

AMENDED IN SENATE APRIL 20, 2015

**SENATE BILL**

**No. 382**

---

---

**Introduced by Senator Lara**

February 24, 2015

---

---

An act to amend Section ~~654.1~~ 1170.17 of the Penal Code, and to amend Section 707 of the Welfare and Institutions Code, relating to ~~crimes: juveniles~~.

LEGISLATIVE COUNSEL'S DIGEST

SB 382, as amended, Lara. ~~Crimes: uncertified highway carriers of persons: Juveniles: jurisdiction: sentencing.~~

*Existing law provides that certain minors who have committed specified crimes may be prosecuted under the general law in a court of criminal jurisdiction if the juvenile court concludes, after the evaluation of 5 criteria, that the minor is not a fit and proper subject to be dealt with under the juvenile court law.*

*This bill would enumerate, within each of those 5 criteria, certain factors that may be considered.*

*Existing law generally provides that when a person is prosecuted for a criminal offense committed while he or she was under 18 years of age, he or she is subject to the same sentence as an adult convicted of the identical offense, except under certain circumstances, including, among others, when the conviction was for a type of offense that, in combination with the person's age at the time the offense was committed, would have made the person eligible for transfer to a court of criminal jurisdiction pursuant to a rebuttable presumption that the person is not a fit and proper subject to be dealt with under the juvenile court law, and the person prevails on a motion requesting that he or she receive a disposition under the juvenile court law. Existing law requires, in*

order to prevail on that motion, the person to demonstrate, by a preponderance of the evidence, that he or she is a fit and proper subject to be dealt with under the juvenile court law, based upon 5 specified criteria.

This bill would enumerate, within each of the 5 criteria, certain factors that may be considered.

Existing law makes it a crime for a person, individually or in specified capacities, to sell, offer for sale, or to advertise himself or herself as one who sells or offers for sale, transportation on an individual fare basis on public highways, unless the transportation is provided by a carrier that is properly certified or permitted, as specified.

~~This bill would make technical, nonsubstantive changes to these provisions.~~

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 1170.17 of the Penal Code is amended  
2 to read:

3 1170.17. (a) When a person is prosecuted for a criminal offense  
4 committed while he or she was under the age of 18 years of age  
5 and the prosecution is was lawfully initiated in a court of criminal  
6 jurisdiction without a prior finding that the person is not a fit and  
7 proper subject to be dealt with under the juvenile court law, upon  
8 subsequent conviction for any criminal offense, the person shall  
9 be subject to the same sentence as an adult convicted of the  
10 identical offense, in accordance with the provisions set forth in  
11 subdivision (a) of Section 1170.19, except under the circumstances  
12 described in subdivision ~~(b) or (c)~~. (b), (c), or (d).

13 (b) Where the conviction is for the type of offense which, in  
14 combination with the person's age at the time the offense was  
15 committed, makes the person eligible for transfer to a court of  
16 criminal jurisdiction, pursuant to a rebuttable presumption that the  
17 person is not a fit and proper subject to be dealt with under the  
18 juvenile court law, and the prosecution for the offense could not  
19 lawfully be initiated in a court of criminal jurisdiction, then either  
20 of the following shall apply:

21 (1) The person shall be subject to the same sentence as an adult  
22 convicted of the identical offense in accordance with the provisions

1 set forth in subdivision (a) of Section 1170.19, unless the person  
2 prevails upon a motion brought pursuant to paragraph (2).

