

**Introduced by Committee on Public Safety (Senators Hancock (Chair), Anderson, De León, Knight, Liu, Mitchell, and Steinberg)**

March 3, 2014

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An act to amend Section 25401 of the Corporations Code, to amend Section 6306 of the Family Code, to amend Section 12002 of the Fish and Game Code, to amend Section 15155 of the Government Code, to amend Section 655.7 of the Harbors and Navigation Code, to amend Sections 1796.58, 11352, and 11379 of the Health and Safety Code, to amend Sections 19.8, 273.75, 290.012, 311.11, 814, 4902, 11102.2, and 31000 of the Penal Code, and to amend Section 602 of the Welfare and Institutions Code, relating to public safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1461, as introduced, Committee on Public Safety. Public safety.

(1) Existing law makes it a misdemeanor, punishable by a fine of not more than \$2,000, imprisonment in the county jail for not more than one year, or by both that fine and imprisonment, to fail to visit and remove all animals from traps at least once daily. Existing law makes it a misdemeanor, punishable by a fine of \$1,000, imprisonment in the county jail for not more than 6 months, or by both that fine and imprisonment, to set or maintain traps that do not bear a number or other identifying mark, as specified.

This bill would instead provide that setting or maintaining traps that do not bear a number or other identifying mark, as specified, is punishable by a fine of not more than \$2,000, imprisonment in the county jail for not more than one year, or by both that fine and imprisonment, and that failing to visit and remove all animals from traps at least once daily is punishable by a fine of \$1,000, imprisonment

in the county jail for not more than 6 months, or by both that fine and imprisonment.

(2) Existing law requires the Department of Justice to maintain a statewide telecommunications system of communication for the use of law enforcement agencies. The system is under the direction of the Attorney General. Existing law requires the Attorney General to appoint an advisory committee on the California Law Enforcement Telecommunications System to advise and assist in the management of the system. The committee serves at the pleasure of the Attorney General, without compensation, except for reimbursement of necessary travel expenses. Existing law requires the committee to consist of representatives from specified organizations, including from the Department of General Services.

This bill would change the membership of the committee by substituting the representative from the Department of General Services with a representative from the Office of Emergency Services.

(3) Existing law regulates the operation of personal watercraft, as defined, and imposes various requirements for the manufacture and safe operation of a personal watercraft. Existing law prohibits a person from operating a personal watercraft at any time between the hours from sunset to sunrise. A violation of this provision is an infraction.

This bill would exempt marine patrols, harbor police, or emergency personnel in the performance of their duties from that prohibition.

(4) Existing law categorizes controlled substances into 5 schedules. Existing law, subject to exceptions, makes it an offense to, among other things, transport specified Schedule I and Schedule II controlled substances, or any Schedule III, IV, or V controlled substance which is a narcotic drug, unless upon written prescription, as specified. Existing law, subject to exceptions, makes it an offense to, among other things, transport specified Schedule III, IV, or V controlled substances which are not a narcotic drug, unless upon written prescription, as specified. Existing law provides that these provisions do not preclude or limit the prosecution of an individual for aiding and abetting the commission of, or conspiring to commit, those prohibited acts.

This bill would additionally provide that those provisions do not preclude or limit the prosecution of an individual for acting as an accessory to those prohibited acts.

(5) Existing law requires, commencing January 1, 2011, the Department of Justice to establish, implement, and maintain a confirmation program to process fingerprint-based criminal record

background clearances on individuals designated by agencies as custodians of records. Existing law requires agencies to designate custodians of records, and to annually notify the department as to the identity of the agencies' custodians of records.

This bill would delete that annual notification requirement.

(6) This bill would make other technical, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

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

1 SECTION 1. Section 25401 of the Corporations Code is  
2 amended to read:

3 25401. It is unlawful for any person, in connection with the  
4 offer, sale, or purchase of a security, directly or indirectly, to do  
5 any of the following:

6 (a) Employ a ~~device~~, *device*, scheme, or artifice to defraud.

7 (b) Make an untrue statement of material fact or omit to state  
8 a material fact necessary to make the statements made, in light of  
9 the circumstances under which they were made, not misleading.

10 (c) Engage in an act, practice, or course of business that operates  
11 or would operate as a fraud or deceit upon another person.

