AMENDED IN SENATE JUNE 25, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 1483

Introduced by Committee on Budget (Blumenfield (Chair), Alejo, Bonilla, Brownley, Buchanan, Butler, Cedillo, Chesbro, Dickinson, Feuer, Gordon, Huffman, Mitchell, Monning, and Swanson)

January 10, 2012

~~An act relating to the Budget Act of 2012.~~ *An act to amend Sections 29550, 29552, 30061, 30062, 30063, and 30070 of, and to repeal Sections 29553, 30064, 30065, and 30071 of, the Government Code, to amend Section 11353.7 of the Health and Safety Code, to amend Sections 186.9, 288.2, 296.1, 417.6, 476a, 647.6, 653f, 667.5, 669, 802, 830.5, 836.6, 1170, 1203.018, 1203.2, 1203.3, 1203.9, 3000, 3000.03, 3000.08, 3000.09, 3000.1, 3001, 3004, 3041.1, 3053.2, 3053.4, 3056, 3059, 3060.5, 3060.6, 3067, 3452, 3453, 3455, 4024.1, 4115.55, 4536, 7510, 7519, 7520, 7521, 11105, 12022.1, 13300, 13821, 13826.1, 13826.15, 13826.2, 13826.3, 13826.4, 13826.5, 13826.6, 13826.62, 13848.2, 13848.4, 14171, 14173, 14181, 19100, 19200, 20110, 20310, 20410, 20510, 20610, 20710, 20910, 21110, 21310, 21810, 22010, 22210, 22410, 24310, 24410, 24510, 24610, 24710, 30210, 31360, 31500, 32310, 32900, 33215, and 33600 of, to amend, repeal, and add Section 3060.7 of, to add Sections 19.9 and 3456.5 to, and to repeal Sections 13848.6, 13887.5, 14175, and 14183 of, the Penal Code, to amend Section 2800.4 of the Vehicle Code, and to amend Sections 10980, 18220, and 18220.1 of the Welfare and Institutions Code, relating to public safety, and making an appropriation therefor, to take effect immediately, bill related to the budget.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1483, as amended, Committee on Budget. ~~Budget Act of 2012.~~ *Public safety: realignment.*

(1) Existing law, for purposes of the crime of money laundering, defines criminal activity to mean a criminal offense punishable by the laws of the state by death or imprisonment in the state prison.

This bill would include in the definition of criminal activity a criminal offense punishable by imprisonment in county jail for more than one year. By changing the definition of a crime, this bill would impose a state-mandated local program.

(2) Existing law defines a felony as a crime that is punishable by death, imprisonment in the state prison, or imprisonment in a county jail for more than one year. Existing law also provides exceptions to imprisonment in a county jail for a variety of felonies, including serious or violent felonies and any felony for which registration as a sex offender is required, among other exceptions. Under existing law, when a court commits a person to county jail for a felony, the court has the option of committing that person for the full term of his or her sentence or suspending execution of a concluding portion of the term, during which time the defendant shall be supervised by the county probation officer in accordance with the terms, conditions, and procedures generally applicable to persons placed on probation. Existing law provides for the revocation of probation, as specified.

This bill would define mandatory supervision as the portion of the term that a defendant serves under supervision in compliance with the above provision. The bill would, for those crimes defined as serious or violent crimes or crimes for which registration as a sex offender is required, specify that the sentence is to be served in state prison.

The bill would require the revocation or modification of mandatory supervision to be made pursuant to provisions of existing law providing for the revocation of probation as well as make the provisions for the revocation of probation applicable to the revocation of postrelease community supervision and parole. The bill would make related conforming changes.

(3) Existing law establishes a program of postrelease community supervision for certain persons who are released from prison or whose sentence has been deemed served after serving a prison term for a felony. Existing law requires that these persons enter into a postrelease community supervision agreement as a condition of their release.

Existing law includes specified provisions relating to a person who is on parole or probation, including HIV testing and release of summary criminal history information to the attorney representing the person.

This bill would include a person who is subject to mandatory supervision or postrelease community supervision in specified provisions applicable to persons on parole and probation. The bill would require a person who is eligible for postrelease community supervision to be given notice that they are subject to postrelease community supervision prior to release and would remove the requirement for the person to enter into a postrelease community supervision agreement.

(4) Existing law requires prisoners on parole to remain under the supervision of the Department of Corrections and Rehabilitation but prohibits them from being returned to prison except under specified circumstances.

This bill would authorize a parolee awaiting parole revocation processing to be housed in a county jail in the county where he or she was arrested or the county in which a petition to revoke parole has been filed or, if there is no county jail, in a county with which the arresting county has contracted while awaiting revocation proceedings or to be placed in an alternative custody program under the sole jurisdiction of the county. The bill would also authorize the housing of a juvenile who is awaiting parole revocation in a facility of the Division of Juvenile Facilities.

(5) Under existing law, when a person is convicted of 2 or more crimes, the 2nd or subsequent judgment upon which sentence is ordered to be executed is required to direct whether the terms of imprisonment run concurrently or consecutively.

This bill would require, whenever a court imposes a concurrent term of imprisonment in the state prison for any one crime, the terms for all other crimes for which the person is convicted be served in state prison.

(6) Existing law, as amended by Proposition 69, approved by the voters at the November 2, 2004, statewide general election, subjects certain offenders to the collection of buccal swab samples, right thumbprints, a full palm print impression of each hand, and blood specimens or other biological samples for law enforcement identification analysis. Existing law requires these samples to be collected from any person on probation, parole, or other release, including any juvenile, who has a record of any past or present conviction for specified offenses and who is on probation or parole for any felony or misdemeanor offense, provided certain specified qualifications are met. Proposition

69 may be amended by a statute that is passed by each house of the Legislature and signed by the Governor, if the amendments further the purpose of the proposition and enhance the use of DNA identification evidence, for the purposes of accurate and expeditious crime-solving and exonerating the innocent.

This bill would include, in addition to offenders on probation or parole, any person, including a juvenile, who meets the above criteria and who is on postrelease community supervision or mandatory supervision.

Because this bill would impose additional duties on local agencies to collect these samples, this bill would impose a state-mandated local program.

(7) Existing law requires incarceration in a county jail for certain specified felonies, and authorizes the court, when imposing a felony sentence to be served in county jail, to commit the defendant to a full term in custody, or, in the court's discretion, to suspend execution of a concluding portion of the term during which the defendant is supervised by the county probation officer for the remaining unserved portion of the sentence. Existing law provides that this period of supervision shall be mandatory, and may not be earlier terminated by the court. Existing law provides that a suspended sentence imposed pursuant to these provisions qualifies as a prior county jail term for purposes of imposing a one-year sentence enhancement when the term is suspended by the court to allow postrelease supervision.

This bill would clarify this provision as imposing the one-year sentence enhancement because of a prior term that was suspended by the court to allow for mandatory supervision rather than postrelease supervision.

(8) Existing law provides that during the period when a defendant is under mandatory supervision that the defendant is entitled only to actual time credit against the term of imprisonment imposed by the court.

This bill would specify that any time period which is suspended because a person has absconded would not be credited toward the period of supervision.

(9) Except as provided, existing law requires that prosecution for an offense punishable in state prison or in a county jail for more than one year be commenced within 3 years of the offense.

This bill would make a conforming change by clarifying that prosecution for an offense not punishable by imprisonment in a county *jail for a felony conviction shall be commenced within one year after the commission of the offense.*

(10) Existing law provides for the punishment of certain felonies by imprisonment in a county jail for a term exceeding one year. Notwithstanding these provisions, existing law requires that certain defendants with current or prior serious or violent felonies, or who are required to register as sex offenders, serve their sentences in state prison.

This bill would also require a sentence to be served in state prison for a defendant who has a prior juvenile adjudication for a violent or serious felony, or certain other enumerated felonies, that was committed when the defendant was 16 years of age or older. This bill would make additional clarifying changes providing for the punishment of specified felonies in a county jail.

(11) Existing law allows the supervisors of any county to authorize an electronic monitoring program for inmates being held in lieu of bail in a county jail, provided that the inmate has no holds or outstanding warrants and has either been held in custody for at least 30 calendar days from the date of arraignment pending disposition of only misdemeanor charges, or has been held in custody pending disposition of charges for at least 60 calendar days from the date of arraignment.

This bill would additionally allow an inmate to qualify for participation in the electronic monitoring program if the inmate is appropriate for the program based on a determination by the correctional administrator that the inmate's participation would be consistent with the public safety interests of the community.

(12) Existing law requires that any parolee who was paroled from state prison prior to October 1, 2011, upon completion of a revocation term on or after November 1, 2011, to either remain under parole supervision of the Department of Corrections and Rehabilitation or be placed on postrelease community supervision.

This bill would require that any person on postrelease community supervision after serving a term for a parole revocation pursuant to these provisions serve a period of postrelease supervision that is no longer than the time period for which the person would have served if the person had remained on parole.

(13) Except as provided, existing law provides that a parolee may be housed in a county jail for a maximum of 180 days upon revocation of parole. Existing law also provides for sanctions or revocation of postrelease community supervision, and provides that confinement

following these actions shall not exceed a period of 180 days in county jail.

This bill would clarify that the maximum 180 days in county jail for a parole revocation or postrelease community supervision sanction or revocation applies per parole revocation or for each custodial sanction.

(14) Existing law provides for postrelease community supervision for all persons released from prison on and after October 1, 2011, who did not serve a prison term for a violent or serious felony, or a crime where the person was classified as a High Risk Sex Offender, among others.

This bill would provide that the local supervising agency for purposes of postrelease community supervision, in coordination with the sheriff or local correction administrator, may require any person released onto postrelease community supervision to report to a supervising agent or designated local supervising agency within 2 days of release from the county jail. The bill would specify that this provision does not prohibit the local supervising agency from requiring the person to report to his or her assigned supervising agent within a time period that is less than 2 days from the time of release. The bill would provide that the sheriff or local correctional administrator may release an inmate sentenced prior to the effective date of the act adding these provisions one or 2 days before his or her scheduled release date if the inmate's release date falls on the day before a holiday or weekend.

(15) Existing law provides, if authorized by a court as specified, that when the actual inmate count exceeds the actual bed capacity of a county or city jail, that the person responsible for the jail may accelerate the release of sentenced inmates up to a maximum of 5 days.

This would allow for the acceleration of release up to a maximum of 30 days.

(16) Various provisions of existing law provide for the testing of persons in the criminal justice system for HIV and provides procedures regarding exposure to bodily fluids. Existing law applies these provisions to persons on parole or probation.

This bill would also make these provisions applicable to persons on mandatory supervision or postrelease community supervision.

Because this bill would impose additional duties on local agencies in regard to testing for HIV for persons on mandatory supervision and postrelease community supervision, the bill would impose a state-mandated local program.

(17) Existing law requires the Department of Justice to maintain state summary criminal history information and to make it available to a public defender or attorney of record when representing a person in a criminal case or a parole revocation or revocation extension hearing.

This bill would require the Department of Justice to make the state summary criminal history information available to the public defender or attorney of record when representing someone in a postrelease community supervision or mandatory supervision revocation or revocation extension proceeding.

(18) Existing law requires a local agency to furnish local summary criminal history information to a public defender or attorney of record when representing a person in a criminal case and when authorized access by statutory or decisional law.

This bill would additionally require the local agency to furnish the local summary criminal history information to a public defender or attorney of record when representing a person in a parole, postrelease community supervision, or mandatory supervision revocation or revocation extension proceeding.

By imposing new duties on local agencies, this bill would impose a state-mandated local program.

(19) Existing law authorizes each of the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare to develop within its respective jurisdiction a Central Valley Rural Crime Prevention Program, to be administered by the county district attorney's office of each respective county under a joint powers agreement with the corresponding county sheriff's office, as provided. Existing law makes these provisions inoperative on July 1, 2012, and repeals these provisions January 1, 2013.

Existing law authorizes the Counties of Monterey, San Luis Obispo, Santa Barbara, Santa Cruz, and San Benito to each develop within their respective jurisdictions a Central Coast Rural Crime Prevention Program, to be administered by the county district attorney's office of each respective county under a joint powers agreement with the corresponding county sheriff's office, as provided. Existing law makes these provisions inoperative on July 1, 2013, and repeals these provisions January 1, 2014.

This bill would delete the provisions repealing the authorization for these programs, thereby making the programs operative indefinitely.

(20) Existing law authorizes a county to impose a fee, not to exceed ½ of the actual administrative costs, upon a city, special district, school district, community college district, college, or university for reimbursement of county expenses incurred with respect to the processing of persons arrested by an employee of the city, special district, school district, community college district, college, or university when the arrestee is brought to the county jail for booking or detention. Existing law requires the county to adopt any increase in this fee prior to the beginning of its fiscal year and only after 45 days' written notice to the affected entities of a public meeting on the fee increase and the holding of the public meeting.

This bill would no longer limit fee increases to the beginning of a fiscal year and would remove the notice and public meeting requirements for the county.

(21) Under existing law, cities and counties that charge fees to a city, special district, school district, community college district, college, or university as specified above, are authorized to apply to the Controller to receive funding that is equal to the fee revenue received by the city or county during the 2006–07 fiscal year, to the extent funding is appropriated, or proportional to other entities if funding is insufficient. Existing law, commencing with the 2009–10 fiscal year, funds these payments from the Local Safety and Protection Account in the Transportation Tax Fund and, commencing with the 2011–12 fiscal year, funds the payments with a $35,000,000 appropriation from the Local Law Enforcement Services Account in the Local Revenue Fund 2011.

This bill would, commencing with the 2012–13 fiscal year, allocate funds as specified from the Enhancing Law Enforcement Activities Subaccount. The bill would appropriate, for the 2012–13 fiscal year and beyond, moneys that previously came from the Local Law Enforcement Services Account from the Enhancing Law Enforcement Activities Subaccount.

(22) Existing law requires each county to establish in the county treasury a Supplemental Law Enforcement Services Account (SLESA) for the receipt and allocation of funds for specified local law enforcement purposes, including jail construction and operation, criminal prosecution, and juvenile justice plans. Under existing law, funds that are unspent or which were allocated to an entity that did not qualify for receipt of the funds are required to be returned to the originating account. Existing law requires each county to establish a

Supplemental Law Enforcement Oversight Committee (SLEOC) to determine whether the recipient entities have expended moneys received from the SLESA appropriately. Existing law requires city and county auditors and treasurers to submit specified information on the allocations from the SLESA and to the SLEOC and requires a summary of the reports to be submitted to the Controller and other entities by each SLEOC.

This bill would make specified changes in the procedures by which counties and other local entities distribute the funds placed in the SLESA, including removing the requirement for each county to have a SLEOC and would remove the above reporting requirements for cities and counties expending SLESA moneys. The bill would also, for the 2012–13 fiscal year, appropriate 21.86% of the Enhancing Law Enforcement Activities Subaccount in the Local Revenue Fund 2011 for adult programs funded by the county SLESA funds and 21.86% to fund juvenile justice plans funded through the SLESA. The bill would remove the requirement for counties or other local entities eligible for these funds to return unspent funds or funds for which the entity did not qualify in the fiscal year. The bill would also make conforming changes.

(23) Existing law appropriates 12.68% of the Local Safety Protection Account in the Transportation Fund to the California Emergency Management Agency (CalEMA). Additionally, for the 2011–12 fiscal year, existing law requires the allocation of 9% of the Local Law Enforcement Services Account to the CalEMA for use as specified, including, but not limited to, the California Multi-Jurisdictional Methamphetamine Enforcement Teams, Multi-Agency Gang Enforcement Consortium, and the Sexual Assault Felony Enforcement Teams.

This bill would, commencing with the 2012–13 fiscal year, allocate 8.35% of the Enhancing Law Enforcement Activities Subaccount for use by the specified programs described above.

(24) Existing law establishes in the Board of State and Community Corrections, the Gang Violence Suppression Program to provide technical and financial assistance for district attorney's offices, local law enforcement agencies, county probation departments, school districts, county offices of education, or community-based organizations that are primarily engaged in the suppression of gang violence. Funds awarded pursuant to this program are not to supplant local funds that

would ordinarily fund the activities. Existing law sets forth guidelines and criteria for funding gang suppression programs.

This bill would remove the priority guidelines for funding gang suppression programs and would make the conditions for participation voluntary instead of mandatory.

(25) Existing law establishes in the CalEMA a program of financial aid and technical assistance for law enforcement and district attorneys' offices, designated as the High Technology Theft Apprehension and Prosecution Program. Moneys appropriated to this program are required to be spent to fund programs that expand the capacity of local law enforcement and prosecutors to deter, investigate, and prosecute high-technology-related crimes. Existing law provides that up to 10% of the funds appropriated to the program may be used for developing and maintaining a statewide database on high technology crime, as provided, and that the Secretary of California Emergency Management may allocate and award up to 5% of the funds to be made available to public agencies or private nonprofit organizations for the purposes of establishing statewide programs relating to deterring, investigating, and prosecuting high technology crimes.

Existing law establishes the High Technology Crime Advisory Committee for the purpose of formulating a comprehensive written strategy for addressing high-technology crime in the state and advising the CalEMA on distribution of funds to regional task forces pursuant to the High Technology Theft Apprehension and Prosecution Program.

This bill would dissolve the High Technology Crime Advisory Committee and remove the High Technology Theft Apprehension and Prosecution Program from the CalEMA. This bill would remove the 10% limitation on the use of the funds for the statewide database on high technology crime and the 5% limitation on the use of funds for the establishment of statewide programs relating to high technology crimes and would specify funds to be allocated to the Department of Justice and the California District Attorneys Association that may be used to fund these programs, as specified.

(26) Existing law authorizes the establishment of the Central Valley Rural Crime Prevention Program and the Central Coast Rural Crime Prevention Program, until July 1, 2012, and July 1, 2013, respectively, administered by the county district attorney's office of each county under a joint powers agreement with the corresponding sheriff's office. Existing law requires the parties to the agreement to form a joint task force that includes specified parties, including the county district

attorney, the county sheriff, and interested property owner groups or associations. Existing law prescribes requirements for the program implementation by the counties.

This bill would extend the above programs indefinitely, would authorize the county sheriff's department to administer the program, and would make the specific provisions of the rural crime prevention programs voluntary instead of mandatory.

(27) Existing law appropriates 30.19% of the Local Safety and Protection Account in the Transportation Fund to serve children who are habitual truants, runaways, at risk of being wards of the court, or under juvenile court supervision or supervision of the probation department. Existing law, for the 2011–12 fiscal year, appropriates 33.38% of the Local Law Enforcement Services Account for this purpose.

This bill would appropriate, commencing with the 2012–13 fiscal year, 30.99% of the Enhancing Law Enforcement Activities Subaccount to serve children who are habitual truants, runaways, at risk of being wards of the court, or under juvenile court supervision or supervision of the probation department, as prescribed.

(28) Existing law appropriates 6.47% of the Local Law Enforcement Services Account among counties that operate juvenile camps and ranches, based on the number of beds in each camp.

This bill, commencing with the 2012–13 fiscal year, would appropriate 6.01% of the funds in the Enhancing Law Enforcement Activities Subaccount for this purpose.

(29) Existing law makes it a crime to carry an explosive substance, other than fixed ammunition, concealed on the person, or to manufacture, import, provide, or possess any metal military practice handgrenade or metal replica handgrenade, air gauge knife, belt buckle knife, cane sword, lipstick case knife, shobi-zue, writing pen knife, ballistic knife, dirk, dagger, metal knuckles, nanchaku, leaded cane, shuriken, camouflaging firearm container, cane gun, firearm not immediately recognizable as a firearm, undetectable firearm, wallet gun, ammunition containing or consisting of any flechette dart, bullet containing or carrying an explosive agent, unconventional pistol, large-capacity magazine, multiburst trigger activator, short-barreled rifle, short-barreled shotgun, or zip gun. Under existing law these crimes are punishable either as misdemeanors punishable by imprisonment in a county jail not exceeding one year or as felonies punishable by imprisonment in the state prison for 16 months, or 2 or 3 years.

This bill would instead make these crimes punishable as misdemeanors by imprisonment in a county jail not exceeding one year, or as felonies punishable in a county jail for 16 months, or 2 or 3 years. By imposing additional incarceration costs on local agencies, this bill would impose a state-mandated local program.

