

AMENDED IN SENATE JUNE 29, 2015

AMENDED IN ASSEMBLY APRIL 30, 2015

AMENDED IN ASSEMBLY APRIL 15, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1492**

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**Introduced by Assembly Member ~~Low Gatto~~**  
**(Coauthor: Assembly Member Atkins)**

February 27, 2015

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An act to amend Sections 5100, 5151, 18201, 18202, 18203, 18204, 18600, 18601, 18603, 18604, 18610, 18611, 18612, 18613, 18614, 18620, 18621, 18622, 18630, 18631, 18640, 18650, 18660, and 18661 of, and to add Section 338.5 to, the Elections Code, relating to elections; amend Section 300 of, and to amend and add Sections 296, 298, and 299 of, the Penal Code, relating to DNA samples.

LEGISLATIVE COUNSEL'S DIGEST

AB 1492, as amended, ~~Low Gatto. Elections: in-lieu-filing-fee and political party qualification petitions: penal provisions. Forensic testing: DNA samples.~~

(1) Existing law, as amended by the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, Proposition 69, approved by the voters at the November 2, 2004, general election (the DNA Act) requires any adult person who is arrested or charged with any felony offense to provide buccal swab samples, right thumbprints, and a full palm print impression of each hand, and any blood specimens or other biological samples required for law enforcement identification analysis. Existing

*law requires that blood specimens and buccal swab samples be forwarded promptly to the Department of Justice for analysis. Existing case law, People v. Buza (2014) 231 Cal.App.4th 1446, for which review has been granted by the California Supreme Court, holds that the DNA Act, to the extent it requires felony arrestees to submit to a DNA sample for law enforcement analysis and inclusion in the state and federal DNA databases, without independent suspicion, a warrant, or a judicial or grand jury determination of probable cause, unreasonably intrudes on the arrestee's expectation of privacy and is invalid under the California Constitution. The DNA Act provides that it may be amended by a statute passed by each house of the Legislature that furthers the purpose of the measure.*

*This bill would state that it is the intention of the Legislature to further the purposes of the DNA Act in light of the above-specified case law. The bill would, if the California Supreme Court rules to uphold People v. Buza, limit the above-specified requirements to persons arrested for specified sex offenses or serious or violent felonies. The bill would, if the California Supreme Court rules to uphold People v. Buza, require that a blood specimen or buccal swab sample taken from a person arrested for the commission of a felony be forwarded to the department after a judicial determination of probable cause to believe the person has committed the offense for which he or she was arrested has been made.*

*(2) Existing law, as amended by the DNA Act, requires that a DNA specimen and sample be destroyed and that a searchable database profile be expunged from that databank program if the person from whom the specimen or sample was collected has no past or present offense or pending charge which qualifies that person for inclusion in the database and if that person submits an application, as specified. Existing law gives the court discretion to grant or deny the application.*

*This bill would, if the California Supreme Court rules to uphold People v. Buza, require the DNA specimen and sample to be destroyed and the searchable database profile expunged from the database without the requirement of an application.*

*(3) Existing law, as amended by the DNA Act, states that its provisions do not prohibit collection and analysis of specimens, samples, or print impressions as a condition of a plea for an offense that does not require the taking of samples and specimens.*

*The bill would state that it is the intent of the Legislature to allow buccal swab samples to be taken for DNA analysis as a condition of a*

*plea or reduction or dismissal of charges. The bill would permit a law enforcement agency to use any publicly available database to aid in the investigation of a crime.*

~~Existing law authorizes a political party to qualify to participate in a primary election if specified requirements are met, including the filing with the Secretary of State of a petition signed by voters declaring that the voters represent a proposed party desiring to participate in that primary election:~~

~~This bill would define the term “political party qualification petition” for these purposes to mean a petition circulated to qualify a political party in accordance with existing procedures:~~

~~Existing law provides that a person committing specified acts relating to the circulation, subscription, or signature of an initiative, referendum, or recall petition is guilty of a misdemeanor or felony subject to a fine, imprisonment, or both that fine and imprisonment:~~

~~This bill would additionally provide that a person committing these specified acts in relation to the circulation, subscription, or signature of a political party qualification petition would be subject to the above penal provisions. By creating additional crimes, this bill would impose a state-mandated local program:~~

~~Existing law authorizes a candidate to submit a petition containing signatures of registered voters in lieu of a filing fee, as specified. Existing law also provides that a person who commits specified fraudulent or deliberate acts relating to the filing of a nomination paper or declaration of candidacy is guilty of a misdemeanor subject to a fine, imprisonment, or both that fine and imprisonment:~~

~~This bill would additionally provide that a person committing these specified acts in relation to the submission of an in-lieu-filing-fee petition would be subject to the penal provisions specified above. By creating additional crimes, this bill would impose a state-mandated local program. The bill would also make nonsubstantive changes to these provisions:~~

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

~~This bill would provide that no reimbursement is required by this act for a specified reason:~~

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

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

1     *SECTION 1. It is the intent of the Legislature to limit the*  
 2 *analysis of buccal swab samples and blood samples taken from*  
 3 *felony arrestees for purposes of DNA analysis only to the extent*  
 4 *required by the decision in People v. Buza, and to further the*  
 5 *purposes of the DNA Fingerprint, Unsolved Crime and Innocence*  
 6 *Protection Act, Proposition 69, approved by the voters at the*  
 7 *November 2, 2004, statewide general election, in light of that*  
 8 *decision.*

9     *SEC. 2. It is the intent of the Legislature to allow buccal swab*  
 10 *samples to be taken for DNA analysis as a condition of a plea or*  
 11 *reduction or dismissal of charges, provided that all uses of the*  
 12 *DNA sample have been disclosed to the defendant in writing, that*  
 13 *consent has been obtained in writing, and that the defendant has*  
 14 *signed a written agreement allowing his or her buccal swap sample*  
 15 *or blood sample to be taken for DNA analysis. It is the intent of*  
 16 *the Legislature that buccal swab samples taken as a condition of*  
 17 *a plea or reduction or dismissal of charges be done on the basis*  
 18 *of individualized consideration.*

19     *SEC. 3. Section 296 of the Penal Code is amended to read:*

20     296. (a) The following persons shall provide buccal swab  
 21 samples, right thumbprints, and a full palm print impression of  
 22 each hand, and any blood specimens or other biological samples  
 23 required pursuant to this chapter for law enforcement identification  
 24 analysis:

25     (1) Any person, including any juvenile, who is convicted of or  
 26 pleads guilty or no contest to any felony offense, or is found not  
 27 guilty by reason of insanity of any felony offense, or any juvenile  
 28 who is adjudicated under Section 602 of the Welfare and  
 29 Institutions Code for committing any felony offense.

30     (2) Any adult person who is arrested for or charged with any of  
 31 the following felony offenses:

32     (A) Any felony offense specified in Section 290 or attempt to  
 33 commit any felony offense described in Section 290, or any felony  
 34 offense that imposes upon a person the duty to register in California  
 35 as a sex offender under Section 290.

36     (B) Murder or voluntary manslaughter or any attempt to commit  
 37 murder or voluntary manslaughter.

1 (C) Commencing on January 1 of the fifth year following  
2 enactment of the act that added this subparagraph, as amended I,  
3 2009, any adult person arrested or charged with any felony offense.