3 (2) Upon a motion brought by the person, the court shall order  
4 the probation department to prepare a written social study and  
5 recommendation concerning the person's fitness to be dealt with  
6 under the juvenile court law and the court shall either conduct a  
7 fitness hearing or suspend proceedings and remand the matter to  
8 the juvenile court to prepare a social study and make a  
9 determination of fitness. The person shall receive a disposition  
10 under the juvenile court law only if the person demonstrates, by a  
11 preponderance of the evidence, that he or she is a fit and proper  
12 subject to be dealt with under the juvenile court law, based upon  
13 each of the following five criteria:

14 (A) The degree of criminal sophistication exhibited by the  
15 person. *This may include, but is not limited to, consideration of*  
16 *the person's age, maturity, intellectual capacity, and physical,*  
17 *mental, and emotional health at the time of the offense, the person's*  
18 *impetuosity or failure to appreciate risks and consequences of*  
19 *criminal behavior, the effect of familial, adult, or peer pressure*  
20 *on the person's actions, and the effect of the person's family and*  
21 *community environment and childhood trauma on the person's*  
22 *criminal sophistication.*

23 (B) Whether the person can be rehabilitated prior to the  
24 expiration of the juvenile court's jurisdiction. *This may include,*  
25 *but is not limited to, consideration of the person's potential to*  
26 *grow and mature, and the person's growth and maturation since*  
27 *the time that he or she committed the criminal offense.*

28 (C) The person's previous delinquent history. *This may include,*  
29 *but is not limited to, consideration of the seriousness of the*  
30 *person's previous delinquent history and the effect of the person's*  
31 *family and community environment and childhood trauma on the*  
32 *person's previous delinquent behavior.*

33 (D) Success of previous attempts by the juvenile court to  
34 rehabilitate the person. *This may include, but is not limited to, an*  
35 *analysis of the adequacy of the services previously provided to*  
36 *address the person's needs.*

37 (E) The circumstances and gravity of the offense for which the  
38 person has been convicted. *This may include, but is not limited to,*  
39 *consideration of the actual behavior of the person, the mental state*  
40 *of the person, the person's degree of involvement in the crime, the*

1 *level of harm actually caused by the person, and the person's*  
2 *mental and emotional development.*

3 If the court conducting the fitness hearing finds that the person  
4 is not a fit and proper subject for juvenile court jurisdiction, then  
5 the person shall be sentenced by the court where he or she was  
6 convicted, in accordance with ~~the provisions of~~ paragraph (1). If  
7 the court conducting the hearing on fitness finds that the person  
8 is a fit and proper subject for juvenile court jurisdiction, then the  
9 person shall be subject to a disposition in accordance with ~~the~~  
10 ~~provisions of~~ subdivision (b) of Section 1170.19.

11 (c) Where the conviction is for the type of offense which, in  
12 combination with the person's age at the time the offense was  
13 committed, makes the person eligible for transfer to a court of  
14 criminal jurisdiction, pursuant to a rebuttable presumption that the  
15 person is a fit and proper subject to be dealt with under the juvenile  
16 court law, then the person shall be sentenced as follows:

17 (1) The person shall be subject to a disposition under the juvenile  
18 court law, in accordance with the provisions of subdivision (b) of  
19 Section 1170.19, unless the district attorney prevails upon a motion,  
20 as described in paragraph (2).

21 (2) Upon a motion brought by the district attorney, the court  
22 shall order the probation department to prepare a written social  
23 study and recommendation concerning whether the person is a fit  
24 and proper subject to be dealt with under the juvenile court law.  
25 The court shall either conduct a fitness hearing or suspend  
26 proceedings and remand the matter to the juvenile court for a  
27 determination of fitness. The person shall be subject to a juvenile  
28 disposition under the juvenile court law unless the district attorney  
29 demonstrates, by a preponderance of the evidence, that the person  
30 is not a fit and proper subject to be dealt with under the juvenile  
31 court law, based upon the five criteria set forth in paragraph (2)  
32 of subdivision (b). If the person is found to be not a fit and proper  
33 subject to be dealt with under the juvenile court law, then the  
34 person shall be sentenced in the court where he or she was  
35 convicted, in accordance with the provisions set forth in subdivision  
36 (a) of Section 1170.19. If the person is found to be a fit and proper  
37 subject to be dealt with under the juvenile court law, the person  
38 shall be subject to a disposition, in accordance with the provisions  
39 of subdivision (b) of Section 1170.19.

