

Senate Bill No. 795

Passed the Senate September 1, 2015

Secretary of the Senate

Passed the Assembly August 27, 2015

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1031 of the Government Code, to amend Sections 384a, 849, and 4504 of, and to amend and renumber Section 4131.5 of, the Penal Code, to amend Section 5008 of the Public Resources Code, and to repeal Section 1403 of the Welfare and Institutions Code, relating to public safety.

LEGISLATIVE COUNSEL’S DIGEST

SB 795, Committee on Public Safety. Public Safety Omnibus.

(1) Existing law, when a person is arrested without a warrant, requires the person, if not otherwise released and without unnecessary delay, to be taken before the nearest or most accessible magistrate in the county in which the offense is triable, unless certain exemptions apply, including that the person was arrested for intoxication only and no further proceedings are desirable.

This bill would exempt a person from the requirement of, without unnecessary delay, being taken before the nearest or most accessible magistrate in the county in which the offense is triable if the person is arrested for driving under the influence of alcohol or drugs and the person is delivered to a hospital for medical treatment that prohibits immediate delivery before a magistrate.

(2) Existing law requires the Department of Parks and Recreation to protect the state park system and the state vehicular recreation area and trail system from damage and to preserve the peace therein. Existing law provides that a person who violates the rules and regulations established by the department is guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment, as specified, except that at the time a particular action is commenced, the judge may, considering the recommendation of the prosecuting attorney, reduce the charged offense from a misdemeanor to an infraction. Existing law also requires that a person who is convicted of the offense after that reduction be punished by a fine of not less than \$10 nor more than \$1,000.

This bill would instead make a person who violates those rules and regulations guilty of either a misdemeanor, punishable as provided under existing law, or an infraction, punishable by a fine

of not more than \$1,000. The bill would delete the mandatory minimum fine.

(3) Existing law, the Interstate Compact for Juveniles, adopted by this state and effective until January 1, 2016, establishes an interstate commission of the compacting states to, among other things, oversee, supervise, and coordinate the interstate movement of juveniles.

This bill would delete the repeal date of these provisions, and would thereby extend the operation of the provisions indefinitely.

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

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

SECTION 1. Section 1031 of the Government Code is amended to read:

1031. Each class of public officers or employees declared by law to be peace officers shall meet all of the following minimum standards:

(a) Be a citizen of the United States or a permanent resident alien who is eligible for and has applied for citizenship, except as provided in Section 2267 of the Vehicle Code.

(b) Be at least 18 years of age.

(c) Be fingerprinted for purposes of search of local, state, and national fingerprint files to disclose a criminal record.

(d) Be of good moral character, as determined by a thorough background investigation.

(e) Be a high school graduate, pass the General Education Development Test or other high school equivalency test approved by the State Department of Education that indicates high school graduation level, pass the California High School Proficiency Examination, or have attained a two-year, four-year, or advanced degree from an accredited college or university. The high school shall be either a United States public school, an accredited United States Department of Defense high school, or an accredited or approved public or nonpublic high school. Any accreditation or approval required by this subdivision shall be from a state or local government educational agency using local or state government approved accreditation, licensing, registration, or other approval standards, a regional accrediting association, an accrediting

association recognized by the Secretary of the United States Department of Education, an accrediting association holding full membership in the National Council for Private School Accreditation (NCPSA), an organization holding full membership in AdvancED, an organization holding full membership in the Council for American Private Education (CAPE), or an accrediting association recognized by the National Federation of Nonpublic School State Accrediting Associations (NFSSAA).

(f) Be found to be free from any physical, emotional, or mental condition that might adversely affect the exercise of the powers of a peace officer.

(1) Physical condition shall be evaluated by a licensed physician and surgeon.

(2) Emotional and mental condition shall be evaluated by either of the following:

(A) A physician and surgeon who holds a valid California license to practice medicine, has successfully completed a postgraduate medical residency education program in psychiatry accredited by the Accreditation Council for Graduate Medical Education, and has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued after completion of the psychiatric residency program.

(B) A psychologist licensed by the California Board of Psychology who has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued postdoctorate.

The physician and surgeon or psychologist shall also have met any applicable education and training procedures set forth by the California Commission on Peace Officer Standards and Training designed for the conduct of preemployment psychological screening of peace officers.

(g) This section shall not be construed to preclude the adoption of additional or higher standards, including age.

SEC. 2. Section 384a of the Penal Code is amended to read:

384a. (a) (1) A person shall not willfully or negligently cut, destroy, mutilate, or remove plant material that is growing upon state or county highway rights-of-way.

(2) A person shall not willfully or negligently cut, destroy, mutilate, or remove plant material that is growing upon public land or upon land that is not his or hers without a written permit from the owner of the land, signed by the owner of the land or the owner's authorized agent, as provided in subdivision (c).

(3) A person shall not knowingly sell, offer or expose for sale, or transport for sale plant material that is cut or removed in violation of this subdivision.

(b) For purposes of this section, "plant material" means a tree, shrub, fern, herb, bulb, cactus, flower, huckleberry, or redwood green, or a portion of any of those, or the leaf mold on those plants. "Plant material" does not include a tree, shrub, fern, herb, bulb, cactus, flower, or greens declared by law to be a public nuisance.