4 (3) Any person, including any juvenile, who is required to  
5 register under Section 290 or 457.1 because of the commission of,  
6 or the attempt to commit, a felony or misdemeanor offense, or any  
7 person, including any juvenile, who is housed in a mental health  
8 facility or sex offender treatment program after referral to such  
9 facility or program by a court after being charged with any felony  
10 offense.

11 (4) The term “felony” as used in this subdivision includes an  
12 attempt to commit the offense.

13 (5) ~~Nothing in this chapter shall be construed as prohibiting~~  
14 *This chapter does not prohibit* collection and analysis of specimens,  
15 samples, or print impressions as a condition of a plea for a  
16 ~~non-qualifying nonqualifying~~ offense.

17 (b) The provisions of this chapter and its requirements for  
18 submission of specimens, ~~samples~~ *samples*, and print impressions  
19 as soon as administratively practicable shall apply to all qualifying  
20 persons regardless of sentence imposed, including ~~any a~~ a sentence  
21 of death, life without the possibility of parole, or ~~any a~~ a life or  
22 indeterminate term, or ~~any other~~ other disposition rendered in the case  
23 of an adult or juvenile tried as an adult, or whether the person is  
24 diverted, fined, or referred for evaluation, and regardless of  
25 disposition rendered or placement made in the case of a juvenile  
26 who is found to have committed any felony offense or is  
27 adjudicated under Section 602 of the Welfare and Institutions  
28 Code.

29 (c) The provisions of this chapter and its requirements for  
30 submission of specimens, samples, and print impressions as soon  
31 as administratively practicable by qualified persons as described  
32 in subdivision (a) shall apply regardless of placement or  
33 confinement in any mental hospital or other public or private  
34 treatment facility, and shall include, but not be limited to, the  
35 following persons, including juveniles:

36 (1) Any person committed to a state hospital or other treatment  
37 facility as a mentally disordered sex offender under *former* Article  
38 1 (commencing with Section 6300) of Chapter 2 of Part 2 of  
39 Division 6 of the Welfare and Institutions Code.

1 (2) Any person who has a severe mental disorder as set forth  
2 within the provisions of Article 4 (commencing with Section 2960)  
3 of Chapter 7 of Title 1 of Part 3 of the Penal Code.

4 (3) Any person found to be a sexually violent predator pursuant  
5 to Article 4 (commencing with Section 6600) of Chapter 2 of Part  
6 2 of Division 6 of the Welfare and Institutions Code.

7 (d) The provisions of this chapter are mandatory and apply  
8 whether or not the court advises a person, including any juvenile,  
9 that he or she must provide the ~~data bank~~ *databank* and database  
10 specimens, samples, and print impressions as a condition of  
11 probation, parole, or any plea of guilty, no contest, or not guilty  
12 by reason of insanity, or any admission to any of the offenses  
13 described in subdivision (a).

14 (e) If at any stage of court proceedings the prosecuting attorney  
15 determines that specimens, samples, and print impressions required  
16 by this chapter have not already been taken from any person, as  
17 defined under subdivision (a) of Section 296, the prosecuting  
18 attorney shall notify the court orally on the record, or in writing,  
19 and request that the court order collection of the specimens,  
20 samples, and print impressions required by law. However, a failure  
21 by the prosecuting attorney or any other law enforcement agency  
22 to notify the court shall not relieve a person of the obligation to  
23 provide specimens, samples, and print impressions pursuant to this  
24 chapter.

25 (f) Prior to final disposition or sentencing in the case the court  
26 shall inquire and verify that the specimens, samples, and print  
27 impressions required by this chapter have been obtained and that  
28 this fact is included in the abstract of judgment or dispositional  
29 order in the case of a juvenile. The abstract of judgment issued by  
30 the court shall indicate that the court has ordered the person to  
31 comply with the requirements of this chapter and that the person  
32 shall be included in the state's DNA and Forensic Identification  
33 ~~Data Base Database~~ and ~~Data Bank program~~ *Databank Program*  
34 and be subject to this chapter.

35 However, failure by the court to verify specimen, sample, and  
36 print impression collection or enter these facts in the abstract of  
37 judgment or dispositional order in the case of a juvenile shall not  
38 invalidate an arrest, plea, conviction, or disposition, or otherwise  
39 relieve a person from the requirements of this chapter.

1 (g) *This section shall become inoperative if the California*  
2 *Supreme Court rules to uphold the California Court of Appeal*  
3 *decision in People v. Buza (2014) 231 Cal.App.4th 1446 in regard*  
4 *to the provisions of Section 296 of the Penal Code, as amended*  
5 *by Section 3 of the DNA Fingerprint, Unsolved Crime and*  
6 *Innocence Protection Act, Proposition 69, approved by the voters*  
7 *at the November 2, 2004, general election, in which case this*  
8 *section shall become inoperative immediately upon that ruling*  
9 *becoming final.*

10 *SEC. 4. Section 296 is added to the Penal Code, to read:*

11 *296. (a) The following persons shall provide buccal swab*  
12 *samples, right thumbprints, and a full palm print impression of*  
13 *each hand, and any blood specimens or other biological samples*  
14 *required pursuant to this chapter for law enforcement identification*  
15 *analysis:*

16 *(1) Any person, including any juvenile, who is convicted of or*  
17 *pleads guilty or no contest to any felony offense, or is found not*  
18 *guilty by reason of insanity of any felony offense, or any juvenile*  
19 *who is adjudicated under Section 602 of the Welfare and*  
20 *Institutions Code for committing any felony offense.*

21 *(2) Any adult person who is arrested for or charged with any*  
22 *of the following felony offenses:*

23 *(A) Any felony offense specified in Section 290 or attempt to*  
24 *commit any felony offense described in Section 290, or any felony*  
25 *offense that imposes upon a person the duty to register in*  
26 *California as a sex offender under Section 290.*

27 *(B) Murder or voluntary manslaughter or any attempt to commit*  
28 *murder or voluntary manslaughter.*

29 *(C) Any adult person arrested or charged with a felony offense*  
30 *specified in subdivision (c) of Section 667.5 or subdivision (c) of*  
31 *Section 1192.7.*

32 *(3) Any person, including any juvenile, who is required to*  
33 *register under Section 290 or 457.1 because of the commission of,*  
34 *or the attempt to commit, a felony or misdemeanor offense, or any*  
35 *person, including any juvenile, who is housed in a mental health*  
36 *facility or sex offender treatment program after referral to such*  
37 *facility or program by a court after being charged with any felony*  
38 *offense.*

39 *(4) The term "felony" as used in this subdivision includes an*  
40 *attempt to commit the offense.*

1 (5) *This chapter does not prohibit collection and analysis of*  
2 *specimens, samples, or print impressions as a condition of a plea*  
3 *for a nonqualifying offense.*

4 (b) *The provisions of this chapter and its requirements for*  
5 *submission of specimens, samples, and print impressions as soon*  
6 *as administratively practicable shall apply to all qualifying persons*  
7 *regardless of sentence imposed, including a sentence of death, life*  
8 *without the possibility of parole, or a life or indeterminate term,*  
9 *or other disposition rendered in the case of an adult or juvenile*  
10 *tried as an adult, or whether the person is diverted, fined, or*  
11 *referred for evaluation, and regardless of disposition rendered or*  
12 *placement made in the case of juvenile who is found to have*  
13 *committed any felony offense or is adjudicated under Section 602*  
14 *of the Welfare and Institutions Code.*