1 (d) Where the conviction is for the type of offense which, in  
2 combination with the person's age, does not make the person  
3 eligible for transfer to a court of criminal jurisdiction, the person  
4 shall be subject to a disposition in accordance with the provisions  
5 of subdivision (b) of Section 1170.19.

6 *SEC. 2. Section 707 of the Welfare and Institutions Code is*  
7 *amended to read:*

8 707. (a) (1) In any case in which a minor is alleged to be a  
9 person described in subdivision (a) of Section 602 by reason of  
10 the violation, when he or she was 16 years of age or older, of any  
11 criminal statute or ordinance except those listed in subdivision (b),  
12 upon motion of the petitioner made prior to the attachment of  
13 jeopardy the court shall cause the probation officer to investigate  
14 and submit a report on the behavioral patterns and social history  
15 of the minor being considered for a determination of unfitness.  
16 Following submission and consideration of the report, and of any  
17 other relevant evidence that the petitioner or the minor may wish  
18 to submit, the juvenile court may find that the minor is not a fit  
19 and proper subject to be dealt with under the juvenile court law if  
20 it concludes that the minor would not be amenable to the care,  
21 treatment, and training program available through the facilities of  
22 the juvenile court, based upon an evaluation of the ~~following~~  
23 ~~criteria:~~ *criteria specified in clause (i) of each subparagraph (A)*  
24 *to (E), inclusive:*

25 (A) (i) The degree of criminal sophistication exhibited by the  
26 minor.

27 (ii) *When evaluating the criterion specified in clause (i), the*  
28 *juvenile court may consider any relevant factor, including, but not*  
29 *limited to, the minor's age, maturity, intellectual capacity, and*  
30 *physical, mental, and emotional health at the time of the alleged*  
31 *offense, the minor's impetuosity or failure to appreciate risks and*  
32 *consequences of criminal behavior, the effect of familial, adult, or*  
33 *peer pressure on the minor's actions, and the effect of the minor's*  
34 *family and community environment and childhood trauma on the*  
35 *minor's criminal sophistication.*

36 (B) (i) Whether the minor can be rehabilitated prior to the  
37 expiration of the juvenile court's jurisdiction.

38 (ii) *When evaluating the criterion specified in clause (i), the*  
39 *juvenile court may consider any relevant factor, including, but not*  
40 *limited to, the minor's potential to grow and mature.*

1 (C) (i) The minor's previous delinquent history.

2 (ii) *When evaluating the criterion specified in clause (i), the*  
3 *juvenile court may consider any relevant factor, including, but not*  
4 *limited to, the seriousness of the minor's previous delinquent*  
5 *history and the effect of the minor's family and community*  
6 *environment and childhood trauma on the minor's previous*  
7 *delinquent behavior.*

8 (D) (i) Success of previous attempts by the juvenile court to  
9 rehabilitate the minor.

10 (ii) *When evaluating the criterion specified in clause (i), the*  
11 *juvenile court may consider any relevant factor, including, but not*  
12 *limited to, the adequacy of the services previously provided to*  
13 *address the minor's needs.*

14 (E) (i) The circumstances and gravity of the offense alleged in  
15 the petition to have been committed by the minor.

16 (ii) *When evaluating the criterion specified in clause (i), the*  
17 *juvenile court may consider any relevant factor, including, but not*  
18 *limited to, the level of harm actually caused by the minor, and the*  
19 *minor's mental and emotional development.*

20 A determination that the minor is not a fit and proper subject to  
21 be dealt with under the juvenile court law may be based on any  
22 one or a combination of the factors set forth ~~above~~, *in clause (i)*  
23 *of each subparagraph (A) to (E), inclusive*, which shall be recited  
24 in the order of unfitness. In any case in which a hearing has been  
25 noticed pursuant to this section, the court shall postpone the taking  
26 of a plea to the petition until the conclusion of the fitness hearing,  
27 and no plea that may have been entered already shall constitute  
28 evidence at the hearing.