(c) (1) The written permit required by paragraph (2) of subdivision (a) shall be signed by the landowner, or the landowner's authorized agent, and acknowledged before a notary public, or other person authorized by law to take acknowledgments. The permit shall contain the number and species of trees and amount of plant material, and shall contain the legal description of the real property as usually found in deeds and conveyances of the land on which cutting or removal shall take place. One copy of the permit shall be filed in the office of the sheriff of the county in which the land described in the permit is located. The permit shall be filed prior to the commencement of cutting or removal of plant material authorized by the permit.

(2) The permit required by this section need not be notarized or filed with the sheriff when five or less pounds of shrubs or boughs are to be cut or removed.

(d) A county or state fire warden; personnel of the Department of Forestry and Fire Protection, as designated by the Director of Forestry and Fire Protection; personnel of the United States Forest Service, as designated by the Regional Forester, Region 5, of the United States Forest Service; or a peace officer of the State of California, may enforce the provisions of this section and may confiscate any and all plant material unlawfully cut or removed or knowingly sold, offered, or exposed or transported for sale as provided in this section.

(e) This section does not apply to any of the following:

(1) An employee of the state or of a political subdivision of the state who is engaged in work upon a state, county, or public road

or highway while performing work under the supervision of the state or a political subdivision of the state.

(2) A person engaged in the necessary cutting or trimming of plant material for the purpose of protecting or maintaining an electric powerline, telephone line, or other property of a public utility.

(3) A person engaged in logging operations or fire suppression.

(f) A violation of this section shall be a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000), by imprisonment in a county jail for not more than six months, or by both that fine and imprisonment.

SEC. 3. Section 849 of the Penal Code is amended to read:

849. (a) When an arrest is made without a warrant by a peace officer or private person, the person arrested, if not otherwise released, shall, without unnecessary delay, be taken before the nearest or most accessible magistrate in the county in which the offense is triable, and a complaint stating the charge against the arrested person shall be laid before the magistrate.

(b) A peace officer may release from custody, instead of taking the person before a magistrate, a person arrested without a warrant in the following circumstances:

(1) The officer is satisfied that there are insufficient grounds for making a criminal complaint against the person arrested.

(2) The person arrested was arrested for intoxication only, and no further proceedings are desirable.

(3) The person was arrested only for being under the influence of a controlled substance or drug and the person is delivered to a facility or hospital for treatment and no further proceedings are desirable.

(4) The person was arrested for driving under the influence of alcohol or drugs and the person is delivered to a hospital for medical treatment that prohibits immediate delivery before a magistrate.

(c) The record of arrest of a person released pursuant to paragraphs (1) and (3) of subdivision (b) shall include a record of release. Thereafter, the arrest shall not be deemed an arrest, but a detention only.

SEC. 4. Section 4131.5 of the Penal Code is amended and renumbered to read:

243.15. Every person confined in, sentenced to, or serving a sentence in, a city or county jail, industrial farm, or industrial road camp in this state, who commits a battery upon the person of any individual who is not himself or herself a person confined or sentenced therein, is guilty of a public offense and is subject to punishment by imprisonment pursuant to subdivision (h) of Section 1170, or in a county jail for not more than one year.

SEC. 5. Section 4504 of the Penal Code is amended to read:

4504. For purposes of this chapter:

(a) A person is deemed confined in a “state prison” if he or she is confined in any of the prisons and institutions specified in Section 5003 by order made pursuant to law, including, but not limited to, commitments to the Department of Corrections and Rehabilitation or the Department of Corrections and Rehabilitation, Division of Juvenile Justice, regardless of the purpose of the confinement and regardless of the validity of the order directing the confinement, until a judgment of a competent court setting aside the order becomes final.

(b) A person is deemed “confined in” a prison although, at the time of the offense, he or she is temporarily outside its walls or bounds for the purpose of serving on a work detail, for the purpose of confinement in a local correctional institution pending trial, or for any other purpose for which a prisoner may be allowed temporarily outside the walls or bounds of the prison. A prisoner who has been released on parole is not deemed “confined in” a prison for purposes of this chapter.

SEC. 6. Section 5008 of the Public Resources Code is amended to read:

5008. (a) The department shall protect the state park system and the state vehicular recreation area and trail system from damage and preserve the peace therein.

(b) The director may designate any officer or employee of the department as a peace officer. The primary duties of the peace officer shall be the enforcement of this division, Sections 4442 and 4442.5, the rules and regulations of the department, Chapter 5 (commencing with Section 650) of Division 3 of the Harbors and Navigation Code, the rules and regulations of the Division of Boating and Waterways within the department, Chapter 2 (commencing with Section 9850) of Division 3.5 of the Vehicle Code, and Division 16.5 (commencing with Section 38000) of the

Vehicle Code and to arrest persons for the commission of public offenses within the property under its jurisdiction. The authority and powers of the peace officer shall be limited to those conferred by law upon peace officers listed in Section 830.2 of the Penal Code.

(c) The department shall protect property included in the California recreational trail system and the property included in the recreational trail system under Section 6 of Chapter 1234 of the Statutes of 1980 from damage and preserve the peace therein. The primary duties of any officer or employee designated a peace officer under this section shall include enforcement of the rules and regulations established by the department and the arrest of persons for the commission of public offenses within the property included in the recreational trail system under Section 6 of Chapter 1234 of the Statutes of 1980.

(d) Any person who violates the rules and regulations established by the department is guilty of either a misdemeanor, punishable by imprisonment in the county jail not exceeding 90 days, or by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment, or an infraction punishable by a fine of not more than one thousand dollars (\$1,000).

SEC. 7. Section 1403 of the Welfare and Institutions Code is repealed.

Approved _____, 2015

Governor