15 (c) *The provisions of this chapter and its requirements for*  
16 *submission of specimens, samples, and print impressions as soon*  
17 *as administratively practicable by qualified persons as described*  
18 *in subdivision (a) shall apply regardless of placement or*  
19 *confinement in any mental hospital or other public or private*  
20 *treatment facility, and shall include, but not be limited to, the*  
21 *following persons, including juveniles:*

22 (1) *Any person committed to a state hospital or other treatment*  
23 *facility as a mentally disordered sex offender under former Article*  
24 *1 (commencing with Section 6300) of Chapter 2 of Part 2 of*  
25 *Division 6 of the Welfare and Institutions Code.*

26 (2) *Any person who has a severe mental disorder as set forth*  
27 *within the provisions of Article 4 (commencing with Section 2960)*  
28 *of Chapter 7 of Title 1 of Part 3 of the Penal Code.*

29 (3) *Any person found to be a sexually violent predator pursuant*  
30 *to Article 4 (commencing with Section 6600) of Chapter 2 of Part*  
31 *2 of Division 6 of the Welfare and Institutions Code.*

32 (d) *The provisions of this chapter are mandatory and apply*  
33 *whether or not the court advises a person, including any juvenile,*  
34 *that he or she must provide the data bank and database specimens,*  
35 *samples, and print impressions as a condition of probation, parole,*  
36 *or any plea of guilty, no contest, or not guilty by reason of insanity,*  
37 *or any admission to any of the offenses described in subdivision*  
38 *(a).*

39 (e) *If at any stage of court proceedings the prosecuting attorney*  
40 *determines that specimens, samples, and print impressions required*

1 *by this chapter have not already been taken from any person, as*  
2 *defined under subdivision (a) of Section 296, the prosecuting*  
3 *attorney shall notify the court orally on the record, or in writing,*  
4 *and request that the court order collection of the specimens,*  
5 *samples, and print impressions required by law. However, a failure*  
6 *by the prosecuting attorney or any other law enforcement agency*  
7 *to notify the court shall not relieve a person of the obligation to*  
8 *provide specimens, samples, and print impressions pursuant to*  
9 *this chapter.*

10 (f) *Prior to final disposition or sentencing in the case the court*  
11 *shall inquire and verify that the specimens, samples, and print*  
12 *impressions required by this chapter have been obtained and that*  
13 *this fact is included in the abstract of judgment or dispositional*  
14 *order in the case of a juvenile. The abstract of judgment issued by*  
15 *the court shall indicate that the court has ordered the person to*  
16 *comply with the requirements of this chapter and that the person*  
17 *shall be included in the state's DNA and Forensic Identification*  
18 *Databse and Databank Program and be subject to this chapter.*

19 *However, failure by the court to verify specimen, sample, and*  
20 *print impression collection or enter these facts in the abstract of*  
21 *judgment or dispositional order in the case of a juvenile shall not*  
22 *invalidate an arrest, plea, conviction, or disposition, or otherwise*  
23 *relieve a person from the requirements of this chapter.*

24 (g) *This section shall only become operative if the California*  
25 *Supreme Court rules to uphold the California Court of Appeal*  
26 *decision in People v. Buza (2014) 231 Cal.App.4th 1446 in regard*  
27 *to the provisions of Section 296 of the Penal Code, as amended*  
28 *by Section 3 of the DNA Fingerprint, Unsolved Crime and*  
29 *Innocence Protection Act, Proposition 69, approved by the voters*  
30 *at the November 2, 2004, general election, in which case this*  
31 *section shall become operative immediately upon that ruling*  
32 *becoming final.*

33 *SEC. 5. Section 298 of the Penal Code is amended to read:*

34 298. (a) ~~The Director of Corrections~~ *Secretary of the*  
35 *Department of Corrections and Rehabilitation, or the Chief*  
36 *Administrative Officer of the detention facility, jail, or other facility*  
37 *at which the blood specimens, buccal swab samples, and thumb*  
38 *and palm print impressions were collected shall cause these*  
39 *specimens, samples, and print impressions to be forwarded*  
40 *promptly to the Department of Justice. The specimens, samples,*

1 and print impressions shall be collected by a person using a  
2 Department of Justice approved collection kit and in accordance  
3 with the requirements and procedures set forth in subdivision (b).

4 (b) (1) The Department of Justice shall provide all blood  
5 specimen vials, buccal swab collectors, mailing tubes, labels, and  
6 instructions for the collection of the blood specimens, buccal swab  
7 samples, and thumbprints. The specimens, samples, and  
8 thumbprints shall thereafter be forwarded to the DNA Laboratory  
9 of the Department of Justice for analysis of DNA and other forensic  
10 identification markers.

11 Additionally, the Department of Justice shall provide all full  
12 palm print cards, mailing envelopes, and instructions for the  
13 collection of full palm prints. The full palm prints, on a form  
14 prescribed by the Department of Justice, shall thereafter be  
15 forwarded to the Department of Justice for maintenance in a file  
16 for identification purposes.

17 (2) The withdrawal of blood shall be performed in a medically  
18 approved manner. Only health care providers trained and certified  
19 to draw blood may withdraw the blood specimens for purposes of  
20 this section.

21 (3) Buccal swab samples may be procured by law enforcement  
22 or corrections personnel or other individuals trained to assist in  
23 buccal swab collection.

24 (4) Right thumbprints and a full palm print impression of each  
25 hand shall be taken on forms prescribed by the Department of  
26 Justice. The palm print forms shall be forwarded to and maintained  
27 by the Bureau of Criminal Identification and Information of the  
28 Department of Justice. Right thumbprints also shall be taken at  
29 the time of the collection of samples and specimens and shall be  
30 placed on the sample and specimen containers and forms as  
31 directed by the Department of Justice. The samples, specimens,  
32 and forms shall be forwarded to and maintained by the DNA  
33 Laboratory of the Department of Justice.

34 (5) The law enforcement or custodial agency collecting  
35 specimens, samples, or print impressions is responsible for  
36 confirming that the person qualifies for entry into the Department  
37 of Justice DNA Database and ~~Data Bank~~ *Databank* Program prior  
38 to collecting the specimens, samples, or print impressions pursuant  
39 to this chapter.

1 (6) The DNA Laboratory of the Department of Justice is  
2 responsible for establishing procedures for entering ~~data bank~~  
3 *databank* and database information.

4 (c) (1) Persons authorized to draw blood or obtain samples or  
5 print impressions under this chapter for the ~~data bank~~ *databank* or  
6 database shall not be civilly or criminally liable either for  
7 withdrawing blood when done in accordance with medically  
8 accepted procedures, or for obtaining buccal swab samples by  
9 scraping inner cheek cells of the mouth, or thumb or palm print  
10 impressions when performed in accordance with standard  
11 professional practices.

12 (2) There is no civil or criminal cause of action against any law  
13 enforcement agency or the Department of Justice, or any employee  
14 thereof, for a mistake in confirming a person's or sample's  
15 qualifying status for inclusion within the database or ~~data bank~~  
16 *databank* or in placing an entry in a ~~data bank~~ *databank* or a  
17 database.

18 (3) The failure of the Department of Justice or local law  
19 enforcement to comply with Article 4 or any other provision of  
20 this chapter shall not invalidate an arrest, plea, conviction, or  
21 disposition.