(30) Existing law requires that for certain specified offenders, including offenders convicted of a serious or violent felony, and persons classified as a High Risk Sex Offender, among others, the period of parole shall not exceed five years in the case of any inmate imprisoned for any offense other than first or second degree murder for which the inmate received a life sentence, and shall not exceed 3 years in the case of any other inmate, unless the Board of Parole Hearings for good cause waives parole and discharges the inmate from custody of the department. Existing law requires that at the expiration of a term of imprisonment of one year and one day, or at the expiration of a determinate sentence, the inmate shall be released on parole for a period not exceeding 3 years, except that any inmate sentenced for certain specified serious felonies shall be released on parole for a period not exceeding 10 years. Existing law provides that the sole authority to issue warrants for the return to actual custody of any state prisoner released on parole rests with the Board of Parole Hearings.

This bill would make these provisions applicable to any inmate described above who is sentenced for a crime committed prior to July 1, 2013. On and after July 1, 2013, the bill would provide that the period of parole shall be imposed as specified unless waived by the Department of Corrections and Rehabilitation. The bill would require, for a crime committed on or after July 1, 2013, that at the expiration of a term of imprisonment of one year and one day, or for a determinate sentence, the inmate would be released on parole for a period of 3 years, except that any inmate sentenced for specified serious felonies would be released on parole for a period of 10 years.

The bill would require the department to consider the request of an inmate whose commitment offense occurred on or after July 1, 2013, regarding the length of his or her parole and the conditions thereof, except that for persons sentenced to life would be considered by the Board of Parole Hearings. The bill would provide that on or after July 1, 2013, the sole authority to issue warrants for the return to actual custody of any state prisoner released on parole would rest with a court pursuant to provisions providing for the revocation of probation.

The bill would require that a person released from prison prior to or on or after July 1, 2013, after serving a prison term, or whose sentence was deemed served after earning credits, for a serious or violent felony, or for a crime for which the person is classified as a High Risk Sex Offender, among other crimes, who is eligible for release on parole for a period of 3 years or 10 years pursuant to the above provisions, who is required to register as a sex offender pursuant to the Sex Offender Registration Act or who was imprisoned for committing a serious felony, who has been released from state prison, and who has been on parole continuously for one year since release from confinement, to be discharged from parole within 30 days, unless the Department of Corrections and Rehabilitation recommends to the Board of Parole Hearings that the person be retained on parole and the board, for good cause, determines that the person will be retained. The bill would require the department to submit recommendations to the Board of Parole Hearings for any person described in these provisions who has been released from state prison from October 1, 2010, to the effective date of this bill, and who has been on parole continuously for one year since his or her release from confinement. The bill would require that a person who meets this criteria who is not retained on parole by the Board of Parole Hearings by the 91st day after the effective date of this bill to be discharged from parole.

(31) Existing law requires the parole authority to revoke the parole of any prisoner who refuses to sign a parole agreement setting forth the general and any special conditions applicable to the parole, among other things. Existing law prohibits the Department of Corrections and Rehabilitation from returning prison, placing a parole hold on, or reporting a parole violation regarding any person to whom specified criteria apply, including that the person did not refuse to sign the written notification of parole requirements and conditions.

This bill would remove the requirement that the prisoner sign a parole agreement. The bill would instead require that the inmate be given notice that he or she is subject to terms and conditions of his or her release from prison. The bill would require the notice to include the person's release date and maximum period the person may be subject to supervision, and advisement that if the person violates any laws or conditions of his or her release that he or she may be incarcerated, as provided, and an advisement that he or she is subject to search or seizure by a probation or parole officer or other peace officer at any *time day or night, with or without a search warrant or with or without cause.*

(32) Existing law provides that the Governor may request review of any decision by a parole authority concerning the grant or denial of parole to any inmate in a state prison, and requires a randomly selected committee comprised of 9 commissioners specifically appointed to hear adult parole matters to review the parole decision.

This bill would instead require the Governor's request to be reviewed by a majority of the commissioners.

(33) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(34) This bill would appropriate $1,000 from the General Fund to the Department of Corrections and Rehabilitation for the purpose of administration.

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

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.~~

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

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

SECTION 1. This act is entitled and may be cited as 2011 Realignment Legislation.

SEC. 2. The Legislature finds and declares all of the following:

(a) It is the intent of the Legislature in enacting this act to provide for a uniform supervision revocation process for petitions to revoke probation, mandatory supervision, postrelease community supervision, and parole.

(b) By amending subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170, subdivision (f) of Section 3000.08,

and subdivision (a) of Section 3455 of the Penal Code to apply to probation revocation procedures under Section 1203.2 of the Penal Code, it is the intent of the Legislature that these amendments simultaneously incorporate the procedural due process protections held to apply to probation revocation procedures under Morrissey v. Brewer (1972) 408 U.S. 471, and People v. Vickers (1972) 8 Cal.3d 451, and their progeny.

SEC. 3. Section 29550 of the Government Code is amended to read:

29550. (a) (1) Subject to subdivision (d) of Section 29551, a county may impose a fee upon a city, special district, school district, community college district, college, or university for reimbursement of county expenses incurred with respect to the booking or other processing of persons arrested by an employee of that city, special district, school district, community college district, college, or university, where the arrested persons are brought to the county jail for booking or detention. The fee imposed by a county pursuant to this section shall not exceed the actual administrative costs, including applicable overhead costs as permitted by federal Circular A-87 standards, as defined in subdivision (d), incurred in booking or otherwise processing arrested persons. For the 2005–06 fiscal year and each fiscal year thereafter, the fee imposed by a county pursuant to this subdivision shall not exceed one-half of the actual administrative costs, including applicable overhead costs as permitted by federal Circular A-87 standards, as defined in subdivision (d), incurred in booking or otherwise processing arrested persons. A county may submit an invoice to a city, special district, school district, community college district, college, or university for these expenses incurred by the county on and after July 1, 1990. Counties shall fully disclose the costs allocated as federal Circular A-87 overhead.

~~(2) Any increase in a fee charged pursuant to this section shall be adopted by a county prior to the beginning of its fiscal year and may be adopted only after the county has provided each city, special district, school district, community college district, college, or university 45 days written notice of a public meeting held pursuant to Section 54952.2 on the fee increase and the county has conducted the public meeting.~~

~~(3)~~

(2) Any county that imposes a fee pursuant to this section shall negotiate a reduced fee with any city, special district, school district, community college district, college, or university within the county for any services that are performed by the arresting agency in the processing of arrestees that do not have to be duplicated by the county.

~~(4)~~

(3) This subdivision shall not apply to counties that are under a contractual agreement with a city, special district, school district, community college district, college, or university within the county that is subject to the fee.

(b) The exemption of a local agency from the payment of a fee pursuant to this subdivision does not exempt the person arrested from the payment of fees for booking or other processing.

(1) Notwithstanding subdivision (a), a city, special district, school district, community college district, college, or university shall not be charged fees for arrests on any bench warrant for failure to appear in court, nor on any arrest warrant issued in connection with a crime not committed within the entity's jurisdiction.

(2) Notwithstanding subdivision (a), a city, special district, school district, community college district, college, or university shall not be charged fees for a person who is ordered by a court to be remanded to the county jail except that a county may charge a fee to recover those direct costs for those functions required to book a person pursuant to subdivision (g) of Section 853.6 of the Penal Code.

(3) Notwithstanding subdivision (a), a city, special district, school district, community college district, college, or university shall not be charged fees for arrests made pursuant to arrest warrants originating outside of its jurisdiction.

(4) Notwithstanding subdivision (a), no fees shall be charged to a city, special district, school district, community college district, college, or university on parole violation arrests or probation-ordered returns to custody, unless a new charge has been filed for a crime committed in the jurisdiction of the arresting city, district, college, or university.

(5) An agency making a mutual aid request shall pay fees in accordance with subdivision (a) that result from arrests made in response to the mutual aid request except that in the event the

Governor declares a state of emergency, no agency shall be charged fees for any arrest made during any riot, disturbance, or event that is subject to the declaration.

(6) Notwithstanding subdivision (a), no fees shall be charged to a city, special district, school district, community college district, college, or university for the arrest of a prisoner who has escaped from a county, state, or federal detention or corrections facility.

(7) Notwithstanding subdivision (a), no fees shall be charged to a city, special district, school district, community college district, college, or university for arrestees held in temporary detention at a court facility for purposes of arraignment when the arrestee has been previously booked at an entity detention facility.

(8) Notwithstanding subdivision (a), no fees shall be charged to a city, special district, school district, community college district, college, or university as the result of an arrest made by its officer assigned to a formal multiagency task force in which the county is a participant. For the purposes of this section, "formal task force" means a task force that has been established by written agreement of the participating agencies.

(9) In those counties where the cities and the county participate in a consolidated booking program and where prior to arraignment an arrestee is transferred from a city detention facility to a county detention facility, the city shall not be charged for those tasks listed in subdivision (d) that are a part of the consolidated booking program which were completed by the city prior to delivering the arrestee to the county detention facility. However, the county may charge the actual administrative costs for those additional tasks listed in subdivision (d) that are performed in order to receive the arrestee into the county detention facility. For the 2005–06 fiscal year and each fiscal year thereafter, the county may charge up to one-half of the actual administrative costs for those additional tasks listed in subdivision (d) that are performed in order to receive the arrestee into the county detention facility.

(c) Any county whose officer or agent arrests a person is entitled to recover from the arrested person a criminal justice administration fee for administrative costs it incurs in conjunction with the arrest if the person is convicted of any criminal offense related to the arrest, whether or not it is the offense for which the person was originally booked. The fee which the county is entitled to recover pursuant to this subdivision shall not exceed the actual administrative costs, including applicable overhead costs incurred in booking or otherwise processing arrested persons.

(d) When the court has been notified in a manner specified by the court that a criminal justice administration fee is due the agency:

(1) A judgment of conviction may impose an order for payment of the amount of the criminal justice administration fee by the convicted person, and execution may be issued on the order in the same manner as a judgment in a civil action, but shall not be enforceable by contempt.

(2) The court shall, as a condition of probation, order the convicted person, based on his or her ability to pay, to reimburse the county for the criminal justice administration fee, including applicable overhead costs.

(e) As used in this section, "actual administrative costs" include only those costs for functions that are performed in order to receive an arrestee into a county detention facility. Operating expenses of the county jail facility including capital costs and those costs involved in the housing, feeding, and care of inmates shall not be included in calculating "actual administrative costs." "Actual administrative costs" may include the cost of notifying any local agency, special district, school district, community college district, college or university of any change in the fee charged by a county pursuant to this section. "Actual administrative costs" may include any one or more of the following as related to receiving an arrestee into the county detention facility:

(1) The searching, wristbanding, bathing, clothing, fingerprinting, photographing, and medical and mental screening of an arrestee.

(2) Document preparation, retrieval, updating, filing, and court scheduling related to receiving an arrestee into the detention facility.

(3) Warrant service, processing, and detainer.

(4) Inventory of an arrestee's money and creation of cash accounts.

(5) Inventory and storage of an arrestee's property.

(6) Inventory, laundry, and storage of an arrestee's clothing.

(7) The classification of an arrestee.

(8) The direct costs of automated services utilized in paragraphs (1) to (7), inclusive.

(9) Unit management and supervision of the detention function as related to paragraphs (1) to (8), inclusive.

(f) An administrative screening fee of twenty-five dollars ($25) shall be collected from each person arrested and released on his or her own recognizance upon conviction of any criminal offense related to the arrest other than an infraction. A citation processing fee in the amount of ten dollars ($10) shall be collected from each person cited and released by any peace officer in the field or at a jail facility upon conviction of any criminal offense, other than an infraction, related to the criminal offense cited in the notice to appear. However, the court may determine a lesser fee than otherwise provided in this subdivision upon a showing that the defendant is unable to pay the full amount. All fees collected pursuant to this subdivision shall be transmitted by the county auditor monthly to the Controller for deposit in the General Fund. This subdivision applies only to convictions occurring on or after the effective date of the act adding this subdivision and prior to June 30, 1996.

SEC. 4. Section 29552 of the Government Code is amended to read:

29552. (a) (1) Commencing with the 2007–08 fiscal year, all counties and cities and counties that charged fees pursuant to Section 29550 and cities with Type One detention facilities that charged fees pursuant to Section 29550.3 during the 2006–07 fiscal year may apply to the Controller to receive funding provided pursuant to subdivision (b) that is equal to the fee revenue received by the county, city and county, or city during the 2006–07 fiscal year, to the extent that funding is appropriated therefore in the annual budget act or other appropriation legislation. If insufficient funds are appropriated to equal the full amount of fees received in the 2006–07 fiscal year, each county, city and county and city that applies for funding shall receive a share of the appropriated funds proportionate to the share of fees it received in the 2006–07 fiscal year compared to the statewide total reported to the Controller.

(2) The remaining portion of any amount appropriated for purposes of this section shall be paid proportionally to all counties, cities and counties, and cities based on the number of bookings within each county during the year previous to the current payment.

(b) *Commencing with the 2011–12 fiscal year, payments authorized by this section shall be fully funded from the Local Law Enforcement Services Account in the Local Revenue Fund 2011.* The Controller shall allocate *thirty-five million dollars ($35,000,000) of* the ~~funds authorized for~~ *moneys annually deposited in* the ~~purposes of this section on a quarterly basis commencing October 1, 2009, to all eligible counties, cities and counties, and cities. Any city, county, or city and county that applies for funding pursuant to this section shall comply with all requests for information made by the Controller.~~ *Local Law Enforcement Services Account in the Local Revenue Fund 2011 for purposes of these payments.*

(c) Commencing with the 2012–13 fiscal year, the Controller shall allocate funds from the Enhancing Law Enforcement Activities Subaccount as follows:

Alameda County	*$2,319,980*
Amador County	*$21,403*
City of Baldwin Park	*$4,539*
Butte County	*$113,887*
Calaveras County	*$8,559*
Colusa County	*$7,017*
Contra Costa County	*$1,897,056*
Del Norte County	*$37,501*
El Dorado County	*$89,793*
City of Fremont	*$250,268*
Fresno County	*$1,409,727*
Glenn County	*$47,036*
City of Hayward	*$11,098*
Humboldt County	*$384,311*
Inyo County	*$3,522*
Kern County	*$732,680*
Kings County	*$120,140*
Lake County	*$84,030*
Lassen County	*$24,041*
Los Angeles County	*$676,989*
Madera County	*$124,054*
Marin County	*$222,060*
Mendocino County	*$138,730*

Merced County	*$219,669*
Modoc County	*$3,244*
Monterey County	*$613,463*
City of Monterey	*$4,880*
Napa County	*$107,578*
Nevada County	*$94,239*
City of Palm Springs	*$45,986*
Placer County	*$464,844*
City of Pomona	*$73,757*
Riverside County	*$3,413,483*
Sacramento County	*$2,247,151*
San Benito County	*$32,312*
San Bernardino County	*$2,758,057*
San Diego County	*$5,818,271*
San Joaquin County	*$796,780*
San Luis Obispo County	*$456,312*
San Mateo County	*$758,641*
Santa Barbara County	*$502,813*
Santa Clara County	*$3,165,148*
Santa Cruz County	*$585,814*
Shasta County	*$257,005*
Siskiyou County	*$48,850*
Solano County	*$848,012*
Sonoma County	*$791,066*
Stanislaus County	*$832,424*
Sutter County	*$64,179*
Tehama County	*$50,421*
Tulare County	*$829,642*
Tuolumne County	*$32,612*
Yolo County	*$310,820*
Yuba County	*$44,106*

SEC. 5. Section 29553 of the Government Code is repealed.

~~29553. (a) Commencing with the 2009–10 fiscal year, the payments authorized by Section 29552 shall be fully funded from the Local Safety and Protection Account in the Transportation Tax Fund authorized by Section 10752.2 of the Revenue and Taxation Code. The Controller shall allocate 6.26 percent of the moneys~~

~~annually deposited in the Local Safety and Protection Account for purposes of these payments.~~

~~(b) Commencing with the 2011–12 fiscal year, the payments authorized by Section 29552 shall be fully funded from the Local Law Enforcement Services Account in the Local Revenue Fund 2011. The Controller shall allocate thirty-five million dollars ($35,000,000) of the moneys annually deposited in the Local Law Enforcement Services Account for purposes of these payments. The funds shall be allocated in four equal quarterly installments beginning October 1 of each year.~~

SEC. 6. Section 30061 of the Government Code is amended to read:

30061. (a) There shall be established in each county treasury a Supplemental Law Enforcement Services Account (SLESA), to receive all amounts allocated to a county for purposes of implementing this chapter.

(b) In any fiscal year for which a county receives moneys to be expended for the implementation of this chapter, the county auditor shall allocate the moneys in the county's SLESA within 30 days of the deposit of those moneys into the fund~~, and shall allocate those moneys in accordance with the requirements set forth in this subdivision. However, the auditor shall not transfer those moneys to a recipient agency until the Supplemental Law Enforcement Oversight Committee certifies receipt of an approved expenditure plan from the governing board of that agency~~. The moneys shall be allocated as follows:

(1) Five and fifteen-hundredths percent to the county sheriff for county jail construction and operation. In the case of Madera, Napa, and Santa Clara Counties, this allocation shall be made to the county director or chief of corrections.

(2) Five and fifteen-hundredths percent to the district attorney for criminal prosecution.

(3) Thirty-nine and seven-tenths percent to the county and the cities within the county, and, in the case of San Mateo, Kern, Siskiyou, and Contra Costa Counties, also to the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, and the Kensington Police Protection and Community Services District, in accordance with the relative population of the cities within the county and the

unincorporated area of the county, and the Broadmoor Police Protection District in the County of San Mateo, the Bear Valley Community Services District and the Stallion Springs Community Services District in Kern County, the Lake Shastina Community Services District in Siskiyou County, and the Kensington Police Protection and Community Services District in Contra Costa County, as specified in the most recent January estimate by the population research unit of the Department of Finance, and as adjusted to provide, except as provided in subdivision (j), a grant of at least one hundred thousand dollars ($100,000) to each law enforcement jurisdiction. For a newly incorporated city whose population estimate is not published by the Department of Finance, but that was incorporated prior to July 1 of the fiscal year in which an allocation from the SLESA is to be made, the city manager, or an appointee of the legislative body, if a city manager is not available, and the county administrative or executive officer shall prepare a joint notification to the Department of Finance and the county auditor with a population estimate reduction of the unincorporated area of the county equal to the population of the newly incorporated city by July 15, or within 15 days after the Budget Act is enacted, of the fiscal year in which an allocation from the SLESA is to be made. No person residing within the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, or the Kensington Police Protection and Community Services District shall also be counted as residing within the unincorporated area of the County of San Mateo, Kern, Siskiyou, or Contra Costa, or within any city located within those counties. Except as provided in subdivision (j), the county auditor shall allocate a grant of at least one hundred thousand dollars ($100,000) to each law enforcement jurisdiction. Moneys allocated to the county pursuant to this subdivision shall be retained in the county SLESA, and moneys allocated to a city pursuant to this subdivision shall be deposited in an SLESA established in the city treasury.

(4) Fifty percent to the county or city and county to implement a comprehensive multiagency juvenile justice plan as provided in this paragraph. The juvenile justice plan shall be developed by the local juvenile justice coordinating council in each county and city and county with the membership described in Section 749.22 of

the Welfare and Institutions Code. If a plan has been previously approved by the Corrections Standards Authority~~,~~ *or, commencing July 1, 2012, by* the *Board of State and Community Corrections, the* plan shall be reviewed and modified annually by the council. The plan or modified plan shall be approved by the county board of supervisors, and in the case of a city and county, the plan shall also be approved by the mayor. The plan or modified plan shall be submitted to the ~~Corrections Standards Authority~~ *Board of State and Community Corrections* by May 1 of each year.

(A) Juvenile justice plans shall include, but not be limited to, all of the following components:

(i) An assessment of existing law enforcement, probation, education, mental health, health, social services, drug and alcohol, and youth services resources that specifically target at-risk juveniles, juvenile offenders, and their families.

(ii) An identification and prioritization of the neighborhoods, schools, and other areas in the community that face a significant public safety risk from juvenile crime, such as gang activity, daylight burglary, late-night robbery, vandalism, truancy, controlled substances sales, firearm-related violence, and juvenile substance abuse and alcohol use.