12 SEC. 2. Section 6306 of the Family Code is amended to read:

13 6306. (a) Prior to a hearing on the issuance or denial of an  
14 order under this part, the court shall ensure that a search is or has  
15 been conducted to determine if the subject of the proposed order  
16 has any prior criminal conviction for a violent felony specified in  
17 Section 667.5 of the Penal Code or a serious felony specified in  
18 Section 1192.7 of the Penal Code; has any misdemeanor conviction  
19 involving domestic violence, weapons, or other violence; has any  
20 outstanding warrant; is currently on parole or probation; has a  
21 registered firearm; or has any prior restraining order or any  
22 violation of a prior restraining order. The search shall be conducted  
23 of all records and databases readily available and reasonably  
24 accessible to the court, including, but not limited to, the following:

25 (1) ~~The Violent Crime Information Network (VCIN).~~ *California*  
26 *Sex and Arson Registry (CSAR).*

27 (2) The Supervised Release File.

1 (3) State summary criminal history information maintained by  
2 the Department of Justice pursuant to Section 11105 of the Penal  
3 Code.

4 (4) The Federal Bureau of Investigation’s nationwide database.

5 (5) Locally maintained criminal history records or databases.

6 However, a record or database need not be searched if the  
7 information available in that record or database can be obtained  
8 as a result of a search conducted in another record or database.

9 (b) (1) Prior to deciding whether to issue an order under this  
10 part or when determining appropriate temporary custody and  
11 visitation orders, the court shall consider the following information  
12 obtained pursuant to a search conducted under subdivision (a):  
13 any conviction for a violent felony specified in Section 667.5 of  
14 the Penal Code or a serious felony specified in Section 1192.7 of  
15 the Penal Code; any misdemeanor conviction involving domestic  
16 violence, weapons, or other violence; any outstanding warrant;  
17 parole or probation status; any prior restraining order; and any  
18 violation of a prior restraining order.

19 (2) Information obtained as a result of the search that does not  
20 involve a conviction described in this subdivision shall not be  
21 considered by the court in making a determination regarding the  
22 issuance of an order pursuant to this part. That information shall  
23 be destroyed and shall not become part of the public file in this or  
24 any other civil proceeding.

25 (c) (1) After issuing its ruling, the court shall advise the parties  
26 that they may request the information described in subdivision (b)  
27 upon which the court relied. The court shall admonish the party  
28 seeking the proposed order that it is unlawful, pursuant to Sections  
29 11142 and 13303 of the Penal Code, to willfully release the  
30 information, except as authorized by law.

31 (2) Upon the request of either party to obtain the information  
32 described in subdivision (b) upon which the court relied, the court  
33 shall release the information to the parties or, upon either party’s  
34 request, to his or her attorney in that proceeding.

35 (3) The party seeking the proposed order may release the  
36 information to his or her counsel, court personnel, and  
37 court-appointed mediators for the purpose of seeking judicial  
38 review of the court’s order or for purposes of court proceedings  
39 under Section 213.5 of the Welfare and Institutions Code.

1 (d) Any information obtained as a result of the search conducted  
2 pursuant to subdivision (a) and relied upon by the court shall be  
3 maintained in a confidential case file and shall not become part of  
4 the public file in the proceeding or any other civil proceeding.  
5 However, the contents of the confidential case file shall be  
6 disclosed to the court-appointed mediator assigned to the case or  
7 to a child custody evaluator appointed by the court pursuant to  
8 Section 3111 of the Family Code or Section 730 of the Evidence  
9 Code. All court-appointed mediators and child custody evaluators  
10 appointed or contracted by the court pursuant to Section 3111 of  
11 the Family Code or Section 730 of the Evidence Code who may  
12 receive information from the search conducted pursuant to  
13 subdivision (a) shall be subject to, and shall comply with, the  
14 California Law Enforcement Telecommunications System policies,  
15 practices, and procedures adopted pursuant to Section 15160 of  
16 the Government Code.

17 (e) If the results of the search conducted pursuant to subdivision  
18 (a) indicate that an outstanding warrant exists against the subject  
19 of the order, the court shall order the clerk of the court to  
20 immediately notify, by the most effective means available,  
21 appropriate law enforcement officials of the issuance and contents  
22 of any protective order and of any other information obtained  
23 through the search that the court determines is appropriate. The  
24 law enforcement officials so notified shall take all actions necessary  
25 to execute any outstanding warrants or any other actions, with  
26 respect to the restrained person, as appropriate and as soon as  
27 practicable.

28 (f) If the results of the search conducted pursuant to subdivision  
29 (a) indicate that the subject of the order is currently on parole or  
30 probation, the court shall order the clerk of the court to immediately  
31 notify, by the most effective means available, the appropriate parole  
32 or probation officer of the issuance and contents of any protective  
33 order issued by the court and of any other information obtained  
34 through the search that the court determines is appropriate. That  
35 officer shall take all actions necessary to revoke any parole or  
36 probation, or any other actions, with respect to the restrained  
37 person, as appropriate and as soon as practicable.