29 (2) (A) This paragraph shall apply to a minor alleged to be a  
30 person described in Section 602 by reason of the violation, when  
31 he or she has attained 16 years of age, of any felony offense when  
32 the minor has been declared to be a ward of the court pursuant to  
33 Section 602 on one or more prior occasions if both of the following  
34 apply:

35 (i) The minor has previously been found to have committed two  
36 or more felony offenses.

37 (ii) The offenses upon which the prior petition or petitions were  
38 based were committed when the minor had attained 14 years of  
39 age.

1 (B) Upon motion of the petitioner made prior to the attachment  
2 of jeopardy the court shall cause the probation officer to investigate  
3 and submit a report on the behavioral patterns and social history  
4 of the minor being considered for a determination of unfitness.  
5 Following submission and consideration of the report, and of any  
6 other relevant evidence that the petitioner or the minor may wish  
7 to submit, the minor shall be presumed to be not a fit and proper  
8 subject to be dealt with under the juvenile court law unless the  
9 juvenile court concludes, based upon evidence, which evidence  
10 may be of extenuating or mitigating circumstances, that the minor  
11 would be amenable to the care, treatment, and training program  
12 available through the facilities of the juvenile court based upon an  
13 evaluation of the following ~~criteria~~: *criteria specified in subclause*  
14 *(I) of each clause (i) to (v), inclusive:*  
15 (i) *(I) The degree of criminal sophistication exhibited by the*  
16 *minor.*  
17 *(II) When evaluating the criterion specified in subclause (I),*  
18 *the juvenile court may consider any relevant factor, including, but*  
19 *not limited to, the minor's age, maturity, intellectual capacity, and*  
20 *physical, mental, and emotional health at the time of the alleged*  
21 *offense, the minor's impetuosity or failure to appreciate risks and*  
22 *consequences of criminal behavior, the effect of familial, adult, or*  
23 *peer pressure on the minor's actions, and the effect of the minor's*  
24 *family and community environment and childhood trauma on the*  
25 *minor's criminal sophistication.*  
26 (ii) *(I) Whether the minor can be rehabilitated prior to the*  
27 *expiration of the juvenile court's jurisdiction.*  
28 *(II) When evaluating the criterion specified in subclause (I),*  
29 *the juvenile court may consider any relevant factor, including, but*  
30 *not limited to, the minor's potential to grow and mature.*  
31 (iii) *(I) The minor's previous delinquent history.*  
32 *(II) When evaluating the criterion specified in subclause (I),*  
33 *the juvenile court may consider any relevant factor, including, but*  
34 *not limited to, the seriousness of the minor's previous delinquent*  
35 *history and the effect of the minor's family and community*  
36 *environment and childhood trauma on the minor's previous*  
37 *delinquent behavior.*  
38 (iv) *(I) Success of previous attempts by the juvenile court to*  
39 *rehabilitate the minor.*

1     (II) When evaluating the criterion specified in subclause (I),  
2     the juvenile court may consider any relevant factor, including, but  
3     not limited to, the adequacy of the services previously provided to  
4     address the minor's needs.

5     (v) (I) The circumstances and gravity of the offense alleged in  
6     the petition to have been committed by the minor.

7     (II) When evaluating the criterion specified in subclause (I),  
8     the juvenile court may consider any relevant factor, including, but  
9     not limited to, the level of harm actually caused by the minor, and  
10    the minor's mental and emotional development.