(iii) A local juvenile justice action strategy that provides for a continuum of responses to juvenile crime and delinquency and demonstrates a collaborative and integrated approach for implementing a system of swift, certain, and graduated responses for at-risk youth and juvenile offenders.

(iv) Programs identified in clause (iii) that are proposed to be funded pursuant to this subparagraph, including the projected amount of funding for each program.

(B) Programs proposed to be funded shall satisfy all of the following requirements:

(i) Be based on programs and approaches that have been demonstrated to be effective in reducing delinquency and addressing juvenile crime for any elements of response to juvenile crime and delinquency, including prevention, intervention, suppression, and incapacitation.

(ii) Collaborate and integrate services of all the resources set forth in clause (i) of subparagraph (A), to the extent appropriate.

(iii) Employ information sharing systems to ensure that county actions are fully coordinated, and designed to provide data for measuring the success of juvenile justice programs and strategies.

(iv) Adopt goals related to the outcome measures that shall be used to determine the effectiveness of the local juvenile justice action strategy.

(C) The plan shall also identify the specific objectives of the programs proposed for funding and specified outcome measures to determine the effectiveness of the programs and contain an accounting for all program participants, including those who do not complete the programs. Outcome measures of the programs proposed to be funded shall include, but not be limited to, all of the following:

(i) The rate of juvenile arrests per 100,000 population.

(ii) The rate of successful completion of probation.

(iii) The rate of successful completion of restitution and court-ordered community service responsibilities.

(iv) Arrest, incarceration, and probation violation rates of program participants.

(v) Quantification of the annual per capita costs of the program.

(D) The ~~Corrections Standards Authority~~ *Board of State and Community Corrections* shall review plans or modified plans submitted pursuant to this paragraph within 30 days upon receipt of submitted or resubmitted plans or modified plans. The ~~authority~~ *board* shall approve only those plans or modified plans that fulfill the requirements of this paragraph, and shall advise a submitting county or city and county immediately upon the approval of its plan or modified plan. The ~~authority~~ *board* shall offer, and provide, if requested, technical assistance to any county or city and county that submits a plan or modified plan not in compliance with the requirements of this paragraph. The SLESA shall only allocate funding pursuant to this paragraph upon notification from the ~~authority~~ *board* that a plan or modified plan has been approved.

(E) To assess the effectiveness of programs funded pursuant to this paragraph using the program outcome criteria specified in subparagraph (C), the following periodic reports shall be submitted:

(i) Each county or city and county shall report, beginning October 15, 2002, and annually each October 15 thereafter, to the county board of supervisors and the ~~Corrections Standards Authority,~~ *Board of State and Community Corrections,* in a format specified by the ~~authority,~~ *board*, on the programs funded pursuant to this chapter and program outcomes as specified in subparagraph (C).

(ii) The ~~Corrections Standards Authority~~ *Board of State and Community Corrections* shall compile the local reports and, by March 15, 2003, and annually thereafter, make a report to the Governor and the Legislature on program expenditures within each county and city and county from the appropriation for the purposes of this paragraph, on the outcomes as specified in subparagraph (C) of the programs funded pursuant to this paragraph and the statewide effectiveness of the comprehensive multiagency juvenile justice plans.

(c) Subject to subdivision (d), for each fiscal year in which the county, each city, the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, and the Kensington Police Protection and Community Services District receive moneys pursuant to paragraph (3) of subdivision (b), the county, each city, and each district specified in this subdivision shall appropriate those moneys in accordance with the following procedures:

(1) In the case of the county, the county board of supervisors shall appropriate existing and anticipated moneys exclusively to provide frontline law enforcement services, other than those services specified in paragraphs (1) and (2) of subdivision (b), in the unincorporated areas of the county, in response to written requests submitted to the board by the county sheriff and the district attorney. Any request submitted pursuant to this paragraph shall specify the frontline law enforcement needs of the requesting entity, and those personnel, equipment, and programs that are necessary to meet those needs. ~~The board shall, at a public hearing held at a time determined by the board in each year that the Legislature appropriates funds for purposes of this chapter, or within 30 days after a request by a recipient agency for a hearing if the funds have been received by the county from the state prior to that request, consider and determine each submitted request within 60 days of receipt, pursuant to the decision of a majority of a quorum present. The board shall consider these written requests separate and apart from the process applicable to proposed allocations of the county general fund.~~

(2) In the case of a city, the city council shall appropriate existing and anticipated moneys exclusively to fund frontline municipal police services, in accordance with written requests submitted by the chief of police of that city or the chief administrator of the law enforcement agency that provides police services for that city~~. These written requests shall be acted upon by the city council in the same manner as specified in paragraph (1) for county appropriations.~~

(3) In the case of the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District or the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou County, or the Kensington Police Protection and Community Services District within Contra Costa County, the legislative body of that special district shall appropriate existing and anticipated moneys exclusively to fund frontline municipal police services, in accordance with written requests submitted by the chief administrator of the law enforcement agency that provides police services for that special district~~. These written requests shall be acted upon by the legislative body in the same manner specified in paragraph (1) for county appropriations.~~

(d) For each fiscal year in which the county, a city, or the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District or the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou County, or the Kensington Police Protection and Community Services District within Contra Costa County receives any moneys pursuant to this chapter, in no event shall the governing body of any of those recipient agencies subsequently alter any previous, valid appropriation by that body, for that same fiscal year, of moneys allocated to the county or city pursuant to paragraph (3) of subdivision (b).

~~(e) In the 2009–10 fiscal year, and every fiscal year thereafter, the Controller shall allocate 21.30 percent of the amount deposited in the Local Safety and Protection Account for purposes of paragraphs (1), (2), and (3) of subdivision (b), and shall allocate 21.30 percent for purposes of paragraph (4) of subdivision (b).~~

~~(f)~~

(e) ~~Commencing with~~ *For* the 2011–12 fiscal year, the Controller shall allocate 23.54 percent of the amount deposited in the Local Law Enforcement Services Account in the Local Revenue Fund 2011 for the purposes of paragraphs (1), (2), and (3) of subdivision (b), and shall allocate 23.54 percent for purposes of paragraph (4) of subdivision (b).

(f) Commencing with the 2012–13 fiscal year, the Controller shall allocate 21.86 percent of the amount deposited in the Enhancing Law Enforcement Activities Subaccount in the Local Revenue Fund 2011 for the purposes of paragraphs (1) to (3), inclusive, of subdivision (b), and shall allocate 21.86 percent for purposes of paragraph (4) of subdivision (b).

(g) The Controller shall allocate funds to local jurisdictions for public safety in accordance with this section as annually calculated by the Director of Finance. ~~In the 2009–10 fiscal year, and each fiscal year thereafter, the Controller shall allocate funds authorized for purposes of this chapter on a quarterly basis, beginning October 1 of each year.~~

(h) Funds received pursuant to subdivision (b) shall be expended or encumbered in accordance with this chapter no later than June 30 of the following fiscal year. A local agency that has not met ~~this requirement shall remit unspent SLESF moneys received prior to April 1, 2009, to~~ the ~~Controller for deposit into the General Fund. A local agency that has not met the~~ requirement of this subdivision shall remit unspent ~~SLESF~~ *SLESA* moneys received after April 1, 2009, to the Controller for deposit in the Local Safety and Protection Account, ~~and~~ after April 1, 2012, to the Local Law Enforcement Services Account*, and after July 1, 2012, to the County Enhancing Law Enforcement Activities Subaccount*.

~~(i) If a county, a city, a city and county, or a qualifying special district does not comply with the requirements of this chapter to receive an SLESA allocation, the Controller shall revert funds that were provided for the noncompliant entity prior to April 1, 2009, to the General Fund. Funds provided for the noncompliant entity after March 1, 2009, shall be reverted to the Local Safety and Protection Account, and after March 1, 2012, shall be reverted to the Local Law Enforcement Services Account.~~

~~(j)~~

(i) In the 2010–11 fiscal year, if the fourth quarter revenue derived from fees imposed by subdivision (a) of Section 10752.2

of the Revenue and Taxation Code that are deposited in the General Fund and transferred to the Local Safety and Protection Account, and continuously appropriated to the Controller for allocation pursuant to this section, are insufficient to provide a minimum grant of one hundred thousand dollars ($100,000) to each law enforcement jurisdiction, the county auditor shall allocate the revenue proportionately, based on the allocation schedule in paragraph (3) of subdivision (b). The county auditor shall proportionately allocate, based on the allocation schedule in paragraph (3) of subdivision (b), all revenues received after the distribution of the fourth quarter allocation attributable to these fees for which payment was due prior to July 1, 2011, until all minimum allocations are fulfilled, at which point all remaining revenue shall be distributed proportionately among the other jurisdictions.

SEC. 7. Section 30062 of the Government Code is amended to read:

30062. (a) Except as required by paragraphs (1), (2), and (4) of subdivision (b) of Section 30061, moneys allocated from a Supplemental Law Enforcement Services ~~Fund (SLESF)~~ *Account (SLESA)* to a recipient entity shall be expended exclusively to provide front line law enforcement services. These moneys shall supplement existing services, and shall not be used to supplant any existing funding for law enforcement services provided by that entity. Moneys allocated pursuant to paragraph (4) of subdivision (b) of Section 30061 shall be used to supplement and not supplant funding by local agencies for existing services.

(b) In the Counties of Los Angeles, Orange, and San Diego only, the district attorney may, in consultation with city attorneys in the county, determine a prorated share of the moneys received by the district attorney pursuant to this section to be allocated to city attorneys in the county in each fiscal year to fund the prosecution by those city attorneys of misdemeanor violations of state law.

(c) In no event shall any moneys allocated from the county's ~~SLESF~~ *SLESA* be expended by a recipient agency to fund any of the following:

(1) Administrative overhead costs in excess of 0.5 percent of a recipient entity's ~~SLESF~~ *SLESA* allocation for that year.

(2) The costs of any capital project or construction project funded from moneys allocated pursuant to paragraph (3) of subdivision (b) of Section 30061 that does not directly support front line law enforcement services.

(3) The costs of any capital project or construction project funded from moneys allocated pursuant to paragraph (4) of subdivision (b) of Section 30061.

(d) For purposes of subdivision (c), both of the following shall apply:

(1) A "recipient agency" or "recipient entity" is that entity that actually incurs the expenditures of ~~SLESF~~ *SLESA* funds allocated pursuant to paragraph (1), (2), (3), or (4) of subdivision (b) of Section 30061.

(2) Administrative overhead costs shall only be charged by the recipient entity, as defined in paragraph (1), up to 0.5 percent of its ~~SLESF~~ *SLESA* allocation.

(e) For purposes of this chapter, "front line law enforcement services" and "front line municipal police services" each include antigang, community crime prevention, and juvenile justice programs.

SEC. 8. Section 30063 of the Government Code is amended to read:

30063. ~~(a)~~ The Supplemental Law Enforcement Services ~~Fund (SLESF)~~ *Account (SLESA)* in each county or city is to be expended exclusively as required by this chapter. Moneys in that fund shall not be transferred to, or intermingled with, the moneys in any other fund in the county or city treasury, except that moneys may be transferred from the ~~SLESF~~ *SLESA* to the county's or city's general fund to the extent necessary to facilitate the appropriation and expenditure of those transferred moneys in the manner required by this chapter.

~~(b) Moneys in an SLESF may only be invested in safe and conservative investments in accordance with those standards of prudent investment applicable to the investment of trust moneys. The treasurer of the county and each city shall provide a monthly SLESF investment report to either the police chief or the county sheriff and district attorney, as applicable.~~

~~(c) Each year, at least 30 days prior to the date of the duly noticed public hearing required pursuant to paragraph (1) of subdivision (c) of Section 30061, the county auditor and city~~

~~treasurer shall detail and summarize allocations from the county's or city's SLESF, as applicable, in a written, public report filed with the Supplemental Law Enforcement Oversight Committee (SLEOC), the county board of supervisors, or the city council, as applicable, for the entirety of the immediately preceding fiscal year, and the county sheriff or police chief, as applicable.~~

~~(d) A summary of the annual reports required in subdivision (c) shall be submitted in a standardized format to be developed by the Controller, in conjunction with the California District Attorney's Association, California Police Chief's Association, California State Sheriff's Association, California Peace Officer's Association, California County Auditor's Association, and California Municipal Treasurer's Association, by each SLEOC to the Controller on or before October 15, 2001, and each year thereafter. The Controller shall make a copy of the summarized reports available to the Governor, the Legislature, and the Legislative Analyst's Office.~~

~~(e) A county, a city, or a city and county that fails to submit the data required pursuant to subdivision (d) of this section or to report as required pursuant to clause (i) of subparagraph (E) of paragraph (4) of subdivision (b) of Section 30061 shall not continue to expend funds allocated pursuant to subdivision (b) of Section 30061 or interest earned pursuant to subdivision (b) of this section until that data and that report are submitted as required by this chapter.~~

~~(f) Notwithstanding subdivision (e), if the SLEOC fails to transmit the data to the Controller required pursuant to subdivision (d), the local law enforcement agency may submit its expenditure data directly to the Controller no later than 15 days after the date specified in subdivision (d). If the local law enforcement agency has complied with other requirements in this chapter, it may continue to expend funds allocated and interest earned pursuant to this chapter.~~

SEC. 9. Section 30064 of the Government Code is repealed.

~~30064. (a) There is in each county a Supplemental Law Enforcement Oversight Committee (SLEOC), consisting of five members as follows:~~

~~(1) One municipal police chief.~~

~~(2) The county sheriff.~~

~~(3) The district attorney.~~

~~(4) The county's executive officer.~~

~~(5) One city manager.~~

~~(b) (1) The cities in each county shall organize as a city selection committee for the purposes of appointing a city manager and a municipal police chief to the SLEOC. Each appointment shall be made by not less than a majority of all the cities in the county having not less than a majority of the population of all the cities in the county. For purposes of this paragraph, population figures shall be determined on the basis of the most recent census data developed by the Department of Finance.~~

~~(2) The SLEOC shall determine whether recipient entities have expended moneys received from the Supplemental Law Enforcement Services Fund (SLESF) in compliance with this chapter. For this purpose, the SLEOC shall at least annually review the expenditure of SLESF funds by city police departments, the county sheriff, and the district attorney, and shall make its annual review report available to the public.~~

SEC. 10. Section 30065 of the Government Code is repealed.

~~30065. In no event shall this chapter be construed to affect in any manner the public safety service allocations required by Chapter 6.5 (commencing with Section 30051).~~

SEC. 11. Section 30070 of the Government Code is amended to read:

~~30070. (a) Commencing in the 2009–10 fiscal year, the program authorized by this chapter shall be funded from the Local Safety and Protection Account in the Transportation Fund authorized by Section 10752.2 of the Revenue and Taxation Code. The Controller shall, on a quarterly basis, beginning on October 1, 2009, allocate 3.68 percent of the moneys annually deposited in the Local Safety and Protection Account to county sheriffs' departments to enhance law enforcement efforts in the counties specified in paragraphs (1) to (37), inclusive, according to the following schedule:~~

~~(1) Alpine County~~	~~2.7027%~~
~~(2) Amador County~~	~~2.7027%~~
~~(3) Butte County~~	~~2.7027%~~
~~(4) Calaveras County~~	~~2.7027%~~
~~(5) Colusa County~~	~~2.7027%~~
~~(6) Del Norte County~~	~~2.7027%~~
~~(7) El Dorado County~~	~~2.7027%~~
~~(8) Glenn County~~	~~2.7027%~~

~~(9) Humboldt County~~	~~2.7027%~~
~~(10) Imperial County~~	~~2.7027%~~
~~(11) Inyo County~~	~~2.7027%~~
~~(12) Kings County~~	~~2.7027%~~
~~(13) Lake County~~	~~2.7027%~~
~~(14) Lassen County~~	~~2.7027%~~
~~(15) Madera County~~	~~2.7027%~~
~~(16) Marin County~~	~~2.7027%~~
~~(17) Mariposa County~~	~~2.7027%~~
~~(18) Mendocino County~~	~~2.7027%~~
~~(19) Merced County~~	~~2.7027%~~
~~(20) Modoc County~~	~~2.7027%~~
~~(21) Mono County~~	~~2.7027%~~
~~(22) Napa County~~	~~2.7027%~~
~~(23) Nevada County~~	~~2.7027%~~
~~(24) Placer County~~	~~2.7027%~~
~~(25) Plumas County~~	~~2.7027%~~
~~(26) San Benito County~~	~~2.7027%~~
~~(27) San Luis Obispo County~~	~~2.7027%~~
~~(28) Santa Cruz County~~	~~2.7027%~~
~~(29) Shasta County~~	~~2.7027%~~
~~(30) Sierra County~~	~~2.7027%~~
~~(31) Siskiyou County~~	~~2.7027%~~
~~(32) Sutter County~~	~~2.7027%~~
~~(33) Tehama County~~	~~2.7027%~~
~~(34) Trinity County~~	~~2.7027%~~
~~(35) Tuolumne County~~	~~2.7027%~~
~~(36) Yolo County~~	~~2.7027%~~
~~(37) Yuba County~~	~~2.7027%~~

~~(b) Commencing with~~

30070. (a) For the 2011–12 fiscal year, the program authorized by this chapter shall be funded from the Local Law Enforcement Services Account in the Local Revenue Fund 2011. The Controller shall, on a quarterly basis, beginning on October 1, *2011,* allocate 4.07 percent of the moneys annually deposited in the Local Law Enforcement Services Account. *Commencing with the 2012–13 fiscal year, the program authorized by this chapter shall be funded from the Enhancing Law Enforcement Activities Subaccount in the Local Revenue Fund 2011. The Controller shall allocate 3.78* *percent of the moneys annually deposited in the Enhancing Law Enforcement Activities Subaccount in the Local Revenue Fund 2011. Funds shall be allocated* to county sheriffs' departments to enhance law enforcement efforts in the counties specified in paragraphs (1) to (37), inclusive, according to the following schedule:

(1) Alpine County	2.7027%
(2) Amador County	2.7027%
(3) Butte County	2.7027%
(4) Calaveras County	2.7027%
(5) Colusa County	2.7027%
(6) Del Norte County	2.7027%
(7) El Dorado County	2.7027%
(8) Glenn County	2.7027%
(9) Humboldt County	2.7027%
(10) Imperial County	2.7027%
(11) Inyo County	2.7027%
(12) Kings County	2.7027%
(13) Lake County	2.7027%
(14) Lassen County	2.7027%
(15) Madera County	2.7027%
(16) Marin County	2.7027%
(17) Mariposa County	2.7027%
(18) Mendocino County	2.7027%
(19) Merced County	2.7027%
(20) Modoc County	2.7027%
(21) Mono County	2.7027%
(22) Napa County	2.7027%
(23) Nevada County	2.7027%
(24) Placer County	2.7027%
(25) Plumas County	2.7027%
(26) San Benito County	2.7027%
(27) San Luis Obispo County	2.7027%
(28) Santa Cruz County	2.7027%
(29) Shasta County	2.7027%
(30) Sierra County	2.7027%
(31) Siskiyou County	2.7027%
(32) Sutter County	2.7027%
(33) Tehama County	2.7027%

(34) Trinity County	2.7027%
(35) Tuolumne County	2.7027%
(36) Yolo County	2.7027%
(37) Yuba County	2.7027%

(c) Funds allocated pursuant to this section shall be used to supplement rather than supplant existing law enforcement resources.

(d) The funds allocated pursuant to this section may not be used for any video surveillance or monitoring of the general public.

SEC. 12. Section 30071 of the Government Code is repealed.

~~30071. If any funds made available pursuant to Section 30061 or 30070, or pursuant to Item 8100-102-0001, 9210-106-0001, or 9210-108-0001 of Section 2.00 of the Budget Act of 2001 (Chapter 106 of the Statutes of 2001), or an appropriation for the same purpose in a subsequent Budget Act, are used to fund the surveillance or monitoring of persons, the use of those funds shall comply with both of the following requirements:~~

~~(a) The funds may only be used by law enforcement personnel or employees of governmental agencies or other entities, either public or private, for video surveillance or monitoring when there is an articulable suspicion that the persons who are the target of the surveillance or monitoring are engaging or have engaged in illegal conduct.~~

~~(b) The funds may not be used for any video surveillance or monitoring of the general population.~~

SEC. 13. Section 11353.7 of the Health and Safety Code is amended to read:

11353.7. Except as authorized by law, and except as provided otherwise in Sections 11353.1, 11353.6, and 11380.1 with respect to playgrounds situated in a public park, any person 18 years of age or older who unlawfully prepares for sale in a public park, including units of the state park system and state vehicular recreation areas, or sells or gives away a controlled substance to a minor under the age of 14 years in a public park, including units of the state park system and state vehicular recreation areas, during hours in which the public park, including units of the state park system and state vehicular recreation areas, is open for use, with knowledge that the person is a minor under the age of 14 years, shall be punished by imprisonment ~~pursuant to subdivision (h) of~~

~~Section 1170 of the Penal Code~~ *in state prison* for three, six, or nine years.