38 (g) Nothing in this section shall delay the granting of an  
39 application for an order that may otherwise be granted without the  
40 information resulting from the database search. If the court finds

1 that a protective order under this part should be granted on the  
2 basis of the affidavit presented with the petition, the court shall  
3 issue the protective order and shall then ensure that a search is  
4 conducted pursuant to subdivision (a) prior to the hearing.

5 SEC. 3. Section 12002 of the Fish and Game Code is amended  
6 to read:

7 12002. (a) Unless otherwise provided, the punishment for a  
8 violation of this code that is a misdemeanor is a fine of not more  
9 than one thousand dollars (\$1,000), imprisonment in the county  
10 jail for not more than six months, or by both that fine and  
11 imprisonment.

12 (b) The punishment for a violation of any of the following  
13 provisions is a fine of not more than two thousand dollars (\$2,000),  
14 imprisonment in the county jail for not more than one year, or both  
15 the fine and imprisonment:

16 (1) Section 1059.

17 (2) Subdivision ~~(d)~~ (c) of Section 4004.

18 (3) Section 4600.

19 (4) Paragraph (1) or (2) of subdivision (a) of Section 5650.

20 (5) A first violation of Section 8670.

21 (6) Section 10500.

22 (7) Unless a greater punishment is otherwise provided, a  
23 violation subject to subdivision (a) of Section 12003.1.

24 (c) Except as specified in Sections 12001 and 12010, the  
25 punishment for violation of Section 3503, 3503.5, 3513, or 3800  
26 is a fine of not more than five thousand dollars (\$5,000),  
27 imprisonment in the county jail for not more than six months, or  
28 by both that fine and imprisonment.

29 (d) (1) A license, tag, stamp, reservation, permit, or other  
30 entitlement or privilege issued pursuant to this code to a defendant  
31 who fails to appear at a court hearing for a violation of this code,  
32 or who fails to pay a fine imposed pursuant to this code, shall be  
33 immediately suspended or revoked. The license, tag, stamp,  
34 reservation, permit, or other entitlement or privilege shall not be  
35 reinstated or renewed, and no other license, tag, stamp, reservation,  
36 permit, or other entitlement or privilege shall be issued to that  
37 person pursuant to this code, until the court proceeding is  
38 completed or the fine is paid.

39 (2) This subdivision does not apply to any violation of Section  
40 1052, 1059, 1170, 5650, 5653.9, 6454, 6650, or 6653.5.

1 SEC. 4. Section 15155 of the Government Code is amended  
2 to read:

3 15155. The committee shall consist of representatives from  
4 the following organizations:

5 (1) Two representatives from the Peace Officers' Association  
6 of the State of California.

7 (2) One representative from the California State Sheriffs'  
8 Association.

9 (3) One representative from the League of California Cities.

10 (4) One representative from the County Supervisors Association  
11 of California.

12 (5) One representative from the Department of Justice.

13 (6) One representative from the Department of Motor Vehicles.

14 (7) One representative from the ~~Department of General Services.~~  
15 *Office of Emergency Services.*

16 (8) One representative from the California Highway Patrol.

17 (9) One representative from the California Police Chiefs  
18 Association.

19 SEC. 5. Section 655.7 of the Harbors and Navigation Code is  
20 amended to read:

21 655.7. (a) A person operating a personal watercraft equipped  
22 by the manufacturer with a lanyard-type engine cutoff switch shall  
23 attach the lanyard to his or her person, clothing, or personal  
24 flotation device, as appropriate for the specific vessel.

25 (b) No person shall operate a personal watercraft equipped by  
26 the manufacturer with a self-circling device if the self-circling  
27 device or engine throttle has been altered in any way that would  
28 impede or prevent the self-circling device from operating in its  
29 intended manner.

30 (c) Every personal watercraft shall, at all times, be operated in  
31 a reasonable and prudent manner. Maneuvers that unreasonably  
32 or unnecessarily endanger life, limb, or property, including, but  
33 not limited to, jumping or attempting to jump the wake of another  
34 vessel within 100 feet of that other vessel, operating the personal  
35 watercraft toward any person or vessel in the water and turning  
36 sharply at close range so as to spray the vessel or person, or  
37 operating at a rate of speed and proximity to another vessel so that  
38 either operator is required to swerve at the last minute to avoid  
39 collision, is unsafe or reckless operation of a vessel.

1 (d) ~~No~~A person shall *not* operate a personal watercraft at any  
2 time between the hours from sunset to sunrise. *This subdivision*  
3 *does not apply to marine patrol, harbor police, or emergency*  
4 *personnel in the performance of their duties.*

5 (e) This section does not apply to a performer who is engaged  
6 in a professional exhibition or to a person who is participating in  
7 a regatta, race, marine parade, tournament, exhibition, or other  
8 event sanctioned by the United States Coast Guard or authorized  
9 by a permit issued by the local entity having jurisdiction over the  
10 area where the event is held.