11    A determination that the minor is a fit and proper subject to be  
12    dealt with under the juvenile court law shall be based on a finding  
13    of amenability after consideration of the criteria set forth ~~above,~~  
14    in subclause (I) of each clause (i) to (v), inclusive, and findings  
15    therefore recited in the order as to each of ~~the above~~ those criteria  
16    that the minor is fit and proper under each and every one of ~~the~~  
17    ~~above~~ those criteria. In making a finding of fitness, the court may  
18    consider extenuating and mitigating circumstances in evaluating  
19    each of ~~the above~~ those criteria. In any case in which the hearing  
20    has been noticed pursuant to this section, the court shall postpone  
21    the taking of a plea to the petition until the conclusion of the fitness  
22    hearing and no plea ~~which~~ that may have been entered already  
23    shall constitute evidence at the hearing. If the minor is found to  
24    be a fit and proper subject to be dealt with under the juvenile court  
25    law pursuant to this subdivision, the minor shall be committed to  
26    placement in a juvenile hall, ranch camp, forestry camp, boot camp,  
27    or secure juvenile home pursuant to Section 730, or in any  
28    institution operated by the Department of Corrections and  
29    Rehabilitation, Division of Juvenile Facilities.

30    (3) If, pursuant to this subdivision, the minor is found to be not  
31    a fit and proper subject for juvenile court treatment and is tried in  
32    a court of criminal jurisdiction and found guilty by the trier of fact,  
33    the judge may commit the minor to the Department of Corrections  
34    and Rehabilitation, Division of Juvenile Facilities, in lieu of  
35    sentencing the minor to the state prison, unless the limitations  
36    specified in Section 1732.6 apply.

37    (b) Subdivision (c) shall be applicable in any case in which a  
38    minor is alleged to be a person described in Section 602 by reason  
39    of the violation of one of the following offenses:

40    (1) Murder.



- 1 (2) Arson, as provided in subdivision (a) or (b) of Section 451  
2 of the Penal Code.
- 3 (3) Robbery.
- 4 (4) Rape with force, violence, or threat of great bodily harm.
- 5 (5) Sodomy by force, violence, duress, menace, or threat of  
6 great bodily harm.
- 7 (6) A lewd or lascivious act as provided in subdivision (b) of  
8 Section 288 of the Penal Code.
- 9 (7) Oral copulation by force, violence, duress, menace, or threat  
10 of great bodily harm.
- 11 (8) An offense specified in subdivision (a) of Section 289 of  
12 the Penal Code.
- 13 (9) Kidnapping for ransom.
- 14 (10) Kidnapping for purposes of robbery.
- 15 (11) Kidnapping with bodily harm.
- 16 (12) Attempted murder.
- 17 (13) Assault with a firearm or destructive device.
- 18 (14) Assault by any means of force likely to produce great bodily  
19 injury.
- 20 (15) Discharge of a firearm into an inhabited or occupied  
21 building.
- 22 (16) An offense described in Section 1203.09 of the Penal Code.
- 23 (17) An offense described in Section 12022.5 or 12022.53 of  
24 the Penal Code.
- 25 (18) A felony offense in which the minor personally used a  
26 weapon described in any provision listed in Section 16590 of the  
27 Penal Code.
- 28 (19) A felony offense described in Section 136.1 or 137 of the  
29 Penal Code.
- 30 (20) Manufacturing, compounding, or selling one-half ounce  
31 or more of a salt or solution of a controlled substance specified in  
32 subdivision (e) of Section 11055 of the Health and Safety Code.
- 33 (21) A violent felony, as defined in subdivision (c) of Section  
34 667.5 of the Penal Code, which also would constitute a felony  
35 violation of subdivision (b) of Section 186.22 of the Penal Code.
- 36 (22) Escape, by the use of force or violence, from a county  
37 juvenile hall, home, ranch, camp, or forestry camp in violation of  
38 subdivision (b) of Section 871 if great bodily injury is intentionally  
39 inflicted upon an employee of the juvenile facility during the  
40 commission of the escape.

1 (23) Torture as described in Sections 206 and 206.1 of the Penal  
2 Code.

3 (24) Aggravated mayhem, as described in Section 205 of the  
4 Penal Code.

5 (25) Carjacking, as described in Section 215 of the Penal Code,  
6 while armed with a dangerous or deadly weapon.