SEC. 14. Section 19.9 is added to the Penal Code, to read:

19.9. For purposes of this code, “mandatory supervision” shall mean the portion of a defendant’s sentenced term during which time he or she is supervised by the county probation officer pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170.

SEC. 15. Section 186.9 of the Penal Code is amended to read:

186.9. As used in this chapter:

(a) “Conducts” includes, but is not limited to, initiating, concluding, or participating in conducting, initiating, or concluding a transaction.

(b) “Financial institution” means, when located or doing business in this state, any national bank or banking association, state bank or banking association, commercial bank or trust company organized under the laws of the United States or any state, any private bank, industrial savings bank, savings bank or thrift institution, savings and loan association, or building and loan association organized under the laws of the United States or any state, any insured institution as defined in Section 401 of the National Housing Act (12 U.S.C. Sec. 1724(a)), any credit union organized under the laws of the United States or any state, any national banking association or corporation acting under Chapter 6 (commencing with Section 601) of Title 12 of the United States Code, any agency, agent or branch of a foreign bank, any currency dealer or exchange, any person or business engaged primarily in the cashing of checks, any person or business who regularly engages in the issuing, selling, or redeeming of traveler’s checks, money orders, or similar instruments, any broker or dealer in securities registered or required to be registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 or with the Commissioner of Corporations under Part 3 (commencing with Section 25200) of Division 1 of Title 4 of the Corporations Code, any licensed transmitter of funds or other person or business regularly engaged in transmitting funds to a foreign nation for others, any investment banker or investment company, any insurer, any dealer in gold, silver, or platinum bullion or coins, diamonds, emeralds, rubies, or sapphires, any pawnbroker, any telegraph company, any person or business regularly engaged in the delivery, transmittal, or holding of mail or packages, any person or business that conducts a transaction involving the transfer of title to any real property, vehicle, vessel, or aircraft, any personal property broker, any person or business acting as a real property securities dealer within the meaning of Section 10237 of the Business and Professions Code, whether licensed to do so or not, any person or business acting within the meaning and scope of subdivisions (d) and (e) of Section 10131 and Section 10131.1 of the Business and Professions Code, whether licensed to do so or not, any person or business regularly engaged in gaming within the meaning and scope of Section 330, any person or business regularly engaged in pool selling or bookmaking within the meaning and scope of Section 337a, any person or business regularly engaged in horse racing whether licensed to do so or not under the Business and Professions Code, any person or business engaged in the operation of a gambling ship within the meaning and scope of Section 11317, any person or business engaged in controlled gambling within the meaning and scope of subdivision (e) of Section 19805 of the Business and Professions Code, whether registered to do so or not, and any person or business defined as a "bank," "financial agency," or "financial institution" by Section 5312 of Title 31 of the United States Code or Section 103.11 of Title 31 of the Code of Federal Regulations and any successor provisions thereto.

(c) "Transaction" includes the deposit, withdrawal, transfer, bailment, loan, pledge, payment, or exchange of currency, or a monetary instrument, as defined by subdivision (d), or the electronic, wire, magnetic, or manual transfer of funds between accounts by, through, or to, a financial institution as defined by subdivision (b).

(d) "Monetary instrument" means United States currency and coin; the currency, coin, and foreign bank drafts of any foreign country; payment warrants issued by the United States, this state, or any city, county, or city and county of this state or any other political subdivision thereof; any bank check, cashier's check, traveler's check, or money order; any personal check, stock, investment security, or negotiable instrument in bearer form or otherwise in a form in which title thereto passes upon delivery; gold, silver, or platinum bullion or coins; and diamonds, emeralds, rubies, or sapphires. Except for foreign bank drafts and federal, state, county, or city warrants, “monetary instrument” does not include personal checks made payable to the order of a named party which have not been endorsed or which bear restrictive endorsements, and also does not include personal checks which have been endorsed by the named party and deposited by the named party into the named party’s account with a financial institution.

(e) “Criminal activity” means a criminal offense punishable under the laws of this state by death ~~or~~, imprisonment in the state prison, or *imprisonment pursuant to subdivision (h) of Section 1170 or* from a criminal offense committed in another jurisdiction punishable under the laws of that jurisdiction by death or imprisonment for a term exceeding one year.

(f) “Foreign bank draft” means a bank draft or check issued or made out by a foreign bank, savings and loan, casa de cambio, credit union, currency dealer or exchanger, check cashing business, money transmitter, insurance company, investment or private bank, or any other foreign financial institution that provides similar financial services, on an account in the name of the foreign bank or foreign financial institution held at a bank or other financial institution located in the United States or a territory of the United States.

SEC. 16. Section 288.2 of the Penal Code is amended to read:

288.2. (a) *(1)* Every person who, with knowledge that a person is a minor, or who fails to exercise reasonable care in ascertaining the true age of a minor, knowingly distributes, sends, causes to be sent, exhibits, or offers to distribute or exhibit by any means, including, but not limited to, live or recorded telephone messages, any harmful matter, as defined in Section 313, to a minor with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of a minor, and with the intent or for the purpose of seducing a minor, is guilty of a public offense and shall be punished by imprisonment ~~pursuant to subdivision (h) of Section 1170~~ *in the state prison* or in a county jail.

~~A~~

(2) A person convicted of a second and any subsequent conviction for a violation of this ~~section~~ *subdivision* is guilty of a ~~felony.~~ *felony and shall be punished by imprisonment in state prison.*

(b) *(1)* Every person who, with knowledge that a person is a minor, knowingly distributes, sends, causes to be sent, exhibits, or offers to distribute or exhibit by electronic mail, the Internet, as defined in Section 17538 of the Business and Professions Code, or a commercial online service, any harmful matter, as defined in Section 313, to a minor with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of a minor, and with the intent, or for the purpose of seducing a minor, is guilty of a public offense and shall be punished by imprisonment ~~pursuant to subdivision (h) of Section 1170~~ *in the state prison* or in a county jail.

~~A~~

(2) A person convicted of a second and any subsequent conviction for a violation of this ~~section~~ *subdivision* is guilty of a felony punishable by imprisonment ~~pursuant to subdivision (h) of Section 1170.~~ *in the state prison.*

(c) It shall be a defense to any prosecution under this section that a parent or guardian committed the act charged in aid of legitimate sex education.

(d) It shall be a defense in any prosecution under this section that the act charged was committed in aid of legitimate scientific or educational purposes.

(e) It does not constitute a violation of this section for a telephone corporation, as defined in Section 234 of the Public Utilities Code, a cable television company franchised pursuant to Section 53066 of the Government Code, or any of its affiliates, an Internet service provider, or commercial online service provider, to carry, broadcast, or transmit messages described in this section or perform related activities in providing telephone, cable television, Internet, or commercial online services.

SEC. 17. Section 296.1 of the Penal Code is amended to read:

296.1. (a) The specimens, samples, and print impressions required by this chapter shall be collected from persons described in subdivision (a) of Section 296 for present and past qualifying offenses of record as follows:

(1) Collection from any adult person following arrest for a felony offense as specified in subparagraphs (A), (B), and (C) of paragraph (2) of subdivision (a) of Section 296:

(A) Each adult person arrested for a felony offense as specified in subparagraphs (A), (B), and (C) of paragraph (2) of subdivision

(a) of Section 296 shall provide the buccal swab samples and thumb and palm print impressions and any blood or other specimens required pursuant to this chapter immediately following arrest, or during the booking or intake or prison reception center process or as soon as administratively practicable after arrest, but, in any case, prior to release on bail or pending trial or any physical release from confinement or custody.

(B) If the person subject to this chapter did not have specimens, samples, and print impressions taken immediately following arrest or during booking or intake procedures or is released on bail or pending trial or is not confined or incarcerated at the time of sentencing or otherwise bypasses a prison inmate reception center maintained by the Department of Corrections and Rehabilitation, the court shall order the person to report within five calendar days to a county jail facility or to a city, state, local, private, or other designated facility to provide the required specimens, samples, and print impressions in accordance with subdivision (i) of Section 295.

(2) Collection from persons confined or in custody after conviction or adjudication:

(A) Any person, including any juvenile who is imprisoned or confined or placed in a state correctional institution, a county jail, a facility within the jurisdiction of the Department of Corrections and Rehabilitation, the Corrections Standards Authority, a residential treatment program, or any state, local, city, private, or other facility after a conviction of any felony or misdemeanor offense, or any adjudication or disposition rendered in the case of a juvenile, whether or not that crime or offense is one set forth in subdivision (a) of Section 296, shall provide buccal swab samples and thumb and palm print impressions and any blood or other specimens required pursuant to this chapter, immediately at intake, or during the prison reception center process, or as soon as administratively practicable at the appropriate custodial or receiving institution or the program in which the person is placed, if:

(i) The person has a record of any past or present conviction or adjudication as a ward of the court in California of a qualifying offense described in subdivision (a) of Section 296 or has a record of any past or present conviction or adjudication in any other court, including any state, federal, or military court, of any offense that, if committed or attempted in this state, would have been punishable as an offense described in subdivision (a) of Section 296; and

(ii) The person's blood specimens, buccal swab samples, and thumb and palm print impressions authorized by this chapter are not in the possession of the Department of Justice DNA Laboratory or have not been recorded as part of the department's DNA databank program.

(3) Collection from persons on probation, parole, or other release:

(A) Any person, including any juvenile, who has a record of any past or present conviction or adjudication for an offense set forth in subdivision (a) of Section 296, and who is on probation, *parole, postrelease community supervision,* or ~~parole~~ *mandatory supervision pursuant to paragraph (5) of subdivision (h) of Section 1170* for any felony or misdemeanor offense, whether or not that crime or offense is one set forth in subdivision (a) of Section 296, shall provide buccal swab samples and thumb and palm print impressions and any blood specimens required pursuant to this chapter, if:

(i) The person has a record of any past or present conviction or adjudication as a ward of the court in California of a qualifying offense described in subdivision (a) of Section 296 or has a record of any past or present conviction or adjudication in any other court, including any state, federal, or military court, of any offense that, if committed or attempted in this state, would have been punishable as an offense described in subdivision (a) of Section 296; and

(ii) The person's blood specimens, buccal swab samples, and thumb and palm print impressions authorized by this chapter are not in the possession of the Department of Justice DNA Laboratory or have not been recorded as part of the department's DNA databank program.

(B) The person shall have any required specimens, samples, and print impressions collected within five calendar days of being notified by the court, or a law enforcement agency or other agency authorized by the Department of Justice. The specimens, samples, and print impressions shall be collected in accordance with subdivision (i) of Section 295 at a county jail facility or a city, state, local, private, or other facility designated for this collection.

(4) Collection from parole violators and others returned to custody:

(A) If a person, including any juvenile, who has been released on parole, furlough, or other release for any offense or crime, whether or not set forth in subdivision (a) of Section 296, is returned to a state correctional or other institution for a violation of a condition of his or her parole, furlough, or other release, or for any other reason, that person shall provide buccal swab samples and thumb and palm print impressions and any blood or other specimens required pursuant to this chapter, at a state correctional or other receiving institution, if:

(i) The person has a record of any past or present conviction or adjudication as a ward of the court in California of a qualifying offense described in subdivision (a) of Section 296 or has a record of any past or present conviction or adjudication in any other court, including any state, federal, or military court, of any offense that, if committed or attempted in this state, would have been punishable as an offense described in subdivision (a) of Section 296; and

(ii) The person's blood specimens, buccal swab samples, and thumb and palm print impressions authorized by this chapter are not in the possession of the Department of Justice DNA Laboratory or have not been recorded as part of the department's DNA databank program.

(5) Collection from persons accepted into California from other jurisdictions:

(A) When an offender from another state is accepted into this state under any of the interstate compacts described in Article 3 (commencing with Section 11175) or Article 4 (commencing with Section 11189) of Chapter 2 of Title 1 of Part 4 of this code, or Chapter 4 (commencing with Section ~~1300)~~ *1400)* of Part 1 of Division 2 of the Welfare and Institutions Code, or under any other reciprocal agreement with any county, state, or federal agency, or any other provision of law, whether or not the offender is confined or released, the acceptance is conditional on the offender providing blood specimens, buccal swab samples, and palm and thumb print impressions pursuant to this chapter, if the offender has a record of any past or present conviction or adjudication in California of a qualifying offense described in subdivision (a) of Section 296 or has a record of any past or present conviction or adjudication or had a disposition rendered in any other court, including any state, federal, or military court, of any offense that, if committed or attempted in this state, would have been punishable as an offense described in subdivision (a) of Section 296.

(B) If the person is not confined, the specimens, samples, and print impressions required by this chapter must be provided within five calendar days after the person reports to the supervising agent or within five calendar days of notice to the person, whichever occurs first. The person shall report to a county jail facility in the county where he or she resides or temporarily is located to have the specimens, samples, and print impressions collected pursuant to this chapter. The specimens, samples, and print impressions shall be collected in accordance with subdivision (i) of Section 295.

(C) If the person is confined, he or she shall provide the blood specimens, buccal swab samples, and thumb and palm print impressions required by this chapter as soon as practicable after his or her receipt in a state, county, city, local, private, or other designated facility.

(6) Collection from persons in federal institutions:

(A) Subject to the approval of the Director of the FBI, persons confined or incarcerated in a federal prison or federal institution who have a record of any past or present conviction or juvenile adjudication for a qualifying offense described in subdivision (a) of Section 296, or of a similar crime under the laws of the United States or any other state that would constitute an offense described in subdivision (a) of Section 296, are subject to this chapter and shall provide blood specimens, buccal swab samples, and thumb and palm print impressions pursuant to this chapter if any of the following apply:

(i) The person committed a qualifying offense in California.

(ii) The person was a resident of California at the time of the qualifying offense.

(iii) The person has any record of a California conviction for an offense described in subdivision (a) of Section 296, regardless of when the crime was committed.

(iv) The person will be released in California.

(B) The Department of Justice DNA Laboratory shall, upon the request of the United States Department of Justice, forward portions of the specimens or samples, taken pursuant to this chapter, to the United States Department of Justice DNA databank laboratory. The specimens and samples required by this chapter shall be taken in accordance with the procedures set forth in subdivision (i) of Section 295. The Department of Justice DNA Laboratory is authorized to analyze and upload specimens and samples collected pursuant to this section upon approval of the Director of the FBI.

(b) Paragraphs (2), (3), (4), (5), and (6) of subdivision (a) shall have retroactive application. Collection shall occur pursuant to paragraphs (2), (3), (4), (5), and (6) of subdivision (a) regardless of when the crime charged or committed became a qualifying offense pursuant to this chapter, and regardless of when the person was convicted of the qualifying offense described in subdivision (a) of Section 296 or a similar crime under the laws of the United States or any other state, or pursuant to the United States Code of Military Justice, 10 U.S.C., Sections 801 and following, or when a juvenile petition is sustained for commission of a qualifying offense described in subdivision (a) of Section 296 or a similar crime under the laws of the United States or any other state.

SEC. 18. Section 417.6 of the Penal Code is amended to read:

417.6. (a) If, in the commission of a violation of Section 417 or 417.8, serious bodily injury is intentionally inflicted by the person drawing or exhibiting the firearm or deadly weapon, the offense shall be punished by imprisonment in the county jail not exceeding one year or by imprisonment ~~pursuant to subdivision (h) of Section 1170.~~ *in state prison.*

(b) As used in this section, "serious bodily injury" means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

(c) When a person is convicted of a violation of Section 417 or 417.8 and the deadly weapon or firearm used by the person is owned by that person, the court shall order that the weapon or firearm be deemed a nuisance and disposed of in the manner provided by Sections 18000 and 18005.

SEC. 19. Section 476a of the Penal Code is amended to read:

476a. (a) Any person who, for himself or *herself,* as the agent or representative of another, or as an officer of a corporation, willfully, with intent to defraud, makes or draws or utters or delivers ~~any~~ *a* check, *draft,* or ~~draft or~~ order upon ~~any~~ *a* bank or depositary, ~~or~~ *a* person, ~~or~~ *a* firm, or *a* corporation, for the payment of money, knowing at the time of that making, drawing, uttering, or delivering that the maker or drawer or the corporation has not sufficient funds in, or credit with the bank or depositary,~~ or~~ person, ~~or~~ firm, or corporation, for the payment of that check, draft, or order and all other checks, drafts, or orders upon funds then outstanding, in full upon its presentation, although no express representation is made with reference thereto, is punishable by imprisonment in a county jail for not more than one year, or~~ in the state prison.~~ *pursuant to subdivision (h) of Section 1170.*

(b) However, if the total amount of all~~ such~~ checks, drafts, or orders that the defendant is charged with and convicted of making, drawing, or uttering does not exceed four hundred fifty dollars ($450), the offense is punishable only by imprisonment in the county jail for not more than one year~~, except that this~~. *This* subdivision shall not be applicable if the defendant has previously been convicted of a violation of Section 470, 475, or 476, or of this section, or of the crime of petty theft in a case in which defendant's offense was a violation also of Section 470, 475, or 476 or of this section or if the defendant has previously been convicted of any offense under the laws of any other state or of the United States which, if committed in this state, would have been punishable as a violation of Section 470, 475 or 476 or of this section or if he has been so convicted of the crime of petty theft in a case in which, if defendant's offense had been committed in this state, it would have been a violation also of Section 470, 475, or 476, or of this section.

(c) Where the check, draft, or order is protested~~,~~ on the ground of insufficiency of funds or credit, the notice of protest shall be admissible as proof of presentation, nonpayment, and protest and shall be presumptive evidence of knowledge of insufficiency of funds or credit with the bank or depositary,~~ or~~ person,~~ or~~ firm, or corporation.

(d) In any prosecution under this section involving two or more checks, drafts, or orders, it shall constitute prima facie evidence of the identity of the drawer of a check, draft, or order if both of the following occur:

(1) When the payee accepts the check, draft, or order from the drawer, he or she obtains from the drawer the following information: name and residence of the drawer, business or mailing address, either a valid driver's license number or Department of

Motor Vehicles identification card number, and the drawer's home or work phone number or place of employment. That information may be recorded on the check, draft, or order itself or may be retained on file by the payee and referred to on the check, draft, or order by identifying number or other similar means.

(2) The person receiving the check, draft, or order witnesses the drawer's signature or endorsement, and, as evidence of that, initials the check, draft, or order at the time of receipt.

(e) The word "credit" as used herein shall be construed to mean an arrangement or understanding with the bank or depositary ~~or person~~, *person, firm,* or ~~firm or~~ corporation for the payment of ~~such~~ *a* check, draft, or order.

(f) If any of the preceding paragraphs, or parts thereof, shall be found unconstitutional or invalid, the remainder of this section shall not thereby be invalidated, but shall remain in full force and effect.

(g) A sheriff's department, police department, or other law enforcement agency may collect a fee from the defendant for investigation, collection, and processing of checks referred to their agency for investigation of alleged violations of this section or Section 476.

~~The~~

(h) The amount of the fee shall not exceed twenty-five dollars ($25) for each bad ~~check~~ *check,* in addition to the amount of any bank charges incurred by the victim as a result of the alleged offense. If the sheriff's department, police department, or other law enforcement agency collects ~~any~~ *a* fee for bank charges incurred by the victim pursuant to this section, that fee shall be paid to the victim for any bank fees the victim may have been assessed. In no event shall reimbursement of the bank charge to the victim pursuant to this section exceed ten dollars ($10) per check.

SEC. 20. Section 647.6 of the Penal Code is amended to read:

647.6. (a) (1) Every person who annoys or molests any child under 18 years of age shall be punished by a fine not exceeding five thousand dollars ($5,000), by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

(2) Every person who, motivated by an unnatural or abnormal sexual interest in children, engages in conduct with an adult whom he or she believes to be a child under 18 years of age, which

conduct, if directed toward a child under 18 years of age, would be a violation of this section, shall be punished by a fine not exceeding five thousand dollars ($5,000), by imprisonment in a county jail for up to one year, or by both that fine and imprisonment.