11 (f) Any violation of this section is an infraction.

12 SEC. 6. Section 1796.58 of the Health and Safety Code is  
13 amended to read:

14 1796.58. Any person who violates this chapter, or who willfully  
15 ~~or repeated~~ *repeatedly* violates a rule or regulation promulgated  
16 under this chapter, is guilty of a misdemeanor and, upon conviction  
17 thereof, shall be punished by a fine not to exceed one thousand  
18 dollars (\$1,000) or by imprisonment in a county jail for a period  
19 not to exceed 180 days, or by both that fine and imprisonment.

20 SEC. 7. Section 11352 of the Health and Safety Code is  
21 amended to read:

22 11352. (a) Except as otherwise provided in this division, every  
23 person who transports, imports into this state, sells, furnishes,  
24 administers, or gives away, or offers to transport, import into this  
25 state, sell, furnish, administer, or give away, or attempts to import  
26 into this state or transport (1) any controlled substance specified  
27 in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f)  
28 of Section 11054, specified in paragraph (14), (15), or (20) of  
29 subdivision (d) of Section 11054, or specified in subdivision (b)  
30 or (c) of Section 11055, or specified in subdivision (h) of Section  
31 11056, or (2) any controlled substance classified in Schedule III,  
32 IV, or V which is a narcotic drug, unless upon the written  
33 prescription of a physician, dentist, podiatrist, or veterinarian  
34 licensed to practice in this state, shall be punished by imprisonment  
35 pursuant to subdivision (h) of Section 1170 of the Penal Code for  
36 three, four, or five years.

37 (b) Notwithstanding the penalty provisions of subdivision (a),  
38 any person who transports any controlled substances specified in  
39 subdivision (a) within this state from one county to another  
40 noncontiguous county shall be punished by imprisonment pursuant

1 to subdivision (h) of Section 1170 of the Penal Code for three, six,  
2 or nine years.

3 (c) For purposes of this section, “transports” means to transport  
4 for sale.

5 (d) This section does not preclude or limit the prosecution of  
6 an individual for aiding and abetting the commission of, or  
7 conspiring to commit, *or acting as an accessory to*, any act  
8 prohibited by this section.

9 SEC. 8. Section 11379 of the Health and Safety Code is  
10 amended to read:

11 11379. (a) Except as otherwise provided in subdivision (b)  
12 and in Article 7 (commencing with Section 4211) of Chapter 9 of  
13 Division 2 of the Business and Professions Code, every person  
14 who transports, imports into this state, sells, furnishes, administers,  
15 or gives away, or offers to transport, import into this state, sell,  
16 furnish, administer, or give away, or attempts to import into this  
17 state or transport any controlled substance which is (1) classified  
18 in Schedule III, IV, or V and which is not a narcotic drug, except  
19 subdivision (g) of Section 11056, (2) specified in subdivision (d)  
20 of Section 11054, except paragraphs (13), (14), (15), (20), (21),  
21 (22), and (23) of subdivision (d), (3) specified in paragraph (11)  
22 of subdivision (c) of Section 11056, (4) specified in paragraph (2)  
23 or (3) of subdivision (f) of Section 11054, or (5) specified in  
24 subdivision (d) or (e), except paragraph (3) of subdivision (e), or  
25 specified in subparagraph (A) of paragraph (1) of subdivision (f),  
26 of Section 11055, unless upon the prescription of a physician,  
27 dentist, podiatrist, or veterinarian, licensed to practice in this state,  
28 shall be punished by imprisonment pursuant to subdivision (h) of  
29 Section 1170 of the Penal Code for a period of two, three, or four  
30 years.

31 (b) Notwithstanding the penalty provisions of subdivision (a),  
32 any person who transports any controlled substances specified in  
33 subdivision (a) within this state from one county to another  
34 noncontiguous county shall be punished by imprisonment pursuant  
35 to subdivision (h) of Section 1170 of the Penal Code for three, six,  
36 or nine years.

37 (c) For purposes of this section, “transports” means to transport  
38 for sale.

1 (d) Nothing in this section is intended to preclude or limit  
2 prosecution under an aiding and abetting ~~theory~~ *theory, accessory*  
3 *theory*, or a conspiracy theory.

