respect to either the liability for the costs, the amount of the costs, the person's ability to pay the costs, or the terms of payment, the matter shall be deemed in dispute and referred by the county financial evaluation officer back to the court for a hearing.

(c) At any time prior to the satisfaction of a judgment entered pursuant to this section, a person against whom the judgment was entered may petition the rendering court to modify or vacate the

judgment on the basis of a change in circumstances relating to his or her ability to pay the judgment.

(d) Execution may be issued on the order in the same manner as on a judgment in a civil action, including any balance remaining unpaid at the termination of the court's jurisdiction over the minor.

SEC. 27. The Judicial Council shall report to the appropriate budget and policy committees of the Legislature, the Joint Legislative Budget Committee, the Legislative Analyst's Office, and the Department of Finance, on or before June 30, 2014, on an evaluation of the Long Beach court building performance based infrastructure project. The evaluation shall assess the implementation of the project agreement and compare the project to other court construction projects the Judicial Council has pursued using the traditional public sector approach. The evaluation shall address whether the project was a cost-effective approach compared to the Judicial Council's other court construction projects. The evaluation shall include, but not be limited to, all of the following elements:

(a) Evaluation of the project company and its design-build implementation of the project agreement relative to the requirements of the agreement.

(b) Comparison of the assumptions included in the project's final value for money analysis, which was submitted to the Legislature in a report dated January 24, 2011, to the project's actual costs to date as well as projected costs incurred under the life of the contract. The comparison shall address assumptions that were made about the project site, timing, capital and operating costs, financing and revenues, and project risks. The comparison shall describe, for each of the project risks that were identified in the Value for Money analysis, whether the risk was realized and if a cost was imposed on the project company or the Judicial Council as a result.

(c) Identification of costs that occurred in the project for the project company and the Judicial Council that were not identified in the value for money analysis.

(d) Description of major challenges encountered by the project and how those issues were resolved.

(e) Description of major changes to the project scope, budget, or timeline during the term of the project agreement, including changes that did or did not require renegotiation of the agreement,

and the impact of those changes to the project, including cost impact.

(f) Assessment of the cost-effectiveness of the project compared to a minimum of three projects constructed as part of the courts construction program. The assessment shall consider the costs related to the construction, management, and operation of the court building that were experienced by the project company and the Judicial Council. The assessment shall also consider the timeliness of construction, the quality of the building, and the level of service provided by the project company in the project compared to buildings constructed and maintained by the Judicial Council. The information presented in this assessment shall include, but not be limited to, all of the following for each court construction project:

(1) Identification of all initial, final approved, and actual project costs for each phase of design and construction, including any cost increases and reasons for those increases.

(2) Identification of the initial, final approved, and actual project timeline for each phase of design and construction, as well as all project delays and the reasons associated in causing the project delays.

(3) The total project management costs incurred by the Judicial Council, including for existing staff who worked on each project, distinguished by project activity.

(4) The total costs paid for contractors, distinguished by project activity.

SEC. 28. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.









Approved \_\_\_\_\_, 2013

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*Governor*