(b) Every person who violates this section after having entered, without consent, an inhabited dwelling house, or trailer coach as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, shall be punished by imprisonment ~~pursuant to subdivision (h) of Section 1170,~~ *in the state prison,* or in a county jail not exceeding one year, and by a fine not exceeding five thousand dollars ($5,000).

(c) (1) Every person who violates this section shall be punished upon the second and each subsequent conviction by imprisonment ~~pursuant to subdivision (h) of Section 1170.~~ *in the state prison.*

(2) Every person who violates this section after a previous felony conviction under Section 261, 264.1, 269, 285, 286, 288a, 288.5, or 289, any of which involved a minor under 16 years of age, or a previous felony conviction under this section, a conviction under Section 288, or a felony conviction under Section 311.4 involving a minor under 14 years of age shall be punished by imprisonment ~~pursuant to subdivision (h) of Section 1170~~ *in the state prison* for two, four, or six years.

(d) (1) In any case in which a person is convicted of violating this section and probation is granted, the court shall require counseling as a condition of probation, unless the court makes a written statement in the court record, that counseling would be inappropriate or ineffective.

(2) In any case in which a person is convicted of violating this section, and as a condition of probation, the court prohibits the defendant from having contact with the victim, the court order prohibiting contact shall not be modified except upon the request of the victim and a finding by the court that the modification is in the best interest of the victim. As used in this paragraph, “contact with the victim” includes all physical contact, being in the presence of the victim, communication by any means, any communication by a third party acting on behalf of the defendant, and any gifts.

(e) Nothing in this section prohibits prosecution under any other provision of law.

SEC. 21. Section 653f of the Penal Code is amended to read:

653f. (a) Every person who, with the intent that the crime be committed, solicits another to offer, accept, or join in the offer or acceptance of a bribe, or to commit or join in the commission of carjacking, robbery, burglary, grand theft, receiving stolen property, extortion, perjury, subornation of perjury, forgery, kidnapping, arson or assault with a deadly weapon or instrument or by means of force likely to produce great bodily injury, or, by the use of force or a threat of force, to prevent or dissuade any person who is or may become a witness from attending upon, or testifying at, any trial, proceeding, or inquiry authorized by law, shall be punished by imprisonment in a county jail for not more than one year or pursuant to subdivision (h) of Section 1170, or by a fine of not more than ten thousand dollars ($10,000), or the amount which could have been assessed for commission of the offense itself, whichever is greater, or by both the fine and imprisonment.

(b) Every person who, with the intent that the crime be committed, solicits another to commit or join in the commission of murder shall be punished by imprisonment in the state prison for three, six, or nine years.

(c) Every person who, with the intent that the crime be committed, solicits another to commit rape by force or violence, sodomy by force or violence, oral copulation by force or violence, or any violation of Section 264.1, 288, or 289, shall be punished by imprisonment ~~pursuant to subdivision (h) of Section 1170~~ *in the state prison* for two, three, or four years.

(d) (1) Every person who, with the intent that the crime be committed, solicits another to commit an offense specified in Section 11352, 11379, 11379.5, 11379.6, or 11391 of the Health and Safety Code shall be punished by imprisonment in a county jail not exceeding six months. Every person, who, having been convicted of soliciting another to commit an offense specified in this subdivision, is subsequently convicted of the proscribed solicitation, shall be punished by imprisonment in a county jail not exceeding one year, or pursuant to subdivision (h) of Section 1170.

(2) This subdivision does not apply where the term of imprisonment imposed under other provisions of law would result in a longer term of imprisonment.

(e) Every person who, with the intent that the crime be committed, solicits another to commit an offense specified in

Section 14014 of the Welfare and Institutions Code shall be punished by imprisonment in a county jail for not exceeding six months. Every person who, having been convicted of soliciting another to commit an offense specified in this subdivision, is subsequently convicted of the proscribed solicitation, shall be punished by imprisonment in a county jail not exceeding one year, or pursuant to subdivision (h) of Section 1170.

(f) An offense charged in violation of subdivision (a), (b), or (c) shall be proven by the testimony of two witnesses, or of one witness and corroborating circumstances. An offense charged in violation of subdivision (d) or (e) shall be proven by the testimony of one witness and corroborating circumstances.

SEC. 22. Section 667.5 of the Penal Code is amended to read:

667.5. Enhancement of prison terms for new offenses because of prior prison terms shall be imposed as follows:

(a) Where one of the new offenses is one of the violent felonies specified in subdivision (c), in addition to and consecutive to any other prison terms therefor, the court shall impose a three-year term for each prior separate prison term served by the defendant where the prior offense was one of the violent felonies specified in subdivision (c). However, no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(b) Except where subdivision (a) applies, where the new offense is any felony for which a prison sentence or a sentence of imprisonment in a county jail under subdivision (h) of Section 1170 is imposed or is not suspended, in addition and consecutive to any other sentence therefor, the court shall impose a one-year term for each prior separate prison term or county jail term imposed under subdivision (h) of Section 1170 or when sentence is not suspended for any felony; provided that no additional term shall be imposed under this subdivision for any prison term or county jail term imposed under subdivision (h) of Section 1170 or when sentence is not suspended prior to a period of five years in which the defendant remained free of both the commission of an offense which results in a felony conviction, and prison custody or the imposition of a term of jail custody imposed under subdivision (h) of Section 1170 or any felony sentence that is not suspended. A term imposed under the provisions of paragraph (5) of subdivision (h) of Section 1170, wherein a portion of the term is suspended by the court to allow ~~postrelease~~ *mandatory* supervision, shall qualify as a prior county jail term for the purposes of the one-year enhancement.

(c) For the purpose of this section, "violent felony" shall mean any of the following:

(1) Murder or voluntary manslaughter.

(2) Mayhem.

(3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.

(4) Sodomy as defined in subdivision (c) or (d) of Section 286.

(5) Oral copulation as defined in subdivision (c) or (d) of Section 288a.

(6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288.

(7) Any felony punishable by death or imprisonment in the state prison for life.

(8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.

(9) Any robbery.

(10) Arson, in violation of subdivision (a) or (b) of Section 451.

(11) Sexual penetration as defined in subdivision (a) or (j) of Section 289.

(12) Attempted murder.

(13) A violation of Section 18745, 18750, or 18755.

(14) Kidnapping.

(15) Assault with the intent to commit a specified felony, in violation of Section 220.

(16) Continuous sexual abuse of a child, in violation of Section 288.5.

(17) Carjacking, as defined in subdivision (a) of Section 215.

(18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.

(19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22 of the Penal Code.

(20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22 of the Penal Code.

(21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.

(22) Any violation of Section 12022.53.

(23) A violation of subdivision (b) or (c) of Section 11418. The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence to display society's condemnation for these extraordinary crimes of violence against the person.

(d) For the purposes of this section, the defendant shall be deemed to remain in prison custody for an offense until the official discharge from custody, *including any period of mandatory supervision*, or until release on parole~~,~~ *or postrelease community supervision*, whichever first occurs, including any time during which the defendant remains subject to reimprisonment *or custody in county jail* for escape from custody or is reimprisoned on revocation of parole *or postrelease community supervision*. The additional penalties provided for prior prison terms shall not be imposed unless they are charged and admitted or found true in the action for the new offense.

(e) The additional penalties provided for prior prison terms shall not be imposed for any felony for which the defendant did not serve a prior separate term in state prison or in county jail under subdivision (h) of Section 1170.

(f) A prior conviction of a felony shall include a conviction in another jurisdiction for an offense which, if committed in California, is punishable by imprisonment in the state prison or in county jail under subdivision (h) of Section 1170 if the defendant served one year or more in prison for the offense in the other jurisdiction. A prior conviction of a particular felony shall include a conviction in another jurisdiction for an offense which includes all of the elements of the particular felony as defined under

California law if the defendant served one year or more in prison for the offense in the other jurisdiction.

(g) A prior separate prison term for the purposes of this section shall mean a continuous completed period of prison incarceration imposed for the particular offense alone or in combination with concurrent or consecutive sentences for other crimes, including any reimprisonment on revocation of parole which is not accompanied by a new commitment to prison, and including any reimprisonment after an escape from incarceration.

(h) Serving a prison term includes any confinement time in any state prison or federal penal institution as punishment for commission of an offense, including confinement in a hospital or other institution or facility credited as service of prison time in the jurisdiction of the confinement.

(i) For the purposes of this section, a commitment to the State Department of Mental Health as a mentally disordered sex offender following a conviction of a felony, which commitment exceeds one year in duration, shall be deemed a prior prison term.

(j) For the purposes of this section, when a person subject to the custody, control, and discipline of the ~~Director~~ *Secretary* of Corrections *and Rehabilitation* is incarcerated at a facility operated by the ~~Department~~ *Division* of ~~the Youth Authority,~~ *Juvenile Justice,* that incarceration shall be deemed to be a term served in state prison.

(k) (1) Notwithstanding subdivisions (d) and (g) or any other provision of law, where one of the new offenses is committed while the defendant is temporarily removed from prison pursuant to Section 2690 or while the defendant is transferred to a community facility pursuant to Section 3416, 6253, or 6263, or while the defendant is on furlough pursuant to Section 6254, the defendant shall be subject to the full enhancements provided for in this section.

(2) This subdivision shall not apply when a full, separate, and consecutive term is imposed pursuant to any other provision of law.

SEC. 23. Section 669 of the Penal Code is amended to read:

669. *(a)* When ~~any~~ *a* person is convicted of two or more crimes, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same judge or by different judges, the second or other subsequent

judgment upon which sentence is ordered to be executed shall direct whether the terms of imprisonment or any of them to which he or she is sentenced shall run concurrently or consecutively. Life sentences, whether with or without the possibility of parole, may be imposed to run consecutively with one another, with any term imposed for applicable enhancements, or with any other term of imprisonment for a felony conviction. Whenever a person is committed to prison on a life sentence which is ordered to run consecutive to any determinate term of imprisonment, the determinate term of imprisonment shall be served first and no part thereof shall be credited toward the person's eligibility for parole as calculated pursuant to Section 3046 or pursuant to any other section of law that establishes a minimum period of confinement under the life sentence before eligibility for parole.

~~In~~

(b) In the event that the court at the time of pronouncing the second or other judgment upon that person had no knowledge of a prior existing judgment or judgments, or having knowledge, fails to determine how the terms of imprisonment shall run in relation to each other, then, upon that failure to determine, or upon that prior judgment or judgments being brought to the attention of the court at any time prior to the expiration of 60 days from and after the actual commencement of imprisonment upon the second or other subsequent judgments, the court shall, in the absence of the defendant and within 60 days of the notice, determine how the term of imprisonment upon the second or other subsequent judgment shall run with reference to the prior incompleted term or terms of imprisonment. Upon the failure of the court to determine how the terms of imprisonment on the second or subsequent judgment shall run, the term of imprisonment on the second or subsequent judgment shall run concurrently.

~~The~~

(c) The Department of Corrections *and Rehabilitation* shall advise the court pronouncing the second or other subsequent judgment of the existence of all prior judgments against the defendant, the terms of imprisonment ~~upon~~ *of* which have not been completely served.

(d) When a court imposes a concurrent term of imprisonment and imprisonment for one of the crimes is required to be served in the state prison, the term for all crimes shall be served in the

state prison, even if the term for any other offense specifies imprisonment in a county jail pursuant to subdivision (h) of Section 1170.

SEC. 24. Section 802 of the Penal Code is amended to read:

802. (a) Except as provided in subdivision (b), (c), or (d), prosecution for an offense not punishable by death or imprisonment in the state prison *or pursuant to subdivision (h) of Section 1170* shall be commenced within one year after commission of the offense.

(b) Prosecution for a misdemeanor violation of Section 647.6 or former Section 647a committed with or upon a minor under the age of 14 years shall be commenced within three years after commission of the offense.

(c) Prosecution of a misdemeanor violation of Section 729 of the Business and Professions Code shall be commenced within two years after commission of the offense.

(d) Prosecution of a misdemeanor violation of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code shall be commenced as follows:

(1) With respect to Sections 7028.17, 7068.5, and 7068.7 of the Business and Professions Code, within one year of the commission of the offense.

(2) With respect to Sections 7027.1, 7028.1, 7028.15, 7118.4, 7118.5, 7118.6, 7126, 7153, 7156, 7157, 7158, 7159.5 (licensee only), 7159.14 (licensee only), 7161, and 7189 of the Business and Professions Code, within two years of the commission of the offense.

(3) With respect to Sections 7027.3 and 7028.16 of the Business and Professions Code, within three years of the commission of the offense.

(4) With respect to Sections 7028, 7159.5 (nonlicensee only) and 7159.14 (nonlicensee only), of the Business and Professions Code, within four years of the commission of the offense.

(e) This section shall become operative on July 1, 2005, only if Senate Bill 30 of the 2003–04 Regular Session is enacted and becomes effective on or before January 1, 2005.

SEC. 25. Section 830.5 of the Penal Code is amended to read:

830.5. The following persons are peace officers whose authority extends to any place in the state while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment or as required under Sections 8597, 8598, and 8617 of the Government Code, as amended by Section 44 of Chapter 1124 of the ~~Statues~~ *Statutes* of 2002. Except as specified in this section, these peace officers may carry firearms only if authorized and under those terms and conditions specified by their employing agency:

(a) A parole officer of the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Parole Operations, probation officer, deputy probation officer, or a board coordinating parole agent employed by the Juvenile Parole Board. Except as otherwise provided in this subdivision, the authority of these parole or probation officers shall extend only as follows:

(1) To conditions of parole, probation, *mandatory supervision,* or postrelease community supervision by any person in this state on parole, probation, *mandatory supervision,* or postrelease community supervision.

(2) To the escape of any inmate or ward from a state or local institution.

(3) To the transportation of persons on parole, probation, *mandatory supervision,* or postrelease community supervision.

(4) To violations of any penal provisions of law which are discovered while performing the usual or authorized duties of his or her employment.

(5) (A) To the rendering of mutual aid to any other law enforcement agency.

(B) For the purposes of this subdivision, “parole agent” shall have the same meaning as parole officer of the Department of Corrections and Rehabilitation or of the Department of Corrections and Rehabilitation, Division of Juvenile Justice.

(C) Any parole officer of the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Parole Operations, is authorized to carry firearms, but only as determined by the director on a case-by-case or unit-by-unit basis and only under those terms and conditions specified by the director or chairperson. The Department of Corrections and Rehabilitation, Division of Juvenile Justice, shall develop a policy for arming peace officers of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, who comprise “high-risk transportation details” or "high-risk escape details" no later than June 30, 1995. This policy shall be implemented no later than December 31, 1995.

(D) The Department of Corrections and Rehabilitation, Division of Juvenile Justice, shall train and arm those peace officers who comprise tactical teams at each facility for use during "high-risk escape details."

(b) A correctional officer employed by the Department of Corrections and Rehabilitation, or of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, having custody of wards or any employee of the Department of Corrections and Rehabilitation designated by the secretary or any correctional counselor series employee of the Department of Corrections and Rehabilitation or any medical technical assistant series employee designated by the secretary or designated by the secretary and employed by the State Department of Mental Health or any employee of the Board of Parole Hearings designated by the secretary or employee of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, designated by the secretary or any superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, or any transportation officer of a probation department.

(c) The following persons may carry a firearm while not on duty: a parole officer of the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Justice, a correctional officer or correctional counselor employed by the Department of Corrections and Rehabilitation, or an employee of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, having custody of wards or any employee of the Department of Corrections and Rehabilitation designated by the secretary. A parole officer of the Juvenile Parole Board may carry a firearm while not on duty only when so authorized by the chairperson of the board and only under the terms and conditions specified by the chairperson. Nothing in this section shall be interpreted to require licensure pursuant to Section 25400. The director or chairperson may deny, suspend, or revoke for good cause a person's right to carry a firearm under this subdivision. That person shall, upon request, receive a hearing, as provided for in the negotiated grievance procedure between the exclusive employee representative and the Department of Corrections and

Rehabilitation, Division of Juvenile Justice, or the Juvenile Parole Board, to review the director's or the chairperson's decision.

(d) Persons permitted to carry firearms pursuant to this section, either on or off duty, shall meet the training requirements of Section 832 and shall qualify with the firearm at least quarterly. It is the responsibility of the individual officer or designee to maintain his or her eligibility to carry concealable firearms off duty. Failure to maintain quarterly qualifications by an officer or designee with any concealable firearms carried off duty shall constitute good cause to suspend or revoke that person's right to carry firearms off duty.

(e) The Department of Corrections and Rehabilitation shall allow reasonable access to its ranges for officers and designees of either department to qualify to carry concealable firearms off duty. The time spent on the range for purposes of meeting the qualification requirements shall be the person's own time during the person's off-duty hours.

(f) The secretary shall promulgate regulations consistent with this section.

(g) "High-risk transportation details" and "high-risk escape details" as used in this section shall be determined by the secretary, or his or her designee. The secretary, or his or her designee, shall consider at least the following in determining "high-risk transportation details" and "high-risk escape details": protection of the public, protection of officers, flight risk, and violence potential of the wards.

(h) "Transportation detail" as used in this section shall include transportation of wards outside the facility, including, but not limited to, court appearances, medical trips, and interfacility transfers.

(i) This section is operative January 1, 2012.

SEC. 26. Section 836.6 of the Penal Code is amended to read:

836.6. (a) It is unlawful for any person who is remanded by a magistrate or judge of any court in this state to the custody of a sheriff, marshal, or other police agency, to thereafter escape or attempt to escape from that custody.

(b) It is unlawful for any person who has been lawfully arrested by any peace officer and who knows, or by the exercise of reasonable care should have known, that he or she has been so arrested, to thereafter escape or attempt to escape from that peace officer.

(c) Any person who violates subdivision (a) or (b) is guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed one year. However, if the escape or attempted escape is by force or violence, and the person proximately causes a peace officer serious bodily injury, the person shall be punished by imprisonment ~~pursuant to subdivision (h) of Section 1170~~ *in the state prison* for two, three, or four years, or by imprisonment in a county jail not to exceed one year.

SEC. 27. Section 1170 of the Penal Code, as amended by Section 6.7 of Chapter 361 of the Statutes of 2011, is amended to read:

1170. (a) (1) The Legislature finds and declares that the purpose of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of disparity and the provision of uniformity of sentences can best be achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense as determined by the Legislature to be imposed by the court with specified discretion.

(2) Notwithstanding paragraph (1), the Legislature further finds and declares that programs should be available for inmates, including, but not limited to, educational programs, that are designed to prepare nonviolent felony offenders for successful reentry into the community. The Legislature encourages the development of policies and programs designed to educate and rehabilitate nonviolent felony offenders. In implementing this section, the Department of Corrections and Rehabilitation is encouraged to give priority enrollment in programs to promote successful return to the community to an inmate with a short remaining term of commitment and a release date that would allow him or her adequate time to complete the program.

(3) In any case in which the punishment prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison of any specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless the convicted person is given any

other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he or she had committed his or her crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the punishment prescribed, shall also impose any other term that it is required by law to impose as an additional term. Nothing in this article shall affect any provision of law that imposes the death penalty, that authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life. In any case in which the amount of preimprisonment credit under Section 2900.5 or any other provision of law is equal to or exceeds any sentence imposed pursuant to this chapter, the entire sentence shall be deemed to have been served and the defendant shall not be actually delivered to the custody of the secretary. The court shall advise the defendant that he or she shall serve a period of parole and order the defendant to report to the parole office closest to the defendant's last legal residence, unless the in-custody credits equal the total sentence, including both confinement time and the period of parole. The sentence shall be deemed a separate prior prison term under Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the secretary.

(b) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the choice of the appropriate term shall rest within the sound discretion of the court. At least four days prior to the time set for imposition of judgment, either party or the victim, or the family of the victim if the victim is deceased, may submit a statement in aggravation or mitigation. In determining the appropriate term, the court may consider the record in the case, the probation officer's report, other reports, including reports received pursuant to Section 1203.03, and statements in aggravation or mitigation submitted by the prosecution, the defendant, or the victim, or the family of the victim if the victim is deceased, and any further evidence introduced at the sentencing hearing. The court shall select the term which, in the court's discretion, best serves the interests of justice. The court shall set forth on the record the reasons for imposing the term selected and the court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under any provision of law. A term of imprisonment shall not be specified if imposition of sentence is suspended.