4 SEC. 9. Section 19.8 of the Penal Code is amended to read:

5 19.8. (a) The following offenses are subject to subdivision (d)  
6 of Section 17: Sections 193.8, 330, 415, 485, 490.7, 555, 602.13,  
7 and 853.7 of this code; subdivision (c) of Section 532b, and  
8 subdivision (o) of Section 602 of this code; subdivision (b) of  
9 Section 25658 and Sections 21672, 25661, and 25662 of the  
10 Business and Professions Code; Section 27204 of the Government  
11 Code; subdivision (c) of Section 23109 and Sections 5201.1, 12500,  
12 14601.1, 27150.1, 40508, and 42005 of the Vehicle Code, and any  
13 other offense that the Legislature makes subject to subdivision (d)  
14 of Section 17. Except where a lesser maximum fine is expressly  
15 provided for a violation of those sections, a violation that is an  
16 infraction is punishable by a fine not exceeding two hundred fifty  
17 dollars (\$250).

18 (b) *Except in cases where a different punishment is prescribed,*  
19 *every offense declared to be an infraction is punishable by a fine*  
20 *not exceeding two hundred fifty dollars (\$250)*

21 ~~(b)~~

22 (c) Except for the violations enumerated in subdivision (d) of  
23 Section 13202.5 of the Vehicle Code, and Section 14601.1 of the  
24 Vehicle Code based upon failure to appear, a conviction for an  
25 offense made an infraction under subdivision (d) of Section 17 is  
26 not grounds for the suspension, revocation, or denial of a license,  
27 or for the revocation of probation or parole of the person convicted.

28 SEC. 10. Section 273.75 of the Penal Code is amended to read:

29 273.75. (a) On any charge involving acts of domestic violence  
30 as defined in subdivisions (a) and (b) of Section 13700 of the Penal  
31 Code or Sections 6203 and 6211 of the Family Code, the district  
32 attorney or prosecuting city attorney shall perform or cause to be  
33 performed, by accessing the electronic databases enumerated in  
34 subdivision (b), a thorough investigation of the defendant’s history,  
35 including, but not limited to, prior convictions for domestic  
36 violence, other forms of violence or weapons offenses and any  
37 current protective or restraining order issued by any civil or  
38 criminal court. This information shall be presented for  
39 consideration by the court (1) when setting bond or when releasing  
40 a defendant on his or her own recognizance at the arraignment, if

1 the defendant is in custody, (2) upon consideration of any plea  
2 agreement, and (3) when issuing a protective order pursuant to  
3 Section 136.2 of the Penal Code, in accordance with subdivision  
4 (h) of that section. In determining bail or release upon a plea  
5 agreement, the court shall consider the safety of the victim, the  
6 victim’s children, and any other person who may be in danger if  
7 the defendant is released.

8 (b) For purposes of this section, the district attorney or  
9 prosecuting city attorney shall search or cause to be searched the  
10 following databases, when readily available and reasonably  
11 accessible:

12 (1) ~~The Violent Crime Information Network (VCIN).~~ *California*  
13 *Sex and Arson Registry (CSAR).*

14 (2) The Supervised Release File.

15 (3) State summary criminal history information maintained by  
16 the Department of Justice pursuant to Section 11105 of the Penal  
17 Code.

18 (4) The Federal Bureau of Investigation’s nationwide database.

19 (5) Locally maintained criminal history records or databases.

20 However, a record or database need not be searched if the  
21 information available in that record or database can be obtained  
22 as a result of a search conducted in another record or database.

23 (c) If the investigation required by this section reveals a current  
24 civil protective or restraining order or a protective or restraining  
25 order issued by another criminal court and involving the same or  
26 related parties, and if a protective or restraining order is issued in  
27 the current criminal proceeding, the district attorney or prosecuting  
28 city attorney shall send relevant information regarding the contents  
29 of the order issued in the current criminal proceeding, and any  
30 information regarding a conviction of the defendant, to the other  
31 court immediately after the order has been issued. When requested,  
32 the information described in this subdivision may be sent to the  
33 appropriate family, juvenile, or civil court. When requested, and  
34 upon a showing of a compelling need, the information described  
35 in this section may be sent to a court in another state.

36 SEC. 11. Section 290.012 of the Penal Code is amended to  
37 read:

38 290.012. (a) Beginning on his or her first birthday following  
39 registration or change of address, the person shall be required to  
40 register annually, within five working days of his or her birthday,

1 to update his or her registration with the entities described in  
2 subdivision (b) of Section 290. At the annual update, the person  
3 shall provide current information as required on the Department  
4 of Justice annual update form, including the information described  
5 in paragraphs (1) to (5), inclusive of subdivision (a) of Section  
6 290.015. The registering agency shall give the registrant a copy  
7 of the registration requirements from the Department of Justice  
8 form.