22 (d) *This section shall become inoperative if the California*  
23 *Supreme Court rules to uphold the California Court of Appeal*  
24 *decision in People v. Buza (2014) 231 Cal.App.4th 1446 in regard*  
25 *to the provisions of Section 298 of the Penal Code, as amended*  
26 *by Section 6 of the DNA Fingerprint, Unsolved Crime and*  
27 *Innocence Protection Act, Proposition 69, approved by the voters*  
28 *at the November 2, 2004, statewide general election, in which case*  
29 *this section shall become inoperative immediately upon that ruling*  
30 *becoming final.*

31 SEC. 6. Section 298 is added to the Penal Code, to read:

32 298. (a) (1) *The Secretary of the Department of Corrections*  
33 *and Rehabilitation, or the Chief Administrative Officer of the*  
34 *detention facility, jail, or other facility at which the blood*  
35 *specimens, buccal swab samples, and thumb and palm print*  
36 *impressions were collected shall cause these specimens, samples,*  
37 *and print impressions to be forwarded promptly to the Department*  
38 *of Justice, except that a blood specimen or buccal swab sample*  
39 *taken from a person arrested for the commission of a felony as*  
40 *specified in paragraph (2) of subdivision (a) of Section 296 shall*

1 *be forwarded to the Department of Justice after a judicial*  
2 *determination of probable cause to believe the person has*  
3 *committed the offense for which he or she was arrested has been*  
4 *made pursuant to Section 825. The specimens, samples, and print*  
5 *impressions shall be collected by a person using a Department of*  
6 *Justice approved collection kit and in accordance with the*  
7 *requirements and procedures set forth in subdivision (b).*

8 (2) *A blood specimen or buccal swab sample taken from a*  
9 *person arrested for the commission of a felony as specified in*  
10 *paragraph (2) of subdivision (a) of Section 296 that has not been*  
11 *forwarded to the Department of Justice within six months following*  
12 *the arrest of that person because the agency that took the blood*  
13 *specimen or buccal swab sample has not received notice to forward*  
14 *the DNA specimen or sample to the Department of Justice for*  
15 *inclusion in the state's DNA and Forensic Identification Database*  
16 *and Databank Program pursuant to paragraph (1) following a*  
17 *determination of probable cause, shall be destroyed by the agency*  
18 *that collected the blood specimen or buccal swab sample.*

19 (b) (1) *The Department of Justice shall provide all blood*  
20 *specimen vials, buccal swab collectors, mailing tubes, labels, and*  
21 *instructions for the collection of the blood specimens, buccal swab*  
22 *samples, and thumbprints. The specimens, samples, and*  
23 *thumbprints shall thereafter be forwarded to the DNA Laboratory*  
24 *of the Department of Justice for analysis of DNA and other forensic*  
25 *identification markers.*

26 *Additionally, the Department of Justice shall provide all full*  
27 *palm print cards, mailing envelopes, and instructions for the*  
28 *collection of full palm prints. The full palm prints, on a form*  
29 *prescribed by the Department of Justice, shall thereafter be*  
30 *forwarded to the Department of Justice for maintenance in a file*  
31 *for identification purposes.*

32 (2) *The withdrawal of blood shall be performed in a medically*  
33 *approved manner. Only health care providers trained and certified*  
34 *to draw blood may withdraw the blood specimens for purposes of*  
35 *this section.*

36 (3) *Buccal swab samples may be procured by law enforcement*  
37 *or corrections personnel or other individuals trained to assist in*  
38 *buccal swab collection.*

39 (4) *Right thumbprints and a full palm print impression of each*  
40 *hand shall be taken on forms prescribed by the Department of*

1 *Justice. The palm print forms shall be forwarded to and maintained*  
2 *by the Bureau of Criminal Identification and Information of the*  
3 *Department of Justice. Right thumbprints also shall be taken at*  
4 *the time of the collection of samples and specimens and shall be*  
5 *placed on the sample and specimen containers and forms as*  
6 *directed by the Department of Justice. The samples, specimens,*  
7 *and forms shall be forwarded to and maintained by the DNA*  
8 *Laboratory of the Department of Justice.*

9 (5) *The law enforcement or custodial agency collecting*  
10 *specimens, samples, or print impressions is responsible for*  
11 *confirming that the person qualifies for entry into the Department*  
12 *of Justice DNA and Forensic Identification Database and Databank*  
13 *Program prior to collecting the specimens, samples, or print*  
14 *impressions pursuant to this chapter.*

15 (6) *The DNA Laboratory of the Department of Justice is*  
16 *responsible for establishing procedures for entering databank and*  
17 *database information.*

18 (c) (1) *Persons authorized to draw blood or obtain samples or*  
19 *print impressions under this chapter for the databank or database*  
20 *shall not be civilly or criminally liable either for withdrawing*  
21 *blood when done in accordance with medically accepted*  
22 *procedures, or for obtaining buccal swab samples by scraping*  
23 *inner cheek cells of the mouth, or thumb or palm print impressions*  
24 *when performed in accordance with standard professional*  
25 *practices.*

26 (2) *There is no civil or criminal cause of action against any law*  
27 *enforcement agency or the Department of Justice, or any employee*  
28 *thereof, for a mistake in confirming a person's or sample's*  
29 *qualifying status for inclusion within the database or databank or*  
30 *in placing an entry in a databank or a database.*

31 (3) *The failure of the Department of Justice or local law*  
32 *enforcement to comply with Article 4 or any other provision of*  
33 *this chapter shall not invalidate an arrest, plea, conviction, or*  
34 *disposition.*

35 (d) *This section shall only become operative if the California*  
36 *Supreme Court rules to uphold the California Court of Appeal*  
37 *decision in People v. Buza (2014) 231 Cal.App.4th 1446 in regard*  
38 *to the provisions of Section 298 of the Penal Code, as amended*  
39 *by Section 6 of the DNA Fingerprint, Unsolved Crime and*  
40 *Innocence Protection Act, Proposition 69, approved by the voters*

1 at the November 2, 2004, statewide general election, in which case  
2 this section shall become operative immediately upon that ruling  
3 becoming final.

4 SEC. 7. Section 299 of the Penal Code is amended to read:

5 299. (a) A person whose DNA profile has been included in  
6 the ~~data bank~~ *databank* pursuant to this chapter shall have his or  
7 her DNA specimen and sample destroyed and searchable database  
8 profile expunged from the ~~data bank~~ *databank* program pursuant  
9 to the procedures set forth in subdivision (b) if the person has no  
10 past or present offense or pending charge which qualifies that  
11 person for inclusion within the state's DNA and Forensic  
12 Identification Database and ~~Data Bank~~ *Databank* Program and  
13 there otherwise is no legal basis for retaining the specimen or  
14 sample or searchable profile.

15 (b) Pursuant to subdivision (a), a person who has no past or  
16 present qualifying offense, and for whom there otherwise is no  
17 legal basis for retaining the specimen or sample or searchable  
18 profile, may make a written request to have his or her specimen  
19 and sample destroyed and searchable database profile expunged  
20 from the ~~data bank~~ *databank* program if: *databank* program if any of the  
21 following apply:

22 (1) Following arrest, no accusatory pleading has been filed  
23 within the applicable period allowed by law charging the person  
24 with a qualifying offense as set forth in subdivision (a) of Section  
25 296 or if the charges which served as the basis for including the  
26 DNA profile in the state's DNA *and Forensic Identification*  
27 Database and ~~Data Bank Identification~~ *Databank* Program have  
28 been dismissed prior to adjudication by a trier of fact;

29 (2) The underlying conviction or disposition serving as the basis  
30 for including the DNA profile has been reversed and the case  
31 dismissed;

32 (3) The person has been found factually innocent of the  
33 underlying offense pursuant to Section 851.8, or Section 781.5 of  
34 the Welfare and Institutions Code; or

35 (4) The defendant has been found not guilty or the defendant  
36 has been acquitted of the underlying offense.