(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the term he or she may be on parole for a period as provided in Section 3000.

(d) When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison and has been committed to the custody of the secretary, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the secretary or the Board of Parole Hearings, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he or she had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The resentence under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(e) (1) Notwithstanding any other law and consistent with paragraph (1) of subdivision (a), if the secretary or the Board of Parole Hearings or both determine that a prisoner satisfies the criteria set forth in paragraph (2), the secretary or the board may recommend to the court that the prisoner's sentence be recalled.

(2) The court shall have the discretion to resentence or recall if the court finds that the facts described in subparagraphs (A) and (B) or subparagraphs (B) and (C) exist:

(A) The prisoner is terminally ill with an incurable condition caused by an illness or disease that would produce death within six months, as determined by a physician employed by the department.

(B) The conditions under which the prisoner would be released or receive treatment do not pose a threat to public safety.

(C) The prisoner is permanently medically incapacitated with a medical condition that renders him or her permanently unable to perform activities of basic daily living, and results in the prisoner requiring 24-hour total care, including, but not limited to, coma, persistent vegetative state, brain death, ventilator-dependency, loss of control of muscular or neurological function, and that incapacitation did not exist at the time of the original sentencing.

The Board of Parole Hearings shall make findings pursuant to this subdivision before making a recommendation for resentence or recall to the court. This subdivision does not apply to a prisoner sentenced to death or a term of life without the possibility of parole.

(3) Within 10 days of receipt of a positive recommendation by the secretary or the board, the court shall hold a hearing to consider whether the prisoner's sentence should be recalled.

(4) Any physician employed by the department who determines that a prisoner has six months or less to live shall notify the chief medical officer of the prognosis. If the chief medical officer concurs with the prognosis, he or she shall notify the warden. Within 48 hours of receiving notification, the warden or the warden's representative shall notify the prisoner of the recall and resentencing procedures, and shall arrange for the prisoner to designate a family member or other outside agent to be notified as to the prisoner's medical condition and prognosis, and as to the recall and resentencing procedures. If the inmate is deemed mentally unfit, the warden or the warden's representative shall contact the inmate's emergency contact and provide the information described in paragraph (2).

(5) The warden or the warden's representative shall provide the prisoner and his or her family member, agent, or emergency contact, as described in paragraph (4), updated information throughout the recall and resentencing process with regard to the prisoner's medical condition and the status of the prisoner's recall and resentencing proceedings.

(6) Notwithstanding any other provisions of this section, the prisoner or his or her family member or designee may independently request consideration for recall and resentencing by contacting the chief medical officer at the prison or the secretary. Upon receipt of the request, the chief medical officer and the warden or the warden's representative shall follow the procedures described in paragraph (4). If the secretary determines that the prisoner satisfies the criteria set forth in paragraph (2), the secretary or board may recommend to the court that the prisoner's sentence be recalled. The secretary shall submit a recommendation for release within 30 days in the case of inmates sentenced to

determinate terms and, in the case of inmates sentenced to indeterminate terms, the secretary shall make a recommendation to the Board of Parole Hearings with respect to the inmates who have applied under this section. The board shall consider this information and make an independent judgment pursuant to paragraph (2) and make findings related thereto before rejecting the request or making a recommendation to the court. This action shall be taken at the next lawfully noticed board meeting.

(7) Any recommendation for recall submitted to the court by the secretary or the Board of Parole Hearings shall include one or more medical evaluations, a postrelease plan, and findings pursuant to paragraph (2).

(8) If possible, the matter shall be heard before the same judge of the court who sentenced the prisoner.

(9) If the court grants the recall and resentencing application, the prisoner shall be released by the department within 48 hours of receipt of the court's order, unless a longer time period is agreed to by the inmate. At the time of release, the warden or the warden's representative shall ensure that the prisoner has each of the following in his or her possession: a discharge medical summary, full medical records, state identification, parole medications, and all property belonging to the prisoner. After discharge, any additional records shall be sent to the prisoner's forwarding address.

(10) The secretary shall issue a directive to medical and correctional staff employed by the department that details the guidelines and procedures for initiating a recall and resentencing procedure. The directive shall clearly state that any prisoner who is given a prognosis of six months or less to live is eligible for recall and resentencing consideration, and that recall and resentencing procedures shall be initiated upon that prognosis.

(f) Notwithstanding any other provision of this section, for purposes of paragraph (3) of subdivision (h), any allegation that a defendant is eligible for state prison due to a prior or current conviction, sentence enhancement, or because he or she is required to register as a sex offender shall not be subject to dismissal pursuant to Section 1385.

(g) A sentence to state prison for a determinate term for which only one term is specified, is a sentence to state prison under this section.

(h) (1) Except as provided in paragraph (3), a felony punishable pursuant to this subdivision where the term is not specified in the underlying offense shall be punishable by a term of imprisonment in a county jail for 16 months, or two or three years.

(2) Except as provided in paragraph (3), a felony punishable pursuant to this subdivision shall be punishable by imprisonment in a county jail for the term described in the underlying offense.

(3) Notwithstanding paragraphs (1) and (2), where the defendant (A) has a prior or current felony conviction for a serious felony described in subdivision (c) of Section 1192.7 or a prior or current conviction for a violent felony described in subdivision (c) of Section 667.5, (B) has a prior felony conviction in another jurisdiction for an offense that has all the elements of a serious felony described in subdivision (c) of Section 1192.7 or a violent felony described in subdivision (c) of Section 667.5, (C) is required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1, or (D) is convicted of a crime and as part of the sentence an enhancement pursuant to Section 186.11 is imposed, an executed sentence for a felony punishable pursuant to this subdivision shall be served in state prison.

(4) Nothing in this subdivision shall be construed to prevent other dispositions authorized by law, including pretrial diversion, deferred entry of judgment, or an order granting probation pursuant to Section 1203.1.

(5) The court, when imposing a sentence pursuant to paragraph (1) or (2) of this subdivision, may commit the defendant to county jail as follows:

(A) For a full term in custody as determined in accordance with the applicable sentencing law.

(B) *(i)* For a term as determined in accordance with the applicable sentencing law, but suspend execution of a concluding portion of the term selected in the court's discretion, during which time the defendant shall be supervised by the county probation officer in accordance with the terms, conditions, and procedures generally applicable to persons placed on probation, for the remaining unserved portion of the sentence imposed by the court. The period of supervision shall be mandatory, and may not be earlier terminated except by court order. *Any proceeding to revoke or modify mandatory supervision under this subparagraph shall be conducted pursuant to either subdivisions (a) and (b) of Section*

1203.2 or Section 1203.3. During the period when the defendant is under such supervision, unless in actual custody related to the sentence imposed by the court, the defendant shall be entitled to only actual time credit against the term of imprisonment imposed by the court. *Any time period which is suspended because a person has absconded shall not be credited toward the period of supervision.*

(ii) The portion of a defendant's sentenced term during which time he or she is supervised by the county probation officer pursuant to this subparagraph shall be known as mandatory supervision.

(6) The sentencing changes made by the act that added this subdivision shall be applied prospectively to any person sentenced on or after October 1, 2011.

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

SEC. 28. Section 1170 of the Penal Code, as amended by Section 7.7 of Chapter 361 of the Statutes of 2011, is amended to read:

1170. (a) (1) The Legislature finds and declares that the purpose of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of disparity and the provision of uniformity of sentences can best be achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense as determined by the Legislature to be imposed by the court with specified discretion.

(2) Notwithstanding paragraph (1), the Legislature further finds and declares that programs should be available for inmates, including, but not limited to, educational programs, that are designed to prepare nonviolent felony offenders for successful reentry into the community. The Legislature encourages the development of policies and programs designed to educate and rehabilitate nonviolent felony offenders. In implementing this section, the Department of Corrections and Rehabilitation is encouraged to give priority enrollment in programs to promote successful return to the community to an inmate with a short

remaining term of commitment and a release date that would allow him or her adequate time to complete the program.

(3) In any case in which the punishment prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison of any specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless the convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he or she had committed his or her crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the punishment prescribed, shall also impose any other term that it is required by law to impose as an additional term. Nothing in this article shall affect any provision of law that imposes the death penalty, that authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life. In any case in which the amount of preimprisonment credit under Section 2900.5 or any other provision of law is equal to or exceeds any sentence imposed pursuant to this chapter, the entire sentence shall be deemed to have been served and the defendant shall not be actually delivered to the custody of the secretary. The court shall advise the defendant that he or she shall serve a period of parole and order the defendant to report to the parole office closest to the defendant's last legal residence, unless the in-custody credits equal the total sentence, including both confinement time and the period of parole. The sentence shall be deemed a separate prior prison term under Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the secretary.

(b) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall order imposition of the middle term, unless there are circumstances in aggravation or mitigation of the crime. At least four days prior to the time set for imposition of judgment, either party or the victim, or the family of the victim if the victim is deceased, may submit a statement in aggravation or mitigation to dispute facts in the record or the probation officer's report, or to present additional facts. In determining whether there are circumstances that justify imposition of the upper or lower term, the court may consider the record in the case, the probation officer's report, other reports, including reports received pursuant to Section 1203.03, and statements in aggravation or mitigation submitted by the prosecution, the defendant, or the victim, or the family of the victim if the victim is deceased, and any further evidence introduced at the sentencing hearing. The court shall set forth on the record the facts and reasons for imposing the upper or lower term. The court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under any provision of law. A term of imprisonment shall not be specified if imposition of sentence is suspended.

(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the term he or she may be on parole for a period as provided in Section 3000.

(d) When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison and has been committed to the custody of the secretary, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the secretary or the Board of Parole Hearings, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he or she had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The resentence under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(e) (1) Notwithstanding any other law and consistent with paragraph (1) of subdivision (a), if the secretary or the Board of Parole Hearings or both determine that a prisoner satisfies the criteria set forth in paragraph (2), the secretary or the board may recommend to the court that the prisoner's sentence be recalled.

(2) The court shall have the discretion to resentence or recall if the court finds that the facts described in subparagraphs (A) and (B) or subparagraphs (B) and (C) exist:

(A) The prisoner is terminally ill with an incurable condition caused by an illness or disease that would produce death within six months, as determined by a physician employed by the department.

(B) The conditions under which the prisoner would be released or receive treatment do not pose a threat to public safety.

(C) The prisoner is permanently medically incapacitated with a medical condition that renders him or her permanently unable to perform activities of basic daily living, and results in the prisoner requiring 24-hour total care, including, but not limited to, coma, persistent vegetative state, brain death, ventilator-dependency, loss of control of muscular or neurological function, and that incapacitation did not exist at the time of the original sentencing.

The Board of Parole Hearings shall make findings pursuant to this subdivision before making a recommendation for resentence or recall to the court. This subdivision does not apply to a prisoner sentenced to death or a term of life without the possibility of parole.

(3) Within 10 days of receipt of a positive recommendation by the secretary or the board, the court shall hold a hearing to consider whether the prisoner's sentence should be recalled.

(4) Any physician employed by the department who determines that a prisoner has six months or less to live shall notify the chief medical officer of the prognosis. If the chief medical officer concurs with the prognosis, he or she shall notify the warden. Within 48 hours of receiving notification, the warden or the warden's representative shall notify the prisoner of the recall and resentencing procedures, and shall arrange for the prisoner to designate a family member or other outside agent to be notified as to the prisoner's medical condition and prognosis, and as to the recall and resentencing procedures. If the inmate is deemed mentally unfit, the warden or the warden's representative shall contact the inmate's emergency contact and provide the information described in paragraph (2).

(5) The warden or the warden's representative shall provide the prisoner and his or her family member, agent, or emergency contact, as described in paragraph (4), updated information throughout the recall and resentencing process with regard to the prisoner's medical condition and the status of the prisoner's recall and resentencing proceedings.

(6) Notwithstanding any other provisions of this section, the prisoner or his or her family member or designee may independently request consideration for recall and resentencing by contacting the chief medical officer at the prison or the secretary. Upon receipt of the request, the chief medical officer and the warden or the warden's representative shall follow the procedures described in paragraph (4). If the secretary determines that the prisoner satisfies the criteria set forth in paragraph (2), the secretary or board may recommend to the court that the prisoner's sentence be recalled. The secretary shall submit a recommendation for release within 30 days in the case of inmates sentenced to determinate terms and, in the case of inmates sentenced to indeterminate terms, the secretary shall make a recommendation to the Board of Parole Hearings with respect to the inmates who have applied under this section. The board shall consider this information and make an independent judgment pursuant to paragraph (2) and make findings related thereto before rejecting the request or making a recommendation to the court. This action shall be taken at the next lawfully noticed board meeting.

(7) Any recommendation for recall submitted to the court by the secretary or the Board of Parole Hearings shall include one or more medical evaluations, a postrelease plan, and findings pursuant to paragraph (2).

(8) If possible, the matter shall be heard before the same judge of the court who sentenced the prisoner.

(9) If the court grants the recall and resentencing application, the prisoner shall be released by the department within 48 hours of receipt of the court's order, unless a longer time period is agreed to by the inmate. At the time of release, the warden or the warden's representative shall ensure that the prisoner has each of the following in his or her possession: a discharge medical summary, full medical records, state identification, parole medications, and all property belonging to the prisoner. After discharge, any additional records shall be sent to the prisoner's forwarding address.

(10) The secretary shall issue a directive to medical and correctional staff employed by the department that details the guidelines and procedures for initiating a recall and resentencing procedure. The directive shall clearly state that any prisoner who is given a prognosis of six months or less to live is eligible for

recall and resentencing consideration, and that recall and resentencing procedures shall be initiated upon that prognosis.

(f) Notwithstanding any other provision of this section, for purposes of paragraph (3) of subdivision (h), any allegation that a defendant is eligible for state prison due to a prior or current conviction, sentence enhancement, or because he or she is required to register as a sex offender shall not be subject to dismissal pursuant to Section 1385.

(g) A sentence to state prison for a determinate term for which only one term is specified, is a sentence to state prison under this section.

(h) (1) Except as provided in paragraph (3), a felony punishable pursuant to this subdivision where the term is not specified in the underlying offense shall be punishable by a term of imprisonment in a county jail for 16 months, or two or three years.

(2) Except as provided in paragraph (3), a felony punishable pursuant to this subdivision shall be punishable by imprisonment in a county jail for the term described in the underlying offense.

(3) Notwithstanding paragraphs (1) and (2), where the defendant (A) has a prior or current felony conviction for a serious felony described in subdivision (c) of Section 1192.7 or a prior or current conviction for a violent felony described in subdivision (c) of Section 667.5, (B) has a prior felony conviction in another jurisdiction for an offense that has all ~~of~~ the elements of a serious felony described in subdivision (c) of Section 1192.7 or a violent felony described in subdivision (c) of Section 667.5, (C) is required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1, or (D) is convicted of a crime and as part of the sentence an enhancement pursuant to Section 186.11 is imposed, an executed sentence for a felony punishable pursuant to this subdivision shall be served in state prison.

(4) Nothing in this subdivision shall be construed to prevent other dispositions authorized by law, including pretrial diversion, deferred entry of judgment, or an order granting probation pursuant to Section 1203.1.

(5) The court, when imposing a sentence pursuant to paragraph (1) or (2) of this subdivision, may commit the defendant to county jail as follows:

(A) For a full term in custody as determined in accordance with the applicable sentencing law.

(B) *(i)* For a term as determined in accordance with the applicable sentencing law, but suspend execution of a concluding portion of the term selected in the court's discretion, during which time the defendant shall be supervised by the county probation officer in accordance with the terms, conditions, and procedures generally applicable to persons placed on probation, for the remaining unserved portion of the sentence imposed by the court. The period of supervision shall be mandatory, and may not be earlier terminated except by court order. *Any proceeding to revoke or modify mandatory supervision under this subparagraph shall be conducted pursuant to either subdivisions (a) and (b) of Section 1203.2 or Section 1203.3.* During the period when the defendant is under such supervision, unless in actual custody related to the sentence imposed by the court, the defendant shall be entitled to only actual time credit against the term of imprisonment imposed by the court. *Any time period which is suspended because a person has absconded shall not be credited toward the period of supervision.*

(ii) The portion of a defendant's sentenced term during which time he or she is supervised by the county probation officer pursuant to this subparagraph shall be known as mandatory supervision.

(6) The sentencing changes made by the act that added this subdivision shall be applied prospectively to any person sentenced on or after October 1, 2011.

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

SEC. 29. Section 1203.018 of the Penal Code is amended to read:

1203.018. (a) Notwithstanding any other law, this section shall only apply to inmates being held in lieu of bail and on no other basis.

(b) Notwithstanding any other law, the board of supervisors of any county may authorize the correctional administrator, as defined in paragraph (1) of subdivision (k), to offer a program under which inmates being held in lieu of bail in a county jail or other county correctional facility may participate in an electronic monitoring program if the conditions specified in subdivision (c) are met.

(c) (1) In order to qualify for participation in an electronic monitoring program pursuant to this section, the inmate must be an inmate with no holds or outstanding warrants to whom one of the following circumstances applies:

(A) The inmate has been held in custody for at least 30 calendar days from the date of arraignment pending disposition of only misdemeanor charges.

(B) The inmate has been held in custody pending disposition of charges for at least 60 calendar days from the date of arraignment.

(C) The inmate is appropriate for the program based on a determination by the correctional administrator that the inmate's participation would be consistent with the public safety interests of the community.

(2) All participants shall be subject to discretionary review for eligibility and compliance by the correctional administrator consistent with this section.

(d) The board of supervisors, after consulting with the sheriff and district attorney, may prescribe reasonable rules and regulations under which an electronic monitoring program pursuant to this section may operate. As a condition of participation in the electronic monitoring program, the participant shall give his or her consent in writing to participate and shall agree in writing to comply with the rules and regulations of the program, including, but not limited to, all of the following:

(1) The participant shall remain within the interior premises of his or her residence during the hours designated by the correctional administrator.

(2) The participant shall admit any person or agent designated by the correctional administrator into his or her residence at any time for purposes of verifying the participant's compliance with the conditions of his or her detention.

(3) The electronic monitoring may include global positioning system devices or other supervising devices for the purpose of helping to verify the participant's compliance with the rules and regulations of the electronic monitoring program. The electronic devices shall not be used to eavesdrop or record any conversation, except a conversation between the participant and the person supervising the participant to be used solely for the purposes of voice identification.

(4) The correctional administrator in charge of the county correctional facility from which the participant was released may,

without further order of the court, immediately retake the person into custody if the electronic monitoring or supervising devices are unable for any reason to properly perform their function at the designated place of home detention, if the person fails to remain within the place of home detention as stipulated in the agreement, if the person willfully fails to pay fees to the provider of electronic home detention services, as stipulated in the agreement, subsequent to the written notification of the participant that the payment has not been received and that return to custody may result, or if the person for any other reason no longer meets the established criteria under this section.

(5) A copy of the signed consent to participate and a copy of the agreement to comply with the rules and regulations shall be provided to the participant and a copy shall be retained by the correctional administrator.

(e) The rules and regulations and administrative policy of the program shall be reviewed on an annual basis by the county board of supervisors and the correctional administrator. The rules and regulations shall be given to every participant.

(f) Whenever the peace officer supervising a participant has reasonable cause to believe that the participant is not complying with the rules or conditions of the program, or that the electronic monitoring devices are unable to function properly in the designated place of confinement, the peace officer may, under general or specific authorization of the correctional administrator, and without a warrant of arrest, retake the person into custody.

(g) (1) Nothing in this section shall be construed to require the correctional administrator to allow a person to participate in this program if it appears from the record that the person has not satisfactorily complied with reasonable rules and regulations while in custody. A person shall be eligible for participation in an electronic monitoring program only if the correctional administrator concludes that the person meets the criteria for release established under this section and that the person's participation is consistent with any reasonable rules and regulations prescribed by the board of supervisors or the administrative policy of the correctional administrator.