7 (26) Kidnapping for purposes of sexual assault, as punishable  
8 in subdivision (b) of Section 209 of the Penal Code.

9 (27) Kidnapping as punishable in Section 209.5 of the Penal  
10 Code.

11 (28) The offense described in subdivision (c) of Section 26100  
12 of the Penal Code.

13 (29) The offense described in Section 18745 of the Penal Code.

14 (30) Voluntary manslaughter, as described in subdivision (a)  
15 of Section 192 of the Penal Code.

16 (c) With regard to a minor alleged to be a person described in  
17 Section 602 by reason of the violation, when he or she was 14  
18 years of age or older, of any of the offenses listed in subdivision  
19 (b), upon motion of the petitioner made prior to the attachment of  
20 jeopardy the court shall cause the probation officer to investigate  
21 and submit a report on the behavioral patterns and social history  
22 of the minor being considered for a determination of unfitness.  
23 Following submission and consideration of the report, and of any  
24 other relevant evidence that the petitioner or the minor may wish  
25 to submit, the minor shall be presumed to be not a fit and proper  
26 subject to be dealt with under the juvenile court law unless the  
27 juvenile court concludes, based upon evidence, which evidence  
28 may be of extenuating or mitigating circumstances, that the minor  
29 would be amenable to the care, treatment, and training program  
30 available through the facilities of the juvenile court based upon an  
31 evaluation of each of the ~~following criteria:~~ *criteria specified in*  
32 *subparagraph (A) of each paragraph (1) to (5), inclusive:*

33 (1) (A) The degree of criminal sophistication exhibited by the  
34 minor.

35 (B) *When evaluating the criterion specified in subparagraph*  
36 *(A), the juvenile court may consider any relevant factor, including,*  
37 *but not limited to, the minor's age, maturity, intellectual capacity,*  
38 *and physical, mental, and emotional health at the time of the*  
39 *alleged offense, the minor's impetuosity or failure to appreciate*  
40 *risks and consequences of criminal behavior, the effect of familial,*

1 *adult, or peer pressure on the minor's actions, and the effect of*  
2 *the minor's family and community environment and childhood*  
3 *trauma on the minor's criminal sophistication.*

4 (2) (A) Whether the minor can be rehabilitated prior to the  
5 expiration of the juvenile court's jurisdiction.

6 (B) *When evaluating the criterion specified in subparagraph*  
7 *(A), the juvenile court may consider any relevant factor, including,*  
8 *but not limited to, the minor's potential to grow and mature.*

9 (3) (A) The minor's previous delinquent history.

10 (B) *When evaluating the criterion specified in subparagraph*  
11 *(A), the juvenile court may consider any relevant factor, including,*  
12 *but not limited to, the seriousness of the minor's previous*  
13 *delinquent history and the effect of the minor's family and*  
14 *community environment and childhood trauma on the minor's*  
15 *previous delinquent behavior.*

16 (4) (A) Success of previous attempts by the juvenile court to  
17 rehabilitate the minor.

18 (B) *When evaluating the criterion specified in subparagraph*  
19 *(A), the juvenile court may consider any relevant factor, including,*  
20 *but not limited to, the adequacy of the services previously provided*  
21 *to address the minor's needs.*

22 (5) (A) The circumstances and gravity of the offenses alleged  
23 in the petition to have been committed by the minor.