37 (c) (1) The person requesting the ~~data bank~~ *databank* entry to  
38 be expunged must send a copy of his or her request to the trial  
39 court of the county where the arrest occurred, or that entered the  
40 conviction or rendered disposition in the case, to the DNA

1 Laboratory of the Department of Justice, and to the prosecuting  
2 attorney of the county in which he or she was arrested or,  
3 convicted, or adjudicated, with proof of service on all parties. The  
4 court has the discretion to grant or deny the request for  
5 expungement. The denial of a request for expungement is a  
6 nonappealable order and shall not be reviewed by petition for writ.

7 (2) Except as provided ~~below~~, *in this section*, the Department  
8 of Justice shall destroy a specimen and sample and expunge the  
9 searchable DNA database profile pertaining to the person who has  
10 no present or past qualifying offense of record upon receipt of a  
11 court order that verifies the applicant has made the necessary  
12 showing at a noticed hearing, and that includes all of the following:

13 (A) The written request for expungement pursuant to this  
14 section.

15 (B) A certified copy of the court order reversing and dismissing  
16 the conviction or case, or a letter from the district attorney  
17 certifying that no accusatory pleading has been filed or the charges  
18 which served as the basis for collecting a DNA specimen and  
19 sample have been dismissed prior to adjudication by a trier of fact,  
20 the defendant has been found factually innocent, the defendant has  
21 been found not guilty, the defendant has been acquitted of the  
22 underlying offense, or the underlying conviction has been reversed  
23 and the case dismissed.

24 (C) Proof of written notice to the prosecuting attorney and the  
25 Department of Justice that expungement has been requested.

26 (D) A court order verifying that no retrial or appeal of the case  
27 is pending, that it has been at least 180 days since the defendant  
28 or minor has notified the prosecuting attorney and the Department  
29 of Justice of the expungement request, and that the court has not  
30 received an objection from the Department of Justice or the  
31 prosecuting attorney.

32 (d) Upon order from the court, the Department of Justice shall  
33 destroy any specimen or sample collected from the person and any  
34 searchable DNA database profile pertaining to the person, unless  
35 the department determines that the person is subject to the  
36 provisions of this chapter because of a past qualifying offense of  
37 record or is or has otherwise become obligated to submit a blood  
38 specimen or buccal swab sample as a result of a separate arrest,  
39 conviction, juvenile adjudication, or finding of guilty or not guilty

1 by reason of insanity for an offense described in subdivision (a)  
2 of Section 296, or as a condition of a plea.

3 The Department of Justice is not required to destroy analytical  
4 data or other items obtained from a blood specimen or saliva, or  
5 buccal swab sample, if evidence relating to another person subject  
6 to the provisions of this chapter would thereby be destroyed or  
7 otherwise compromised.

8 Any identification, warrant, probable cause to arrest, or arrest  
9 based upon a ~~data bank~~ *databank* or database match is not  
10 invalidated due to a failure to expunge or a delay in expunging  
11 records.

12 (e) Notwithstanding any other ~~provision of~~ law, the Department  
13 of Justice DNA Laboratory is not required to expunge DNA profile  
14 or forensic identification information or destroy or return  
15 specimens, samples, or print impressions taken pursuant to this  
16 section if the duty to register under Section 290 or 457.1 is  
17 terminated.

18 (f) Notwithstanding any other ~~provision of~~ law, including  
19 Sections 17, 1170.18, 1203.4, and 1203.4a, a judge is not  
20 authorized to relieve a person of the separate administrative duty  
21 to provide specimens, samples, or print impressions required by  
22 this chapter if a person has been found guilty or was adjudicated  
23 a ward of the court by a trier of fact of a qualifying offense as  
24 defined in subdivision (a) of Section 296, or was found not guilty  
25 by reason of insanity or pleads no contest to a qualifying offense  
26 as defined in subdivision (a) of Section 296.

27 (g) *This section shall become inoperative if the California*  
28 *Supreme Court rules to uphold the California Court of Appeal*  
29 *decision in People v. Buza (2014) 231 Cal.App.4th 1446 in regard*  
30 *to the provisions of Section 299 of the Penal Code, as amended*  
31 *by Section 9 of the DNA Fingerprint, Unsolved Crime and*  
32 *Innocence Protection Act, Proposition 69, approved by the voters*  
33 *at the November 2, 2004, statewide general election, in which case*  
34 *this section shall become inoperative immediately upon that ruling*  
35 *becoming final.*

36 SEC. 8. Section 299 is added to the Penal Code, to read:

37 299. (a) A person whose DNA profile has been included in the  
38 databank pursuant to this chapter shall have his or her DNA  
39 specimen and sample destroyed and searchable database profile  
40 expunged from the databank program if the person has no past or

1 *present offense or pending charge which qualifies that person for*  
2 *inclusion within the state's DNA and Forensic Identification*  
3 *Database and Databank Program and there otherwise is no legal*  
4 *basis for retaining the specimen or sample or searchable profile.*

5 *(b) Pursuant to subdivision (a), a person who has no past or*  
6 *present qualifying offense, and for whom there otherwise is no*  
7 *legal basis for retaining the specimen or sample or searchable*  
8 *profile shall have his or her specimen and sample destroyed and*  
9 *searchable database profile expunged from the databank program*  
10 *if any of the following apply:*

11 *(1) Following arrest, no accusatory pleading has been filed*  
12 *within the applicable period allowed by law charging the person*  
13 *with a qualifying offense as set forth in subdivision (a) of Section*  
14 *296 or if the charges which served as the basis for including the*  
15 *DNA profile in the state's DNA and Forensic Identification*  
16 *Database and Databank Program have been dismissed prior to*  
17 *adjudication by a trier of fact, in which case the district attorney*  
18 *shall submit a letter to the Department of Justice as soon as these*  
19 *conditions have been met.*

20 *(2) The underlying conviction or disposition serving as the basis*  
21 *for including the DNA profile has been reversed and the case*  
22 *dismissed, in which case the court shall forward its order to the*  
23 *Department of Justice upon disposition of the case.*

24 *(3) The person has been found factually innocent of the*  
25 *underlying offense pursuant to Section 851.8, or Section 781.5 of*  
26 *the Welfare and Institutions Code, in which case the court shall*  
27 *forward its order to the Department of Justice upon disposition*  
28 *of the case.*

29 *(4) The defendant has been found not guilty or the defendant*  
30 *has been acquitted of the underlying offense, in which case the*  
31 *court shall forward its order to the Department of Justice upon*  
32 *disposition of the case.*

33 *(c) Except as provided in this section, the Department of Justice*  
34 *shall destroy a specimen and sample and expunge the searchable*  
35 *DNA database profile pertaining to the person who has no present*  
36 *or past qualifying offense of record upon receipt of the following:*

37 *(1) A certified copy of the court order reversing and dismissing*  
38 *the conviction or case, or a letter from the district attorney*  
39 *certifying that no accusatory pleading has been filed or the charges*  
40 *which served as the basis for collecting a DNA specimen and*

1 *sample have been dismissed prior to adjudication by a trier of*  
2 *fact, the defendant has been found factually innocent, the defendant*  
3 *has been found not guilty, the defendant has been acquitted of the*  
4 *underlying offense, or the underlying conviction has been reversed*  
5 *and the case dismissed.*