(2) The correctional administrator, or his or her designee, shall have discretionary authority consistent with this section to permit program participation as an alternative to physical custody. All

persons approved by the correctional administrator to participate in the electronic monitoring program pursuant to subdivision (c) who are denied participation and all persons removed from program participation shall be notified in writing of the specific reasons for the denial or removal. The notice of denial or removal shall include the participant's appeal rights, as established by program administrative policy.

(h) The correctional administrator may permit electronic monitoring program participants to seek and retain employment in the community, attend psychological counseling sessions or educational or vocational training classes, or seek medical and dental assistance.

(i) Willful failure of the program participant to return to the place of home detention prior to the expiration of any period of time during which he or she is authorized to be away from the place of home detention pursuant to this section and unauthorized departures from the place of home detention is punishable pursuant to Section 4532.

(j) The board of supervisors may prescribe a program administrative fee to be paid by each electronic monitoring participant.

(k) For purposes of this section, the following terms have the following meanings:

(1) "Correctional administrator" means the sheriff, probation officer, or director of the county department of corrections.

(2) "Electronic monitoring program" includes, but is not limited to, home detention programs, work furlough programs, and work release programs.

(*l*) Notwithstanding any other law, upon request of a local law enforcement agency with jurisdiction over the location where a participant in an electronic monitoring program is placed, the correctional administrator shall provide the following information regarding participants in the electronic monitoring program:

(1) The participant's name, address, and date of birth.

(2) The offense or offenses alleged to have been committed by the participant.

(3) The period of time the participant will be placed on home detention.

(4) Whether the participant successfully completed the prescribed period of home detention or was returned to a county

correctional facility, and if the person was returned to a county correctional facility, the reason for the return.

(5) The gender and ethnicity of the participant.

(m) Any information received by a law enforcement agency pursuant to subdivision (*l*) shall be used only for the purpose of monitoring the impact of home electronic monitoring programs in the community.

(n) It is the intent of the Legislature that electronic monitoring programs established under this section maintain the highest public confidence, credibility, and public safety. In the furtherance of these standards, the following shall apply:

(1) The correctional administrator, with the approval of the board of supervisors, may administer an electronic monitoring program as provided in this section pursuant to written contracts with appropriate public or private agencies or entities to provide specified program services. No public or private agency or entity may operate a home detention program pursuant to this section in any county without a written contract with that county's correctional administrator. No public or private agency or entity entering into a contract pursuant to this subdivision may itself employ any person who is in the electronic monitoring program.

(2) Program participants shall undergo the normal booking process for arrestees entering the jail. All electronic monitoring program participants shall be supervised.

(3) (A) All privately operated electronic monitoring programs shall be under the jurisdiction of, and subject to the terms and conditions of the contract entered into with, the correctional administrator.

(B) Each contract specified in subparagraph (A) shall include, but not be limited to, all of the following:

(i) A provision whereby the private agency or entity agrees to operate in compliance with any available standards and all state and county laws applicable to the operation of electronic monitoring programs and the supervision of offenders in an electronic monitoring program.

(ii) A provision that clearly defines areas of respective responsibility and liability of the county and the private agency or entity.

(iii) A provision that requires the private agency or entity to demonstrate evidence of financial responsibility, submitted to and approved by the board of supervisors, in amounts and under conditions sufficient to fully indemnify the county for reasonably foreseeable public liability, including legal defense costs that may arise from, or be proximately caused by, acts or omissions of the contractor.

(iv) A provision that requires the private agency or entity to provide evidence of financial responsibility, such as certificates of insurance or copies of insurance policies, prior to commencing any operations pursuant to the contract or at any time requested by the board of supervisors or correctional administrator.

(v) A provision that requires an annual review by the correctional administrator to ensure compliance with requirements set by the board of supervisors and for adjustment of the financial responsibility requirements if warranted by caseload changes or other factors.

(vi) A provision that permits the correctional administrator to immediately terminate the contract with a private agency or entity at any time that the contractor fails to demonstrate evidence of financial responsibility.

(C) All privately operated electronic monitoring programs shall comply with all applicable ordinances and regulations specified in subdivision (a) of Section 1208.

(D) The board of supervisors, the correctional administrator, and the designee of the correctional administrator shall comply with Section 1090 of the Government Code in the consideration, making, and execution of contracts pursuant to this section.

(E) The failure of the private agency or entity to comply with state or county laws or with the standards established by the contract with the correctional administrator shall constitute cause to terminate the contract.

(F) Upon the discovery that a private agency or entity with which there is a contract is not in compliance with this paragraph, the correctional administrator shall give 60 days' notice to the director of the private agency or entity that the contract may be canceled if the specified deficiencies are not corrected.

(G) Shorter notice may be given or the contract may be canceled without notice whenever a serious threat to public safety is present because the private agency or entity has failed to comply with this section.

(H) For purposes of this section, “evidence of financial responsibility” may include, but is not limited to, certified copies of any of the following:

(i) A current liability insurance policy.

(ii) A current errors and omissions insurance policy.

(iii) A surety bond.

SEC. 30. Section 1203.2 of the Penal Code is amended to read:

1203.2. (a) At any time during the ~~probationary~~ period of *supervision of* a person *(1)* released on probation under the care of a probation officer pursuant to this chapter, ~~or of a person~~ *(2)* released on conditional sentence or summary probation not under the care of a probation officer, *(3) placed on mandatory supervision pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170, (4) subject to revocation of postrelease community supervision pursuant to Section 3455, or (5) subject to revocation of parole supervision pursuant to Section 3000.08,* if any probation officer, *parole officer,* or peace officer has probable cause to believe that the ~~probationer~~ *supervised person* is violating any term or condition of his or her ~~probation or conditional sentence,~~ *supervision,* the officer may, without warrant or other process and at any time until the final disposition of the case, rearrest the *supervised* person and bring him or her before the court or the court may, in its discretion, issue a warrant for his or her rearrest. Upon such rearrest, or upon the issuance of a warrant for rearrest the court may revoke and terminate ~~such probation~~ *the supervision of the person* if the interests of justice so require and the court, in its judgment, has reason to believe from the report of the probation *or parole* officer or otherwise that the person has violated any of the conditions of his or her ~~probation,~~ *supervision,* has become abandoned to improper associates or a vicious life, or has subsequently committed other offenses, regardless whether he or she has been prosecuted for such offenses. However, ~~probation~~ *the court shall not terminate parole pursuant to this section. Supervision* shall not be revoked for failure of a person to make restitution ~~pursuant to Section 1203.04~~ *imposed* as a condition of ~~probation~~ *supervision* unless the court determines that the defendant has willfully failed to pay and has the ability to pay. Restitution shall be consistent with a person’s ability to pay. The revocation, summary or otherwise, shall serve to toll the running of the ~~probationary period.~~ *period of supervision.*

(b) *(1)* Upon its own motion or upon the petition of the ~~probationer,~~ *supervised person, the* probation *or parole* officer or the district attorney of the county in which the ~~probationer~~ *person* is supervised, the court may modify, revoke, or terminate ~~the probation~~ *supervision* of the ~~probationer~~ *person* pursuant to this subdivision*, except that the court shall not terminate parole pursuant to this section. A person supervised on parole or postrelease community supervision pursuant to Section 3455 may not petition the court pursuant to this section for early release from supervision, and a petition under this section shall not be filed solely for the purpose of modifying parole. Nothing in this section shall prohibit the court from modifying parole when acting on its own motion or a petition to revoke parole*. The court shall give notice of its motion, and the probation *or parole* officer or the district attorney shall give notice of his or her petition to the ~~probationer,~~ *supervised person*, his or her attorney of record, and the district attorney or the probation *or parole* officer, as the case may be. The ~~probationer~~ *supervised person* shall give notice of his or her petition to the probation *or parole* officer and notice of any motion or petition shall be given to the district attorney in all cases. The court shall refer its motion or the petition to the probation *or parole* officer. After the receipt of a written report from the probation *or parole* officer, the court shall read and consider the report and either its motion or the petition and may modify, revoke, or terminate the ~~probation~~ *supervision* of the ~~probationer~~ *supervised person* upon the grounds set forth in subdivision (a) if the interests of justice so require.

~~The~~

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

required. If ~~probationer~~ *the supervised person* consults with counsel and thereafter agrees to a ~~modification~~ *modification, revocation,* or termination of the term of ~~probation~~ *supervision* and waiver of personal appearance, the agreement shall be signed by counsel showing approval for the modification or termination and waiver.

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

(d) In any case of revocation and termination of probation, including, but not limited to, cases in which the judgment has been pronounced and the execution thereof has been suspended, upon the revocation and termination, the court may, in lieu of any other sentence, commit the person to the Department of ~~the Youth Authority~~ *Corrections and Rehabilitation, Division of Juvenile Facilities* if he or she is otherwise eligible for such commitment.

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

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

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

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

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

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

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

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

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

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

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

SEC. 31. Section 1203.3 of the Penal Code is amended to read:

1203.3. (a) The court shall have authority at any time during the term of probation to revoke, modify, or change its order of suspension of imposition or execution of sentence. The court may at any time when the ends of justice will be subserved thereby, and when the good conduct and reform of the person so held on probation shall warrant it, terminate the period of probation, and discharge the person so held. *The court shall also have the authority at any time during the term of mandatory supervision pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170 to revoke, modify, or change the conditions of the court's order suspending the execution of the concluding portion of the supervised person's term.*

(b) The exercise of the court's authority in subdivision (a) to revoke, modify, ~~change,~~ or *change probation or mandatory supervision, or to* terminate ~~probation~~ *probation,* is subject to the following:

(1) Before any sentence or term or condition of probation *or condition of mandatory supervision* is modified, a hearing shall be held in open court before the judge. The prosecuting attorney shall be given a two-day written notice and an opportunity to be heard on the matter, except that, as to modifying or terminating a

protective order in a case involving domestic violence, as defined in Section 6211 of the Family Code, the prosecuting attorney shall be given a five-day written notice and an opportunity to be heard.

(A) If the sentence or term or condition of probation *or the term or any condition of mandatory supervision* is modified pursuant to this section, the judge shall state the reasons for that modification on the record.

(B) As used in this section, modification of sentence shall include reducing a felony to a misdemeanor.

(2) No order shall be made without written notice first given by the court or the clerk thereof to the proper probation officer of the intention to revoke, modify, or change its order.

(3) In all *probation* cases, if the court has not seen fit to revoke the order of probation and impose sentence or pronounce judgment, the defendant shall at the end of the term of probation or any extension thereof, be by the court discharged subject to the provisions of these sections.

(4) The court may modify the time and manner of the term of probation for purposes of measuring the timely payment of restitution obligations or the good conduct and reform of the defendant while on probation. The court shall not modify the dollar amount of the restitution obligations due to the good conduct and reform of the defendant, absent compelling and extraordinary reasons, nor shall the court limit the ability of payees to enforce the obligations in the manner of judgments in civil actions.

(5) Nothing in this section shall be construed to prohibit the court from modifying the dollar amount of a restitution order pursuant to subdivision (f) of Section 1202.4 at any time during the term of the probation.

(6) The court may limit or terminate a protective order that is a condition of probation *or mandatory supervision* in a case involving domestic violence, as defined in Section 6211 of the Family Code. In determining whether to limit or terminate the protective order, the court shall consider if there has been any material change in circumstances since the crime for which the order was issued, and any issue that relates to whether there exists good cause for the change, including, but not limited to, consideration of all of the following:

(A) Whether the probationer *or supervised person* has accepted responsibility for the abusive behavior perpetrated against the victim.

(B) Whether the probationer *or supervised person* is currently attending and actively participating in counseling sessions.

(C) Whether the probationer *or supervised person* has completed parenting counseling, or attended alcoholics or narcotics counseling.

(D) Whether the probationer *or supervised person* has moved from the state, or is incarcerated.

(E) Whether the probationer *or supervised person* is still cohabiting, or intends to cohabit, with any subject of the order.

(F) Whether the defendant has performed well on probation~~,~~ *or mandatory supervision,* including consideration of any progress reports.

(G) Whether the victim desires the change, and if so, the victim's reasons, whether the victim has consulted a victim advocate, and whether the victim has prepared a safety plan and has access to local resources.

(H) Whether the change will impact any children involved, including consideration of any child protective services information.

(I) Whether the ends of justice would be served by limiting or terminating the order.

(c) If a probationer is ordered to serve time in jail, and the probationer escapes while serving that time, the probation is revoked as a matter of law on the day of the escape.

(d) If probation is revoked pursuant to subdivision (c), upon taking the probationer into custody, the probationer shall be accorded a hearing or hearings consistent with the holding in the case of People v. Vickers (1972) 8 Cal.3d 451. The purpose of that hearing or hearings is not to revoke probation, as the revocation has occurred as a matter of law in accordance with subdivision (c), but rather to afford the defendant an opportunity to require the prosecution to establish that the alleged violation did in fact occur and to justify the revocation.

(e) This section does not apply to cases covered by Section 1203.2.

SEC. 32. Section 1203.9 of the Penal Code is amended to read:

1203.9. (a) Whenever a person is released on probation~~,~~ *or mandatory supervision,* the court, upon noticed motion, shall transfer the case to the superior court in any other county in which the person resides permanently, meaning with the stated intention to remain for the duration of probation~~,~~ *or mandatory supervision,* unless the transferring court determines that the transfer would be inappropriate and states its reasons on the record. Upon notice of the motion for transfer, the court of the proposed receiving county may provide comments for the record regarding the proposed transfer, following procedures set forth in rules of court developed by the Judicial Council for this purpose, pursuant to subdivision (e). The court and the probation department shall give the matter of investigating those transfers precedence over all actions or proceedings therein, except actions or proceedings to which special precedence is given by law, to the end that all those transfers shall be completed expeditiously.

(b) The court of the receiving county shall accept the entire jurisdiction over the case.

(c) Notwithstanding subdivision (a), whenever a person is granted probation under Section 1210.1, the sentencing court shall transfer jurisdiction of the entire case, upon a finding by the receiving court of the person's permanent residency in the receiving county, unless there is a determination on the record that the transfer would be inappropriate.

(d) The order of transfer shall contain an order committing the probationer *or supervised person* to the care and custody of the probation officer of the receiving county and, *if applicable,* an order for reimbursement of reasonable costs for processing the transfer to be paid to the sending county in accordance with Section 1203.1b. A copy of the orders and *any* probation reports shall be transmitted to the court and probation officer of the receiving county within two weeks of the finding that the person does permanently reside in or has permanently moved to that county, and thereafter the receiving court shall have entire jurisdiction over the case, with the like power to again request transfer of the case whenever it seems proper.

(e) The Judicial Council shall promulgate rules of court for procedures by which the proposed receiving county shall receive notice of the motion for transfer and by which responsive comments may be transmitted to the court of the transferring county. The Judicial Council shall adopt rules providing factors for the court's consideration when determining the appropriateness of a transfer, including, but not limited to, the following:

(1) Permanency of residence of the offender.

(2) Local programs available for the offender.

(3) Restitution orders and victim issues.

SEC. 33. Section 3000 of the Penal Code is amended to read:

3000. (a) (1) The Legislature finds and declares that the period immediately following incarceration is critical to successful reintegration of the offender into society and to positive citizenship. It is in the interest of public safety for the state to provide for the effective supervision of and surveillance of parolees, including the judicious use of revocation actions, and to provide educational, vocational, family and personal counseling necessary to assist parolees in the transition between imprisonment and discharge. A sentence resulting in imprisonment in the state prison pursuant to Section 1168 or 1170 shall include a period of parole supervision or postrelease community supervision, unless waived, or as otherwise provided in this article.

(2) The Legislature finds and declares that it is not the intent of this section to diminish resources allocated to the Department of Corrections and Rehabilitation for parole functions for which the department is responsible. It is also not the intent of this section to diminish the resources allocated to the Board of Parole Hearings to execute its duties with respect to parole functions for which the board is responsible.

(3) The Legislature finds and declares that diligent effort must be made to ensure that parolees are held accountable for their criminal behavior, including, but not limited to, the satisfaction of restitution fines and orders.

(4) For any person subject to a sexually violent predator proceeding pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, an order issued by a judge pursuant to Section 6601.5 of the Welfare and Institutions Code, finding that the petition, on its face, supports a finding of probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon his or her release, shall toll the period of parole of that person, from the date that person is released by the Department of Corrections and Rehabilitation as follows:

(A) If the person is committed to the State Department of Mental Health as a sexually violent predator and subsequently a court orders that the person be unconditionally discharged, the parole period shall be tolled until the date the judge enters the order unconditionally discharging that person.

(B) If the person is not committed to the State Department of Mental Health as a sexually violent predator, the tolling of the parole period shall be abrogated and the parole period shall be deemed to have commenced on the date of release from the Department of Corrections and Rehabilitation.

(5) Paragraph (4) applies to persons released by the Department of Corrections and Rehabilitation on or after January 1, 2012. Persons released by the Department of Corrections and Rehabilitation prior to January 1, 2012, shall continue to be subject to the law governing the tolling of parole in effect on December 31, 2011.

(b) Notwithstanding any provision to the contrary in Article 3 (commencing with Section 3040) of this chapter, the following shall apply to any inmate subject to Section 3000.08:

(1) In the case of any inmate sentenced under Section 1168~~,~~ *for a crime committed prior to July 1, 2013,* the period of parole shall not exceed five years in the case of an inmate imprisoned for any offense other than first or second degree murder for which the inmate has received a life sentence, and shall not exceed three years in the case of any other inmate, unless in either case the ~~parole authority~~ *Board of Parole Hearings* for good cause waives parole and discharges the inmate from custody of the department. This subdivision shall also be applicable to inmates who committed crimes prior to July 1, 1977, to the extent specified in Section 1170.2. *In the case of any inmate sentenced under Section 1168 for a crime committed on or after July 1, 2013, the period of parole shall not exceed five years in the case of an inmate imprisoned for any offense other than first or second degree murder for which the inmate has received a life sentence, and shall not exceed three years in the case of any other inmate, unless in either case the department for good cause waives parole and discharges the inmate from custody of the department.*

(2) ~~At~~ *(A) For a crime committed prior to July 1, 2013, at* the expiration of a term of imprisonment of one year and one day, or a term of imprisonment imposed pursuant to Section 1170 or at

the expiration of a term reduced pursuant to Section 2931 or 2933, if applicable, the inmate shall be released on parole for a period not exceeding three years, except that any inmate sentenced for an offense specified in paragraph (3), (4), (5), (6), (11), or (18) of subdivision (c) of Section 667.5 shall be released on parole for a period not exceeding 10 years, unless a longer period of parole is specified in Section 3000.1.

(B) For a crime committed on or after July 1, 2013, at the expiration of a term of imprisonment of one year and one day, or a term of imprisonment imposed pursuant to Section 1170 or at the expiration of a term reduced pursuant to Section 2931 or 2933, if applicable, the inmate shall be released on parole for a period of three years, except that any inmate sentenced for an offense specified in paragraph (3), (4), (5), (6), (11), or (18) of subdivision (c) of Section 667.5 shall be released on parole for a period of 10 years, unless a longer period of parole is specified in Section 3000.1.

(3) Notwithstanding paragraphs (1) and (2), in the case of any offense for which the inmate has received a life sentence pursuant to subdivision (b) of Section 209, with the intent to commit a specified sex offense, or Section 667.51, 667.61, or 667.71, the period of parole shall be 10 years, unless a longer period of parole is specified in Section 3000.1.

(4) (A) Notwithstanding paragraphs (1) to (3), inclusive, in the case of a person convicted of and required to register as a sex offender for the commission of an offense specified in Section 261, 262, 264.1, 286, 288a, paragraph (1) of subdivision (b) of Section 288, Section 288.5, or 289, in which one or more of the victims of the offense was a child under 14 years of age, the period of parole shall be 20 years and six months unless the board, for good cause, determines that the person will be retained on parole. The board shall make a written record of this determination and transmit a copy of it to the parolee.

(B) In the event of a retention on parole, the parolee shall be entitled to a review by the board each year thereafter.

(C) There shall be a board hearing consistent with the procedures set forth in Sections 3041.5 and 3041.7 within 12 months of the date of any ~~order returning the parolee to custody~~ *revocation of parole* to consider the release of the inmate on parole, and notwithstanding the provisions of paragraph ~~(2)~~ *(3)* of subdivision

(b) of Section 3041.5, there shall be annual parole consideration hearings thereafter, unless the person is released or otherwise ineligible for parole release. The panel or board shall release the person within one year of the date of the revocation unless it determines that the circumstances and gravity of the parole violation are such that consideration of the public safety requires a more lengthy period of incarceration or unless there is a new prison commitment following a conviction.