24 (B) *When evaluating the criterion specified in subparagraph*  
25 *(A), the juvenile court may consider any relevant factor, including,*  
26 *but not limited to, the level of harm actually caused by the minor,*  
27 *and the minor's mental and emotional development.*

28 A determination that the minor is a fit and proper subject to be  
29 dealt with under the juvenile court law shall be based on a finding  
30 of amenability after consideration of the criteria set forth ~~above,~~  
31 *in subparagraph (A) of each paragraph (1) to (5), inclusive,* and  
32 findings therefore recited in the order as to each of ~~the above~~ *those*  
33 criteria that the minor is fit and proper under each and every one  
34 of ~~the above~~ *those* criteria. In making a finding of fitness, the court  
35 may consider extenuating or mitigating circumstances in evaluating  
36 each of ~~the above~~ *those* criteria. In any case in which a hearing  
37 has been noticed pursuant to this section, the court shall postpone  
38 the taking of a plea to the petition until the conclusion of the fitness  
39 hearing and no plea which may have been entered already shall  
40 constitute evidence at the hearing. If, pursuant to this subdivision,

1 the minor is found to be not a fit and proper subject for juvenile  
2 court treatment and is tried in a court of criminal jurisdiction and  
3 found guilty by the trier of fact, the judge may commit the minor  
4 to the Department of Corrections and Rehabilitation, Division of  
5 Juvenile Facilities, in lieu of sentencing the minor to the state  
6 prison, unless the limitations specified in Section 1732.6 apply.

7 (d) (1) Except as provided in subdivision (b) of Section 602,  
8 the district attorney or other appropriate prosecuting officer may  
9 file an accusatory pleading in a court of criminal jurisdiction  
10 against any minor 16 years of age or older who is accused of  
11 committing an offense enumerated in subdivision (b).

12 (2) Except as provided in subdivision (b) of Section 602, the  
13 district attorney or other appropriate prosecuting officer may file  
14 an accusatory pleading against a minor 14 years of age or older in  
15 a court of criminal jurisdiction in any case in which any one or  
16 more of the following circumstances apply:

17 (A) The minor is alleged to have committed an offense that if  
18 committed by an adult would be punishable by death or  
19 imprisonment in the state prison for life.

20 (B) The minor is alleged to have personally used a firearm  
21 during the commission or attempted commission of a felony, as  
22 described in Section 12022.5 or 12022.53 of the Penal Code.

23 (C) The minor is alleged to have committed an offense listed  
24 in subdivision (b) in which any one or more of the following  
25 circumstances apply:

26 (i) The minor has previously been found to be a person described  
27 in Section 602 by reason of the commission of an offense listed  
28 in subdivision (b).

29 (ii) The offense was committed for the benefit of, at the direction  
30 of, or in association with any criminal street gang, as defined in  
31 subdivision (f) of Section 186.22 of the Penal Code, with the  
32 specific intent to promote, further, or assist in criminal conduct by  
33 gang members.

34 (iii) The offense was committed for the purpose of intimidating  
35 or interfering with any other person's free exercise or enjoyment  
36 of a right secured to him or her by the Constitution or laws of this  
37 state or by the Constitution or laws of the United States and because  
38 of the other person's race, color, religion, ancestry, national origin,  
39 disability, gender, or sexual orientation, or because the minor  
40 perceives that the other person has one or more of those

1 characteristics, as described in Title 11.6 (commencing with  
2 Section 422.55) of Part 1 of the Penal Code.

3 (iv) The victim of the offense was 65 years of age or older, or  
4 blind, deaf, quadriplegic, paraplegic, developmentally disabled,  
5 or confined to a wheelchair, and that disability was known or  
6 reasonably should have been known to the minor at the time of  
7 the commission of the offense.

8 (3) Except as provided in subdivision (b) of Section 602, the  
9 district attorney or other appropriate prosecuting officer may file  
10 an accusatory pleading in a court of criminal jurisdiction against  
11 any minor 16 years of age or older who is accused of committing  
12 one or more of the following offenses, if the minor has previously  
13 been found to be a person described in Section 602 by reason of  
14 the violation of a felony offense, when he or she was 14 years of  
15 age or older:

16 (A) A felony offense in which it is alleged that the victim of the  
17 offense was 65 years of age or older, or blind, deaf, quadriplegic,  
18 paraplegic, developmentally disabled, or confined to a wheelchair,  
19 and that disability was known or reasonably should have been  
20 known to the minor at the time of the commission of the offense.