9 (b) In addition, every person who has ever been adjudicated a  
10 sexually violent predator, as defined in Section 6600 of the Welfare  
11 and Institutions Code, shall, after his or her release from custody,  
12 verify his or her address no less than once every 90 days and place  
13 of employment, including the name and address of the employer,  
14 in a manner established by the Department of Justice. Every person  
15 who, as a sexually violent predator, is required to verify his or her  
16 registration every 90 days, shall be notified wherever he or she  
17 next registers of his or her increased registration obligations. This  
18 notice shall be provided in writing by the registering agency or  
19 agencies. Failure to receive this notice shall be a defense to the  
20 penalties prescribed in subdivision (f) of Section 290.018.

21 (c) In addition, every person subject to the Act, while living as  
22 a transient in California, shall update his or her registration at least  
23 every 30 days, in accordance with Section 290.011.

24 (d) No entity shall require a person to pay a fee to register or  
25 update his or her registration pursuant to this section. The  
26 registering agency shall submit registrations, including annual  
27 updates or changes of address, directly into the Department of  
28 Justice ~~Violent Crime Information Network (VCIN)~~. *California*  
29 *Sex and Arson Registry (CSAR)*.

30 SEC. 12. Section 311.11 of the Penal Code is amended to read:

31 311.11. (a) Every person who knowingly possesses or controls  
32 any matter, representation of information, data, or image, including,  
33 but not limited to, any film, filmstrip, photograph, negative, slide,  
34 photocopy, videotape, video laser disc, computer hardware,  
35 computer software, computer floppy disc, data storage media,  
36 CD-ROM, or computer-generated equipment or any other  
37 computer-generated image that contains or incorporates in any  
38 manner, any film or filmstrip, the production of which involves  
39 the use of a person under 18 years of age, knowing that the matter  
40 depicts a person under 18 years of age personally engaging in or

1 simulating sexual conduct, as defined in subdivision (d) of Section  
2 311.4, is guilty of a felony and shall be punished by imprisonment  
3 in the state prison, or a county jail for up to one year, or by a fine  
4 not exceeding two thousand five hundred dollars (\$2,500), or by  
5 both the fine and imprisonment.

6 (b) Every person who commits a violation of subdivision (a),  
7 and who has been previously convicted of a violation of this  
8 section, an offense requiring registration under the Sex Offender  
9 Registration Act, or an attempt to commit any of the  
10 above-mentioned offenses, is guilty of a felony and shall be  
11 punished by imprisonment in the state prison for two, four, or six  
12 years.

13 (c) Each person who commits a violation of subdivision (a)  
14 shall be punished by imprisonment in the state prison for 16  
15 months, or two or five years, or shall be punished by imprisonment  
16 in a county jail for up to one year, or by a fine not exceeding two  
17 thousand five hundred dollars (\$2,500), or by both the fine and  
18 imprisonment, if one of the following factors exists:

19 (1) The matter contains more than 600 images that violate  
20 subdivision (a), and the matter contains 10 or more images  
21 involving a prepubescent minor or a minor who has not attained  
22 12 years of age.

23 (2) The matter portrays sexual sadism or sexual masochism  
24 involving a person under 18 years of age. For purposes of this  
25 section, “sexual sadism” means the intentional infliction of pain  
26 for purposes of sexual gratification or stimulation. For purposes  
27 of this section, “sexual masochism” means intentionally  
28 experiencing pain for purposes of sexual gratification or  
29 stimulation.

30 (d) It is not necessary to prove that the matter is obscene in order  
31 to establish a violation of this section.

32 (e) This section does not apply to drawings, figurines, statues,  
33 or any film rated by the Motion Picture Association of America,  
34 nor does it apply to live or recorded telephone messages when  
35 transmitted, disseminated, or distributed as part of a commercial  
36 transaction.

37 (f) For purposes of determining the number of images under  
38 paragraph (1) of subdivision (c), the following shall apply:

1 (1) Each photograph, picture, ~~computer~~, *computer* or  
2 computer-generated image, or any similar visual depiction shall  
3 be considered to be one image.

4 (2) Each video, video-clip, movie, or similar visual depiction  
5 shall be considered to have 50 images.

6 SEC. 13. Section 814 of the Penal Code is amended to read:

7 814. A warrant of arrest issued under Section 813 may be in  
8 substantially the following form:

9  
10 County of \_\_\_\_\_

11 The people of the State of California to any peace officer of said  
12 State:

13 Complaint on oath having this day been laid before me that the  
14 crime of \_\_\_\_\_ (designating it generally) has been committed and  
15 accusing \_\_\_\_\_ (naming defendant) thereof, you are therefore  
16 commanded forthwith to arrest the above named defendant and  
17 bring him before me at \_\_\_\_\_ (naming the place), or in case of my  
18 absence or inability to act, before the nearest or most accessible  
19 magistrate in this county.

20  
21 Dated at \_\_\_\_\_ (place) this \_\_\_\_\_ day of \_\_\_\_\_,  
22  
23 19 20\_\_.