6 (2) *A court order verifying that no retrial or appeal of the case*  
7 *is pending.*

8 (d) *Upon order from the court, the Department of Justice shall*  
9 *destroy any specimen or sample collected from the person and any*  
10 *searchable DNA database profile pertaining to the person, unless*  
11 *the department determines that the person is subject to the*  
12 *provisions of this chapter because of a past qualifying offense of*  
13 *record or is or has otherwise become obligated to submit a blood*  
14 *specimen or buccal swab sample as a result of a separate arrest,*  
15 *conviction, juvenile adjudication, or finding of guilty or not guilty*  
16 *by reason of insanity for an offense described in subdivision (a)*  
17 *of Section 296, or as a condition of a plea.*

18 *The Department of Justice is not required to destroy analytical*  
19 *data or other items obtained from a blood specimen or saliva, or*  
20 *buccal swab sample, if evidence relating to another person subject*  
21 *to the provisions of this chapter would thereby be destroyed or*  
22 *otherwise compromised.*

23 *Any identification, warrant, probable cause to arrest, or arrest*  
24 *based upon a databank or database match is not invalidated due*  
25 *to a failure to expunge or a delay in expunging records.*

26 (e) *Notwithstanding any other law, the Department of Justice*  
27 *DNA Laboratory is not required to expunge DNA profile or*  
28 *forensic identification information or destroy or return specimens,*  
29 *samples, or print impressions taken pursuant to this section if the*  
30 *duty to register under Section 290 or 457.1 is terminated.*

31 (f) *Notwithstanding any other law, including Sections 17,*  
32 *1170.18, 1203.4, and 1203.4a, a judge is not authorized to relieve*  
33 *a person of the separate administrative duty to provide specimens,*  
34 *samples, or print impressions required by this chapter if a person*  
35 *has been found guilty or was adjudicated a ward of the court by*  
36 *a trier of fact of a qualifying offense as defined in subdivision (a)*  
37 *of Section 296, or was found not guilty by reason of insanity or*  
38 *pleads no contest to a qualifying offense as defined in subdivision*  
39 *(a) of Section 296.*

1 (g) *This section shall only become operative if the California*  
2 *Supreme Court rules to uphold the California Court of Appeal*  
3 *decision in People v. Buza (2014) 231 Cal.App.4th 1446 in regard*  
4 *to the provisions of Section 299 of the Penal Code, as amended*  
5 *by Section 9 of the DNA Fingerprint, Unsolved Crime and*  
6 *Innocence Protection Act, Proposition 69, approved by the voters*  
7 *at the November 2, 2004, statewide general election, in which case*  
8 *this section shall become operative immediately upon that ruling*  
9 *becoming final.*

10 SEC. 9. *Section 300 of the Penal Code is amended to read:*

11 300. ~~Nothing in this chapter shall~~ *(a) This chapter does not*  
12 *limit or abrogate any existing authority of law enforcement officers*  
13 *to take, maintain, store, and utilize DNA or forensic identification*  
14 *markers, blood specimens, buccal swab samples, saliva samples,*  
15 *or thumb or palm print impressions for identification purposes.*

16 *(b) A law enforcement agency may use a publicly available*  
17 *database, excluding a law enforcement database that is not linked*  
18 *to the Combined DNA Index System (CODIS), if the case being*  
19 *investigated involves a homicide or sexual assault involving force*  
20 *and the case is unsolved and all investigative leads have been*  
21 *exhausted, in which case the law enforcement agency shall review*  
22 *nonforensic information in order to identify additional evidence*  
23 *bearing on relatedness.*

24 SECTION 1. ~~Section 338.5 is added to the Elections Code, to~~  
25 ~~read:~~

26 338.5. ~~“Political party qualification petition” means a petition~~  
27 ~~circulated to qualify a political party in accordance with Division~~  
28 ~~5 (commencing with Section 5000):~~

29 SEC. 2. ~~Section 5100 of the Elections Code is amended to read:~~

30 5100. ~~A party is qualified to participate in a primary election~~  
31 ~~under any of the following conditions:~~

32 (a) (1) ~~At the last preceding gubernatorial primary election, the~~  
33 ~~sum of the votes cast for all of the candidates for an office voted~~  
34 ~~on throughout the state who disclosed a preference for that party~~  
35 ~~on the ballot was at least 2 percent of the entire vote of the state~~  
36 ~~for that office.~~

37 (2) ~~Notwithstanding paragraph (1), a party may inform the~~  
38 ~~Secretary of State that it declines to have the votes cast for any~~  
39 ~~candidate who has disclosed that party as his or her party preference~~  
40 ~~on the ballot counted toward the 2-percent qualification threshold.~~

1 If the party wishes to have votes for any candidate not counted in  
2 support of its qualification under paragraph (1), the party shall  
3 notify the Secretary of State in writing of that candidate's name  
4 by the seventh day before the gubernatorial primary election.

5 (b) ~~On or before the 135th day before a primary election, it~~  
6 ~~appears to the Secretary of State, as a result of examining and~~  
7 ~~totaling the statement of voters and their declared political~~  
8 ~~preference transmitted to him or her by the county elections~~  
9 ~~officials, that voters equal in number to at least 0.33 percent of the~~  
10 ~~total number of voters registered on the 154th day before the~~  
11 ~~primary election have declared their preference for that party.~~

12 (c) ~~On or before the 135th day before a primary election, there~~  
13 ~~is filed with the Secretary of State a political party qualification~~  
14 ~~petition signed by voters, equal in number to at least 10 percent~~  
15 ~~of the entire vote of the state at the last preceding gubernatorial~~  
16 ~~election, declaring that the voters signing the petition support~~  
17 ~~qualification of a proposed party, the name of which shall be stated~~  
18 ~~in the petition, which proposed party those voters desire to have~~  
19 ~~participate in that primary election. The petition shall be circulated,~~  
20 ~~signed, and verified, and the signatures of the voters on it shall be~~  
21 ~~certified to and transmitted to the Secretary of State by the county~~  
22 ~~elections officials substantially as provided for initiative petitions.~~  
23 ~~Each page of the petition shall bear a caption in 18-point boldface~~  
24 ~~type, which caption shall be the name of the proposed party~~  
25 ~~followed by the words "Petition to participate in the primary~~  
26 ~~election."~~

27 ~~SEC. 3. Section 5151 of the Elections Code is amended to read:~~

28 ~~5151. A party is qualified to participate in a presidential general~~  
29 ~~election under any of the following conditions:~~

30 (a) ~~The party qualified to participate and participated in the~~  
31 ~~presidential primary election preceding the presidential general~~  
32 ~~election pursuant to Section 5100.~~

33 (b) (1) ~~At the last preceding gubernatorial primary election, the~~  
34 ~~sum of the votes cast for all of the candidates for an office voted~~  
35 ~~on throughout the state who disclosed a preference for that party~~  
36 ~~on the ballot was at least 2 percent of the entire vote of the state~~  
37 ~~for that office.~~

38 (2) ~~Notwithstanding paragraph (1), a party may inform the~~  
39 ~~Secretary of State that it declines to have the votes cast for any~~  
40 ~~candidate who has disclosed that party as his or her party preference~~

1 on the ballot counted toward the 2-percent qualification threshold.  
2 If the party wishes to have votes for any candidate not counted in  
3 support of its qualification under paragraph (1), the party shall  
4 notify the Secretary of State in writing of that candidate's name  
5 by the seventh day before the gubernatorial primary election.