21 (B) A felony offense committed for the purposes of intimidating  
22 or interfering with any other person's free exercise or enjoyment  
23 of a right secured to him or her by the Constitution or laws of this  
24 state or by the Constitution or laws of the United States and because  
25 of the other person's race, color, religion, ancestry, national origin,  
26 disability, gender, or sexual orientation, or because the minor  
27 perceived that the other person had one or more of those  
28 characteristics, as described in Title 11.6 (commencing with  
29 Section 422.55) of Part 1 of the Penal Code.

30 (C) The offense was committed for the benefit of, at the direction  
31 of, or in association with any criminal street gang as prohibited by  
32 Section 186.22 of the Penal Code.

33 (4) In any case in which the district attorney or other appropriate  
34 prosecuting officer has filed an accusatory pleading against a minor  
35 in a court of criminal jurisdiction pursuant to this subdivision, the  
36 case shall then proceed according to the laws applicable to a  
37 criminal case. In conjunction with the preliminary hearing as  
38 provided in Section 738 of the Penal Code, the magistrate shall  
39 make a finding that reasonable cause exists to believe that the  
40 minor comes within this subdivision. If reasonable cause is not

1 established, the criminal court shall transfer the case to the juvenile  
2 court having jurisdiction over the matter.

3 (5) For an offense for which the prosecutor may file the  
4 accusatory pleading in a court of criminal jurisdiction pursuant to  
5 this subdivision, but elects instead to file a petition in the juvenile  
6 court, if the minor is subsequently found to be a person described  
7 in subdivision (a) of Section 602, the minor shall be committed to  
8 placement in a juvenile hall, ranch camp, forestry camp, boot camp,  
9 or secure juvenile home pursuant to Section 730, or in any  
10 institution operated by the Department of Corrections and  
11 Rehabilitation, Division of Juvenile Facilities.

12 (6) If, pursuant to this subdivision, the minor is found to be not  
13 a fit and proper subject for juvenile court treatment and is tried in  
14 a court of criminal jurisdiction and found guilty by the trier of fact,  
15 the judge may commit the minor to the Department of Corrections  
16 and Rehabilitation, Division of Juvenile Facilities, in lieu of  
17 sentencing the minor to the state prison, unless the limitations  
18 specified in Section 1732.6 apply.

19 (e) A report submitted by a probation officer pursuant to this  
20 section regarding the behavioral patterns and social history of the  
21 minor being considered for a determination of unfitness shall  
22 include any written or oral statement offered by the victim, the  
23 victim's parent or guardian if the victim is a minor, or if the victim  
24 has died, the victim's next of kin, as authorized by subdivision (b)  
25 of Section 656.2. Victims' statements shall be considered by the  
26 court to the extent they are relevant to the court's determination  
27 of unfitness.

28 ~~SECTION 1. Section 654.1 of the Penal Code is amended to~~  
29 ~~read:~~

30 ~~654.1. It shall be unlawful for any person, acting individually~~  
31 ~~or as an officer or employee of a corporation, or as a member of~~  
32 ~~a copartnership or as a commission agent or employee of another~~  
33 ~~person, firm or corporation, to sell or offer for sale or, to negotiate,~~  
34 ~~provide or arrange for, or to advertise or hold himself or herself~~  
35 ~~out as one who sells or offers for sale or negotiates, provides or~~  
36 ~~arranges for transportation of a person or persons on an individual~~  
37 ~~fare basis over the public highways of the State of California unless~~  
38 ~~that transportation is to be furnished or provided solely by, and~~  
39 ~~that sale is authorized by, a carrier having a valid and existing~~  
40 ~~certificate of convenience and necessity, or other valid and existing~~

1 ~~permit from the Public Utilities Commission of the State of~~  
2 ~~California, or from the Interstate Commerce Commission of the~~  
3 ~~United States, authorizing the holder of the certificate or permit~~  
4 ~~to provide that transportation.~~

O