24 \_\_\_\_\_  
25 (Signature and full official title of magistrate.)  
26

27 SEC. 14. Section 4902 of the Penal Code is amended to read:

28 4902. (a) If the provisions of Section ~~861.865~~ 851.865 or  
29 1485.55 apply in any claim, the California Victim Compensation  
30 and Government Claims Board shall, within 30 days of the  
31 presentation of the claim, calculate the compensation for the  
32 claimant pursuant to Section 4904 and recommend to the  
33 Legislature payment of that sum. As to any claim to which Section  
34 ~~861.865~~ 851.865 or 1485.55 does not apply, the Attorney General  
35 shall respond to the claim within 60 days or request an extension  
36 of time, upon a showing of good cause.

37 (b) Upon receipt of a response from the Attorney General, the  
38 board shall fix a time and place for the hearing of the claim, and  
39 shall mail notice thereof to the claimant and to the Attorney  
40 General at least 15 days prior to the time fixed for the hearing. The

1 board shall use reasonable diligence in setting the date for the  
2 hearing and shall attempt to set the date for the hearing at the  
3 earliest date convenient for the parties and the board.

4 (c) If the time period for response elapses without a request for  
5 extension or a response from the Attorney General pursuant to  
6 subdivision (a), the board shall fix a time and place for the hearing  
7 of the claim, mail notice thereof to the claimant at least 15 days  
8 prior to the time fixed for the hearing, and make a recommendation  
9 based on the claimant’s verified claim and any evidence presented  
10 by him or her.

11 SEC. 15. Section 11102.2 of the Penal Code is amended to  
12 read:

13 11102.2. (a) (1) As used in this section, “custodian of records”  
14 means the individual designated by an agency as responsible for  
15 the security, storage, dissemination, and destruction of the criminal  
16 records furnished to the agency and who serves as the primary  
17 contact for the Department of Justice for any related issues.

18 (2) As used in this section, “agency” means any public or private  
19 entity that receives criminal history information from the  
20 Department of Justice.

21 (3) As used in this section, “department” means the Department  
22 of Justice.

23 (b) Commencing January 1, 2011, the department shall establish,  
24 implement, and maintain a confirmation program to process  
25 fingerprint-based criminal record background clearances on  
26 individuals designated by agencies as custodians of records.  
27 Commencing July 1, 2011, no person shall serve as an agency  
28 custodian of records unless confirmed by the department. Criminal  
29 justice agency personnel who have undergone a state and federal  
30 criminal record background check are exempt from the  
31 requirements of this section. The department shall charge a fee of  
32 thirty dollars (\$30) to cover the costs of the confirmation program  
33 in addition to a fee sufficient to cover the cost of processing the  
34 appropriate state and federal level criminal record background  
35 check.

36 (c) Every agency must designate at least one custodian of  
37 records.

38 (1) The agency shall submit to the department the fingerprint  
39 images and related information of the individual or individuals  
40 designated by the agency to serve as the custodian or custodians

1 of records, along with the appropriate fees and documentation.  
2 The department shall retain one copy of the fingerprint impressions  
3 to process a state level criminal record background check, and it  
4 shall submit one copy of the fingerprint impressions of each  
5 individual to the Federal Bureau of Investigation to process a  
6 federal level criminal record background check.

7 (2) The department shall retain the fingerprint impressions for  
8 subsequent arrest notification pursuant to Section 11105.2.

9 (d) Every individual confirmed as a custodian of records shall  
10 be at least 18 years of age and shall have completed and submitted  
11 a written application prescribed by the department.

12 (e) Prior to confirming an individual as a custodian of records,  
13 the department shall determine that the applicant possesses the  
14 required honesty, credibility, truthfulness, and integrity to fulfill  
15 the responsibilities of the position.

16 (f) The department shall not confirm any individual who has  
17 been convicted of a felony offense or any other offense that  
18 involves moral turpitude, dishonesty, or fraud, or that impacts the  
19 applicant's ability to perform the duties or responsibilities of a  
20 custodian of records. The confirmation shall be revoked if, at any  
21 time, the individual is convicted of either a felony offense, or any  
22 other offense that involves moral turpitude, dishonesty, or fraud,  
23 or that impacts the applicant's ability to perform the duties or  
24 responsibilities of a custodian of records.

25 (g) In addition to subdivision (f), the department may refuse to  
26 confirm any individual as a custodian of records or revoke or  
27 suspend the confirmation of any custodian of records if the  
28 individual has done any of the following:

29 (1) Made a substantial and material misstatement or omission  
30 in the application submitted to the department.

31 (2) Been convicted of an offense of a nature incompatible with  
32 the duties of a custodian of records. A conviction after a plea of  
33 nolo contendere is deemed to be a conviction within the meaning  
34 of this subdivision.