6 (e) ~~If, on or before the 102nd day before a presidential general  
7 election, it appears to the Secretary of State, as a result of  
8 examining and totaling the statement of voters and their declared  
9 political preference transmitted to him or her by the county  
10 elections officials, that voters equal in number to at least 0.33  
11 percent of the total number of voters registered on the 123rd day  
12 before the presidential general election have declared their  
13 preference for that party.~~

14 (d) ~~On or before the 135th day before a presidential general  
15 election, there is filed with the Secretary of State a political party  
16 qualification petition signed by voters, equal in number to at least  
17 10 percent of the entire vote of the state at the last preceding  
18 gubernatorial election, declaring that the voters signing the petition  
19 support qualification of a proposed party, the name of which shall  
20 be stated in the petition, which proposed party those voters desire  
21 to have participate in that presidential general election. The petition  
22 shall be circulated, signed, and verified, and the signatures of the  
23 voters on it shall be certified to and transmitted to the Secretary  
24 of State by the county elections officials substantially as provided  
25 for initiative petitions. Each page of the petition shall bear a caption  
26 in 18-point boldface type, which caption shall be the name of the  
27 proposed party followed by the words "Petition to participate in  
28 the presidential general election."~~

29 ~~SEC. 4. Section 18201 of the Elections Code is amended to  
30 read:~~

31 ~~18201. A person who falsely makes or fraudulently defaces or  
32 destroys all or any part of a nomination paper or an  
33 in-lieu-filing-fee petition is punishable by a fine not exceeding  
34 one thousand dollars (\$1,000), or by imprisonment pursuant to  
35 subdivision (h) of Section 1170 of the Penal Code for 16 months  
36 or two or three years, or by both that fine and imprisonment.~~

37 ~~SEC. 5. Section 18202 of the Elections Code is amended to  
38 read:~~

39 ~~18202. A person who, acting on behalf of a candidate,  
40 deliberately fails to file at the proper time and in the proper place~~

1 a nomination paper, in-lieu-filing-fee petition, or declaration of  
2 candidacy in his or her possession that is entitled to be filed under  
3 this code is guilty of a misdemeanor.

4 SEC. 6. Section 18203 of the Elections Code is amended to  
5 read:

6 18203. A person who files or submits for filing a nomination  
7 paper, in-lieu-filing-fee petition, or declaration of candidacy  
8 knowing that it or any part of it has been made falsely is punishable  
9 by a fine not exceeding one thousand dollars (\$1,000), or by  
10 imprisonment pursuant to subdivision (h) of Section 1170 of the  
11 Penal Code for 16 months or two or three years, or by both that  
12 fine and imprisonment.

13 SEC. 7. Section 18204 of the Elections Code is amended to  
14 read:

15 18204. A person who willfully suppresses all or any part of a  
16 nomination paper, in-lieu-filing-fee petition, or declaration of  
17 candidacy either before or after filing is punishable by a fine not  
18 exceeding one thousand dollars (\$1,000), or by imprisonment  
19 pursuant to subdivision (h) of Section 1170 of the Penal Code for  
20 16 months or two or three years, or by both that fine and  
21 imprisonment.

22 SEC. 8. Section 18600 of the Elections Code is amended to  
23 read:

24 18600. A person is guilty of a misdemeanor who:

25 (a) Circulating, as principal or agent, or having charge or control  
26 of the circulation of, or obtaining signatures to, any state or local  
27 initiative, referendum, recall, or political party qualification  
28 petition, intentionally misrepresents or intentionally makes any  
29 false statement concerning the contents, purport, or effect of the  
30 petition to any person who signs, or who desires to sign, or who  
31 is requested to sign, or who makes inquiries with reference to it,  
32 or to whom it is presented for his or her signature.

33 (b) Willfully and knowingly circulates, publishes, or exhibits  
34 any false statement or misrepresentation concerning the contents,  
35 purport, or effect of any state or local initiative, referendum, recall,  
36 or political party qualification petition for the purpose of obtaining  
37 any signature to, or persuading or influencing any person to sign,  
38 that petition.

39 (c) Circulating, as principal or agent, or having charge or control  
40 of the circulation of, or obtaining signatures to, any state or local

1 initiative, or political party qualification petition intentionally  
2 makes any false statement in response to any inquiry by any voter  
3 as to whether he or she is a paid signature gatherer or a volunteer.

4 ~~SEC. 9.~~ Section 18601 of the Elections Code is amended to  
5 read:

6 18601. (a) A person working for the proponent or proponents  
7 of an initiative or referendum measure, recall petition, or political  
8 party qualification petition who refuses to allow a prospective  
9 signer to read the measure or petition is guilty of a misdemeanor.

10 (b) An arrest or conviction pursuant to this section shall not  
11 invalidate or otherwise affect the validity of any signature obtained  
12 by the person arrested or convicted.

13 ~~SEC. 10.~~ Section 18603 of the Elections Code is amended to  
14 read:

15 18603. A person who offers or gives money or other valuable  
16 consideration to another in exchange for his or her signature on a  
17 state, county, municipal, or district initiative, referendum, recall,  
18 or political party qualification petition is guilty of a misdemeanor.

19 ~~SEC. 11.~~ Section 18604 of the Elections Code is amended to  
20 read:

21 18604. Upon conviction of a violation of any provision of this  
22 article, Article 2 (commencing with Section 18610), Article 3  
23 (commencing with Section 18620), Article 5 (commencing with  
24 Section 18640), Article 6 (commencing with Section 18650), or  
25 Article 7 (commencing with Section 18660), the court may order  
26 as a condition of probation that the convicted person be prohibited  
27 from receiving money or other valuable consideration for gathering  
28 signatures on an initiative, referendum, recall, or political party  
29 qualification petition.

30 ~~SEC. 12.~~ Section 18610 of the Elections Code is amended to  
31 read:

32 18610. A person who solicits a circulator to affix a false or  
33 forged signature, or to cause or permit a false or forged signature  
34 to be affixed, to an initiative, referendum, recall, or political party  
35 qualification petition is guilty of a misdemeanor.

36 ~~SEC. 13.~~ Section 18611 of the Elections Code is amended to  
37 read:

38 18611. A person who circulates or causes to be circulated an  
39 initiative, referendum, recall, or political party qualification petition  
40 knowing it to contain false, forged, or fictitious names is punishable

1 by a fine not exceeding five thousand dollars (\$5,000), or by  
2 imprisonment pursuant to subdivision (h) of Section 1170 of the  
3 Penal Code for 16 months or two or three years, or in a county jail  
4 not exceeding one year, or by both that fine and imprisonment.

5 SEC. 14. Section 18612 of the Elections Code is amended to  
6 read:

7 18612. A person who knowingly signs his or her own name  
8 more than once to an initiative, referendum, recall, or political  
9 party qualification petition, or signs his or her name to that petition  
10 knowing at the time of signing that he or she is not qualified to  
11 sign it, is guilty of a misdemeanor.

12 SEC. 15. Section 18613 of the Elections Code is amended to  
13 read:

14 18613. A person who subscribes to an initiative, referendum,  
15 recall, or political party qualification petition a fictitious name, or  
16 who subscribes to the petition the name of another, or who causes  
17 another to subscribe such a name to that petition, is guilty of a  
18 felony and is punishable by imprisonment pursuant to subdivision  
19 (h) of Section 1170 of the Penal Code for two, three, or four years.