35 (3) Failed to discharge fully and faithfully any of the duties or  
36 responsibilities required of a custodian of records.

37 (4) Been adjudged liable for damages in any suit grounded in  
38 fraud, misrepresentation, or in violation of the state regulatory  
39 laws, or in any suit based upon a failure to discharge fully and  
40 faithfully the duties of a custodian of records.

1 (5) Committed any act involving dishonesty, fraud, or deceit.

2 (6) Failed to submit any remittance payable upon demand by  
3 the department under this section or failed to satisfy any court  
4 ordered money judgment, including restitution.

5 (h) The agency shall immediately notify the department when  
6 the designated custodian of records no longer serves in that  
7 capacity. ~~By March 1, 2012, and by March 1 each year thereafter,~~  
8 ~~the agency shall notify the department, using a form provided by~~  
9 ~~the department, of the individual or individuals currently serving~~  
10 ~~in the capacity of custodian of records.~~

11 SEC. 16. Section 31000 of the Penal Code is amended to read:

12 31000. (a) Any person who lawfully acquired an assault  
13 weapon before June 1, 1989, or a .50 BMG rifle before January  
14 1, 2005, and wishes to use it in a manner different than specified  
15 in Section 30945 shall first obtain a permit from the Department  
16 of Justice in the same manner as specified in Article 3  
17 (commencing with Section 32650) of Chapter 6.

18 (b) Any person who lawfully acquired an assault weapon  
19 between June 1, 1989, and January 1, 1990, and wishes to keep it  
20 after January 1, 1990, shall first obtain a permit from the  
21 Department of Justice in the same manner as specified in Article  
22 3 (commencing with Section 32650) of Chapter 6.

23 (c) Any person who wishes to acquire an assault weapon after  
24 January 1, 1990, or a .50 BMG rifle after January 1, 2005, shall  
25 first obtain a permit from the Department of Justice in the same  
26 manner as specified in Article 3 (commencing with Section 32650)  
27 of Chapter 6.

28 (d) On and after January 1, 2014, no partnership, corporation,  
29 limited liability company, association, or any other group or entity,  
30 regardless of how the entity was created, may be issued a permit  
31 to ~~posses~~ possess an assault weapon or a .50 BMG rifle.

32 SEC. 17. Section 602 of the Welfare and Institutions Code is  
33 amended to read:

34 602. (a) Except as provided in subdivision (b), any person  
35 who is under ~~the age of~~ 18 years *of age* when he or she violates  
36 any law of this state or of the United States or any ordinance of  
37 any city or county of this state defining crime other than an  
38 ordinance establishing a curfew based solely on age, is within the  
39 jurisdiction of the juvenile court, which may adjudge such person  
40 to be a ward of the court.

1 (b) Any person who is alleged, when he or she was 14 years of  
2 age or older, to have committed one of the following offenses shall  
3 be prosecuted under the general law in a court of criminal  
4 jurisdiction:

5 (1) Murder, as described in Section 187 of the Penal Code, if  
6 one of the circumstances enumerated in subdivision (a) of Section  
7 190.2 of the Penal Code is alleged by the prosecutor, and the  
8 prosecutor alleges that the minor personally killed the victim.

9 (2) The following sex offenses, if the prosecutor alleges that  
10 the minor personally committed the offense, and if the prosecutor  
11 alleges one of the circumstances enumerated in the One Strike  
12 law, subdivision (d) or (e) of Section 667.61 of the Penal Code,  
13 applies:

14 (A) Rape, as described in paragraph (2) of subdivision (a) of  
15 Section 261 of the Penal Code.

16 (B) Spousal rape, as described in paragraph (1) of subdivision  
17 (a) of Section 262 of the Penal Code.

18 (C) Forcible sex offenses in concert with another, as described  
19 in Section 264.1 of the Penal Code.

20 (D) Forcible lewd and lascivious acts on a child ~~under the age~~  
21 ~~of 14 years, 14 years of age~~, as described in subdivision (b) of  
22 Section 288 of the Penal Code.

23 (E) Forcible sexual penetration, as described in subdivision (a)  
24 of Section 289 of the Penal Code.

25 (F) Sodomy or oral copulation in violation of Section 286 or  
26 288a of the Penal Code, by force, violence, duress, menace, or fear  
27 of immediate and unlawful bodily injury on the victim or another  
28 person.

29 (G) Lewd and lascivious acts on a child ~~under the age of 14~~  
30 ~~years, 14 years of age~~, as defined in subdivision (a) of Section  
31 288, unless the defendant qualifies for probation under subdivision  
32 ~~(e)~~ (d) of Section 1203.066 of the Penal Code.

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