20 SEC. 16. Section 18614 of the Elections Code is amended to  
21 read:

22 18614. A person who files in the office of the elections official  
23 or other officer designated by law to receive the filing, an initiative,  
24 referendum, recall, or political party qualification petition to which  
25 is attached, appended, or subscribed any signature that the person  
26 filing the petition or measure knows to be false or fraudulent, or  
27 not the genuine signature of the person whose name it purports to  
28 be, is punishable by a fine not exceeding five thousand dollars  
29 (\$5,000), or by imprisonment pursuant to subdivision (h) of Section  
30 1170 of the Penal Code for 16 months or two or three years, or in  
31 a county jail not exceeding one year, or by both that fine and  
32 imprisonment.

33 SEC. 17. Section 18620 of the Elections Code is amended to  
34 read:

35 18620. A person who seeks, solicits, bargains for, or obtains  
36 any money, thing of value, or advantage of or from any person,  
37 firm, or corporation for the purpose or represented purpose of  
38 fraudulently inducing, persuading, or seeking the proponent or  
39 proponents of an initiative or referendum measure, recall petition,  
40 or political party qualification petition to (a) abandon the measure

1 or petition, (b) fail, neglect, or refuse to file in the office of the  
2 elections official or other officer designated by law, within the  
3 time required by law, the initiative or referendum measure, recall  
4 petition, or political party qualification petition after securing the  
5 number of signatures required to qualify the measure or petition,  
6 (e) stop the circulation of the initiative or referendum measure,  
7 recall petition, or political party qualification petition, or (d)  
8 perform any act that will prevent or aid in preventing the initiative  
9 or referendum measure, recall petition, or political party  
10 qualification petition from qualifying as an initiative or referendum  
11 measure, or the recall petition from resulting in a recall election,  
12 or political party qualification petition from qualifying a party is  
13 punishable by a fine not exceeding five thousand dollars (\$5,000),  
14 or by imprisonment pursuant to subdivision (h) of Section 1170  
15 of the Penal Code for 16 months or two or three years, or in a  
16 county jail not exceeding one year, or by both that fine and  
17 imprisonment.

18 SEC. 18. Section 18621 of the Elections Code is amended to  
19 read:

20 18621. A proponent of an initiative or referendum measure,  
21 recall petition, or political party qualification petition who seeks,  
22 solicits, bargains for, or obtains any money or thing of value of or  
23 from any person, firm, or corporation for the purpose of abandoning  
24 the same or stopping the circulation of petitions concerning the  
25 same, or failing or neglecting or refusing to file the measure or  
26 petition in the office of the elections official or other officer  
27 designated by law within the time required by law after obtaining  
28 the number of signatures required under the law to qualify the  
29 measure or petition, or withdrawing an initiative petition after  
30 filing it with the appropriate elections official, or performing any  
31 act that will prevent or aid in preventing the initiative, referendum,  
32 recall, or political party proposed from qualifying as an initiative  
33 or referendum measure, resulting in a recall election, or qualifying  
34 as a political party by a political party qualification petition is  
35 punishable by a fine not exceeding five thousand dollars (\$5,000),  
36 or by imprisonment pursuant to subdivision (h) of Section 1170  
37 of the Penal Code for 16 months or two or three years, or in a  
38 county jail not exceeding one year, or by both that fine and  
39 imprisonment.

1     ~~SEC. 19. Section 18622 of the Elections Code is amended to~~  
2     ~~read:~~

3     ~~18622. A person who offers to buy or does buy from a~~  
4     ~~circulator any referendum, initiative, recall, or political party~~  
5     ~~qualification petition on which one or more persons have affixed~~  
6     ~~their signatures is guilty of a misdemeanor punishable by~~  
7     ~~imprisonment in the county jail not exceeding one year, or by a~~  
8     ~~fine not exceeding one thousand dollars (\$1,000), or by both that~~  
9     ~~fine and imprisonment. This section does not prohibit a proponent~~  
10    ~~of the petition, or his or her agent, from compensating a circulator~~  
11    ~~for his or her services.~~

12    ~~SEC. 20. Section 18630 of the Elections Code is amended to~~  
13    ~~read:~~

14    ~~18630. A person who threatens to commit an assault or battery~~  
15    ~~on a person circulating a referendum, initiative, recall, or political~~  
16    ~~party qualification petition, or on a relative of a person circulating~~  
17    ~~a referendum, initiative, recall, or political party qualification~~  
18    ~~petition, or to inflict damage on the property of the circulator or~~  
19    ~~the relative with the intent to dissuade the circulator from~~  
20    ~~circulating the petition or in retribution for the circulation, is guilty~~  
21    ~~of a misdemeanor.~~

22    ~~SEC. 21. Section 18631 of the Elections Code is amended to~~  
23    ~~read:~~

24    ~~18631. A person who forcibly or by stealth takes from the~~  
25    ~~possession of a circulator an initiative, referendum, recall, or~~  
26    ~~political party qualification petition on which one or more persons~~  
27    ~~have affixed their signatures is guilty of a misdemeanor.~~

28    ~~SEC. 22. Section 18640 of the Elections Code is amended to~~  
29    ~~read:~~

30    ~~18640. A person working for the proponent or proponents of~~  
31    ~~an initiative or referendum measure, or a recall or political party~~  
32    ~~qualification petition, who solicits signatures to qualify the measure~~  
33    ~~or petition, accepts payment therefor, and fails to surrender the~~  
34    ~~measure or petition to the proponents of the measure or petition~~  
35    ~~for filing is punishable by a fine not exceeding five thousand~~  
36    ~~dollars (\$5,000), or by imprisonment pursuant to subdivision (h)~~  
37    ~~of Section 1170 of the Penal Code for 16 months or two or three~~  
38    ~~years, or in a county jail not exceeding one year, or by both that~~  
39    ~~fine and imprisonment.~~

1 ~~SEC. 23.~~ Section 18650 of the Elections Code is amended to  
2 read:

3 ~~18650.~~ A person shall not knowingly or willfully permit the  
4 list of signatures on an initiative, referendum, recall, or political  
5 party qualification petition to be used for any purpose other than  
6 qualification of the initiative or referendum measure or recall  
7 question for the ballot or political party, except as provided in  
8 Section 6253.5 of the Government Code. Violation of this section  
9 is a misdemeanor.

10 ~~SEC. 24.~~ Section 18660 of the Elections Code is amended to  
11 read:

12 ~~18660.~~ A person who makes a false affidavit concerning an  
13 initiative, referendum, recall, or political party qualification  
14 petition, or the signatures appended to the petition, is punishable  
15 by a fine not exceeding five thousand dollars (\$5,000), or by  
16 imprisonment pursuant to subdivision (h) of Section 1170 of the  
17 Penal Code for 16 months or two or three years, or in a county jail  
18 not exceeding one year, or by both that fine and imprisonment.

19 ~~SEC. 25.~~ Section 18661 of the Elections Code is amended to  
20 read:

21 ~~18661.~~ A public official or employee who knowingly makes  
22 a false return, certification, or affidavit concerning an initiative,  
23 referendum, recall, or political party qualification petition, or the  
24 signatures appended to the petition, is punishable by a fine not  
25 exceeding five thousand dollars (\$5,000), or by imprisonment  
26 pursuant to subdivision (h) of Section 1170 of the Penal Code for  
27 16 months or two or three years, or in a county jail not exceeding  
28 one year, or by both that fine and imprisonment.

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