(D) The provisions of Section 3042 shall not apply to any hearing held pursuant to this subdivision.

(5) *(A)* The ~~parole authority~~ *Board of Parole Hearings* shall consider the request of any inmate *whose commitment offense occurred prior to July 1, 2013,* regarding the length of his or her parole and the conditions thereof.

(B) For an inmate whose commitment offense occurred on or after July 1, 2013, except for those inmates described in Section 3000.1, the department shall consider the request of the inmate regarding the length of his or her parole and the conditions thereof. For those inmates described in Section 3000.1, the Board of Parole Hearings shall consider the request of the inmate regarding the length of his or her parole and the conditions thereof.

(6) Upon successful completion of parole, or at the end of the maximum statutory period of parole specified for the inmate under paragraph (1), (2), (3), or (4), as the case may be, whichever is earlier, the inmate shall be discharged from custody. The date of the maximum statutory period of parole under this subdivision and paragraphs (1), (2), (3), and (4) shall be computed from the date of initial parole and shall be a period chronologically determined. Time during which parole is suspended because the prisoner has absconded or has been returned to custody as a parole violator shall not be credited toward any period of parole unless the prisoner is found not guilty of the parole violation. However, the period of parole is subject to the following:

(A) Except as provided in Section 3064, in no case may a prisoner subject to three years on parole be retained under parole supervision or in custody for a period longer than four years from the date of his or her initial parole.

(B) Except as provided in Section 3064, in no case may a prisoner subject to five years on parole be retained under parole supervision or in custody for a period longer than seven years from the date of his or her initial parole.

(C) Except as provided in Section 3064, in no case may a prisoner subject to 10 years on parole be retained under parole supervision or in custody for a period longer than 15 years from the date of his or her initial parole.

(7) The Department of Corrections and Rehabilitation shall meet with each inmate at least 30 days prior to his or her good time release date and shall provide, under guidelines specified by the parole authority or the department, whichever is applicable, the conditions of parole and the length of parole up to the maximum period of time provided by law. The inmate has the right to reconsideration of the length of parole and conditions thereof by the department or the parole authority, whichever is applicable. The Department of Corrections and Rehabilitation or the board may impose as a condition of parole that a prisoner make payments on the prisoner's outstanding restitution fines or orders imposed pursuant to subdivision (a) or (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, or subdivision (b) or (f) of Section 1202.4.

(8) For purposes of this chapter, *and except as otherwise described in this section,* the board shall be considered the parole authority.

(9) ~~The~~ *(A) On and after July 1, 2013, the* sole authority to issue warrants for the return to actual custody of any state prisoner released on parole rests with the ~~board,~~ *court pursuant to Section 1203.2,* except for any escaped state prisoner or any state prisoner released prior to his or her scheduled release date who should be returned to custody, and Section ~~3060~~ *5054.1* shall apply.

(B) Notwithstanding subparagraph (A), any warrant issued by the Board of Parole Hearings prior to July 1, 2013, shall remain in full force and effect until the warrant is served or it is recalled by the board. All prisoners on parole arrested pursuant to a warrant issued by the board shall be subject to a review by the board prior to the department filing a petition with the court to revoke the parole of the petitioner.

(10) It is the intent of the Legislature that efforts be made with respect to persons who are subject to Section 290.011 who are on parole to engage them in treatment.

SEC. 34. Section 3000.03 of the Penal Code is amended to read:

3000.03. Notwithstanding any other provision of law, the Department of Corrections and Rehabilitation shall not return to prison, place a parole hold on pursuant to Section 3056, or report any parole violation to the Board of Parole Hearings *or the court, as applicable*, regarding any person to whom all of the following criteria apply:

(a) The person is not required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.

(b) The person was not committed to prison for a serious felony as defined in Sections 1192.7 and 1192.8, or a violent felony, as defined in Section 667.5, and does not have a prior conviction for a serious felony, as defined in Section 1192.7 and 1192.8, or a violent felony, as defined in Section 667.5.

(c) The person was not committed to prison for a sexually violent offense as defined in subdivision (b) of Section 6600 of the Welfare and Institutions Code and does not have a prior conviction for a sexually violent offense as defined in subdivision (b) of Section 6600 of the Welfare and Institutions Code.

(d) The person was not found guilty of a serious disciplinary offense, as defined in regulation by the department, during his or her current term of imprisonment.

(e) The person is not a validated prison gang member or associate, as defined in regulation by the department.

(f) The person did not refuse to sign any ~~written notification of parole requirements~~ *forms,* or ~~conditions, including, but not limited to, the written notification of requirements pursuant to~~ *provide any samples, as required by* Section ~~3067.~~ *3060.5.*

(g) The person was evaluated by the department using a validated risk assessment tool and was not determined to pose a high risk to reoffend.

SEC. 35. Section 3000.08 of the Penal Code, as amended by Section 18 of Chapter 12 of the First Extraordinary Session of the Statutes of 2011, is amended to read:

3000.08. (a) Persons released from state prison prior to or on or after July 1, 2013, after serving a prison term or, whose sentence has been deemed served pursuant to Section 2900.5, for any of the following crimes shall be subject to parole supervision by the

Department of Corrections and Rehabilitation and the jurisdiction of the court in the county where the parolee is released or resides for the purpose of hearing petitions to revoke parole and impose a term of custody:

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

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

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

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

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

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

(c) At any time during the period of parole of a person subject to this section, if any parole agent or peace officer has probable cause to believe that the parolee is violating any term or condition of his or her parole, the agent or officer may, without warrant or other process and at any time until the final disposition of the case, arrest the person and bring him or her before the ~~parole authority,~~ *court*, or the ~~parole authority~~ *court* may, in its discretion, issue a warrant for that person's arrest *pursuant to Section 1203.2*.

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

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

(f) If the supervising parole agency has determined, following application of its assessment processes, that intermediate sanctions up to and including flash incarceration are not appropriate, the supervising *parole* agency ~~shall petition the revocation hearing officer appointed~~ *shall,* pursuant to Section ~~71622.5 of~~ *1203.2, petition* the ~~Government Code~~ *court* in the county in which the parolee is being supervised to revoke parole. At any point during the process initiated pursuant to this section, a parolee may waive, in writing, his or her right to counsel, admit the parole violation, waive a court hearing, and accept the proposed parole modification *or revocation*. The petition shall include a written report that contains additional information regarding the petition, including the relevant terms and conditions of parole, the circumstances of the alleged underlying violation, the history and background of the parolee, and any recommendations. The Judicial Council shall adopt forms and rules of court to establish uniform statewide procedures to implement this subdivision, including the minimum contents of supervision agency reports. Upon a finding that the person has violated the conditions of parole, the ~~revocation hearing officer~~ *court* shall have authority to do any of the following:

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

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

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

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

(h) Notwithstanding any other provision of law, in any case where Section 3000.1 *or paragraph (4) of subdivision (b) of Section 3000* applies to a person who is on parole and ~~there is good cause~~

~~to believe~~ *the court determines* that the person has committed a violation of law or violated his or her conditions of parole~~, and there is imposed a period of imprisonment of longer than 30 days, that person~~ *the person on parole* shall be remanded to the custody of the Department of Corrections and Rehabilitation and the jurisdiction of the Board of Parole Hearings for the purpose of future parole consideration.

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

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

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

(j) Parolees subject to this section who ~~are being held~~ *have a pending adjudication* for a parole violation ~~in a county jail~~ on July 1, 2013, shall be subject to the jurisdiction of the Board of Parole Hearings. *Parole revocation proceedings conducted by the Board of Parole Hearings prior to July 1, 2013, if reopened on or after July 1, 2013, shall be subject to the jurisdiction of the Board of Parole Hearings.*

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

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

SEC. 36. Section 3000.09 of the Penal Code is amended to read:

3000.09. (a) Notwithstanding any other law, any parolee who was paroled from state prison prior to October 1, 2011, shall be subject to this section.

(b) Parolees subject to this section shall remain under supervision by the Department of Corrections and Rehabilitation until one of the following occurs:

(1) Jurisdiction over the person is terminated by operation of law.

(2) The supervising agent recommends to the ~~parole authority~~ *Board of Parole Hearings* that the offender be discharged and the parole authority approves the discharge.

(3) The offender is subject to a period of parole of up to three years pursuant to paragraph (1) of subdivision (b) of Section 3000 and was not imprisoned for committing a violent felony, as defined in subdivision (c) of Section 667.5, a serious felony, as defined by subdivision (c) of Section 1192.7, or is required to register as a sex offender pursuant to Section 290, and completes six consecutive months of parole without violating their conditions, at which time the supervising agent shall review and make a recommendation on whether to discharge the offender to the ~~parole authority~~ *Board of Parole Hearings* and the ~~parole authority~~ *Board of Parole Hearings* approves the discharge.

(c) Parolees subject to this section who are being held for a parole violation in state prison on October 1, 2011, upon completion of a revocation term on or after November 1, 2011, shall either remain under parole supervision of the department pursuant to Section 3000.08 or shall be placed on postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450). *Any person placed on postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) after serving a term for a parole revocation pursuant to this subdivision shall serve a period of postrelease supervision that is no longer than the time period for which the person would have served if the person remained on parole.* Notwithstanding Section 3000.08, any parolee who is in a county jail serving a term of parole revocation or being held pursuant to Section 3056 on October 1, 2011, and is released directly from county jail without returning to a state facility on or after October 1, 2011, shall remain under the parole supervision of the department. Any parolee that is pending final adjudication of a parole revocation charge prior to October 1, whether located in county jail or state prison, may be returned to state prison and shall be confined pursuant to subdivisions (a) to (d), inclusive, of Section 3057. Any subsequent parole revocations of a parolee on postrelease community supervision shall be served in county jail pursuant to Section 3056.

(d) Any parolee who was paroled prior to October 1, 2011, who commits a violation of parole shall, until July 1, 2013, be subject to parole revocation procedures in accordance with the rules and regulations of the department consistent with Division 2 of Title 15 of the California Code of Regulations. On and after July 1, 2013, any parolee who was paroled prior to October 1, 2011, shall be subject to the procedures established under Section 3000.08.

SEC. 37. Section 3000.1 of the Penal Code is amended to read:

3000.1. (a) (1) In the case of any inmate sentenced under Section 1168 for any offense of first or second degree murder with a maximum term of life imprisonment, the period of parole, if parole is granted, shall be the remainder of the inmate's life.

(2) Notwithstanding any other provision of law, in the case of any inmate sentenced to a life term under subdivision (b) of Section 209, if that offense was committed with the intent to commit a specified sexual offense, Sections 269 and 288.7, subdivision (c) of Section 667.51, Section 667.71 in which one or more of the victims of the offense was a child under 14 years of age, or subdivision (j), (*l*), or (m) of Section 667.61, the period of parole, if parole is granted, shall be the remainder of the inmate's life.

(b) Notwithstanding any other provision of law, when any person referred to in paragraph (1) of subdivision (a) has been released on parole from the state prison, and has been on parole continuously for seven years in the case of any person imprisoned for first degree murder, and five years in the case of any person imprisoned for second degree murder, since release from confinement, the board shall, within 30 days, discharge that person from parole, unless the board, for good cause, determines that the person will be retained on parole. The board shall make a written record of its determination and transmit a copy of it to the parolee.

(c) In the event of a retention on parole pursuant to subdivision (b), the parolee shall be entitled to a review by the board each year thereafter.

(d) There shall be a hearing as provided in Sections 3041.5 and 3041.7 within 12 months of the date of any revocation of parole ~~pursuant to subdivision (d) of Section 3000.08 and~~ *of a person referred to in subdivision (a)* to consider the release of the inmate on parole and, notwithstanding the provisions of paragraph ~~(2)~~ *(3)*

of subdivision (b) of Section 3041.5, there shall be annual parole consideration hearings thereafter, unless the person is released or otherwise ineligible for parole release. The panel or board shall release the person within one year of the date of the revocation unless it determines that the circumstances and gravity of the parole violation are such that consideration of the public safety requires a more lengthy period of incarceration or unless there is a new prison commitment following a conviction.

(e) The provisions of Section 3042 shall not apply to any hearing held pursuant to this section.

SEC. 38. Section 3001 of the Penal Code is amended to read:

3001. (a) *(1) Notwithstanding any other provision of law, when any person referred to in paragraph (2) of subdivision (b) of Section 3000 who was not imprisoned for committing a violent felony, as defined in subdivision (c) of Section 667.5, not imprisoned for a serious felony, as defined by subdivision (c) of Section 1192.7, or is not required to register as a sex offender pursuant to Section 290, has been released on parole from the state prison, and has been on parole continuously for six months since release from confinement, within 30 days, that person shall be discharged from parole, unless the Department of Corrections and Rehabilitation recommends to the Board of Parole Hearings that the person be retained on parole and the board, for good cause, determines that the person will be retained.*

(2) Notwithstanding any other provision of law, when any person referred to in paragraph (2) of subdivision (b) of Section 3000 who is required to register as a sex offender pursuant to the Sex Offender Registration Act or who was imprisoned for committing a serious felony described in either subdivision (c) of Section 1192.7 or subdivision (a) of Section 1192.8, has been released on parole from the state prison, and has been on parole continuously for one year since release from confinement, within 30 days, that person shall be discharged from parole, unless the Department of Corrections and Rehabilitation recommends to the Board of Parole Hearings that the person be retained on parole and the board, for good cause, determines that the person will be retained.

(3) Notwithstanding any other provision of law, when any person referred to in paragraph ~~(1)~~ *(2)* of subdivision (b) of Section 3000 who was ~~not~~ imprisoned for committing a violent felony, as defined in subdivision (c) of Section 667.5, ~~not imprisoned for a serious~~

~~felony, as defined by subdivision (c) of Section 1192.7, or is not required to register as a sex offender pursuant to Section 290,~~ has been released on parole from the state ~~prison, and has been on parole continuously for six months since release from confinement, within 30 days, that person shall be discharged from parole, unless the Department of Corrections and Rehabilitation recommends to the Board of Parole Hearings that the person be retained on parole and the board, for good cause, determines that the person will be retained. Notwithstanding any other provision of law, when any person referred to in paragraph (1) of subdivision (b) of Section 3000 who was imprisoned for committing a violent felony, as defined in subdivision (c) of Section 667.5, has been released on parole from the state~~ prison for a period not exceeding three years and has been on parole continuously for two years since release from confinement, or has been released on parole from the state prison for a period not exceeding five years and has been on parole continuously for three years since release from confinement, the department shall discharge, within 30 days, that person from parole, unless the department recommends to the board that the person be retained on parole and the board, for good cause, determines that the person will be retained. The board shall make a written record of its determination and the department shall transmit a copy thereof to the parolee.

(4) This subdivision shall apply only to those persons whose commitment offense occurred prior to the effective date of the act adding this paragraph.

(b) Notwithstanding any other provision of law, when any person referred to in paragraph ~~(2)~~ *(1)* of subdivision (b) of Section ~~3000~~ *3000, with the exception of persons described in paragraph (2) of subdivision (a) of Section 3000.1,* has been released on parole from the state prison, and has been on parole continuously for three years since release from confinement, the board shall discharge, within 30 days, the person from parole, unless the board, for good cause, determines that the person will be retained on parole. The board shall make a written record of its determination and the department shall transmit a copy of that determination to the parolee.

(c) Notwithstanding any other provision of law, when any person referred to in paragraph (3) of subdivision (b) of Section 3000 has been released on parole from the state prison, and has been on parole continuously for six years and six months since release from confinement, the board shall discharge, within 30 days, the person from parole, unless the board, for good cause, determines that the person will be retained on parole. The board shall make a written record of its determination and the department shall transmit a copy thereof to the parolee.

(d) In the event of a retention on parole, the parolee shall be entitled to a review by the ~~parole authority~~ *Board of Parole Hearings* each year thereafter until the maximum statutory period of parole has expired.

(e) The amendments to this section made during the 1987–88 Regular Session of the Legislature shall only be applied prospectively and shall not extend the parole period for any person whose eligibility for discharge from parole was fixed as of the effective date of those amendments.

(f) The Department of Corrections and Rehabilitation shall, within 60 days from the date that the act adding this subdivision is effective, submit to the Board of Parole Hearings recommendations pursuant to paragraph (2) of subdivision (a) for any person described in that paragraph who has been released from state prison from October 1, 2010, to the effective date of this subdivision, and who has been on parole continuously for one year since his or her release from confinement. A person who meets the criteria in this subdivision who are not retained on parole by the Board of Parole Hearings by the 91st day after the effective date of this subdivision shall be discharged from parole.

~~(f)~~

(g) The amendments made to subdivision (a) during the 2011–12 Regular Session and the First Extraordinary Session of the Legislature shall apply prospectively from October 1, 2011, and no person on parole prior to October 1, 2011, shall be discharged from parole pursuant to subdivision (a) unless one of the following circumstances exist:

(1) The person has been on parole continuously for six consecutive months after October 1, 2011, and the person is not retained by the Board of Parole Hearings for good cause.

(2) The person has, on or after October 1, 2011, been on parole for one year and the Board of Parole Hearings does not retain the person for good cause.

SEC. 39. Section 3004 of the Penal Code is amended to read:

3004. (a) Notwithstanding any other law, the *Board of Parole Hearings, the court, or the supervising* parole authority may require, as a condition of release on parole or reinstatement on parole, or as an intermediate sanction in lieu of return to ~~prison,~~ *custody,* that an inmate or parolee agree in writing to the use of electronic monitoring or supervising devices for the purpose of helping to verify his or her compliance with all other conditions of parole. The devices shall not be used to eavesdrop or record any conversation, except a conversation between the parolee and the agent supervising the parolee which is to be used solely for the purposes of voice identification.

(b) Every inmate who has been convicted for any felony violation of a "registerable sex offense" described in subdivision (c) of Section 290 or any attempt to commit any of the above-mentioned offenses and who is committed to prison and released on parole pursuant to Section 3000 or 3000.1 shall be monitored by a global positioning system for life.

(c) Any inmate released on parole pursuant to this section shall be required to pay for the costs associated with the monitoring by a global positioning system. However, the Department of Corrections and Rehabilitation shall waive any or all of that payment upon a finding of an inability to pay. The department shall consider any remaining amounts the inmate has been ordered to pay in fines, assessments and restitution fines, fees, and orders, and shall give priority to the payment of those items before requiring that the inmate pay for the global positioning monitoring.

SEC. 40. Section 3041.1 of the Penal Code is amended to read:

3041.1. Up to 90 days prior to a scheduled release date, the Governor may request review of any decision by a parole authority concerning the grant or denial of parole to any inmate in a state prison. The Governor shall state the reason or reasons for the request, and whether the request is based on a public safety concern, a concern that the gravity of current or past convicted offenses may have been given inadequate consideration, or on other factors. When a request has been made, ~~a randomly selected committee comprised~~ *the request shall be reviewed by a majority* of ~~nine~~ commissioners specifically appointed to hear adult parole matters and who are holding office at the ~~time, shall review the parole decision.~~ *time.* In case of a review, a vote in favor of parole by a majority of the commissioners ~~on~~ *reviewing* the ~~committee~~

request shall be required to grant parole to any inmate. In carrying out any review, the board shall comply with the provisions of this chapter.

SEC. 41. Section 3053.2 of the Penal Code is amended to read:

3053.2. (a) Upon the request of the victim, or the victim's parent or legal guardian if the victim is a minor, the *Board of Parole Hearings or the supervising* parole ~~authority~~ *agency* shall impose the following condition on the parole of a person released from prison for an offense involving threatening, stalking, sexually abusing, harassing, or violent acts in which the victim is a person specified in Section 6211 of the Family Code:

Compliance with a protective order enjoining the parolee from threatening, stalking, sexually abusing, harassing, or taking further violent acts against the victim and, if appropriate, compliance with any or all of the following:

(1) An order prohibiting the parolee from having personal, telephonic, electronic, media, or written contact with the victim.

(2) An order prohibiting the parolee from coming within at least 100 yards of the victim or the victim's residence or workplace.

(3) An order excluding the parolee from the victim's residence.

(b) The *Board of Parole Hearings or the supervising* parole ~~authority~~ *agency* may impose the following condition on the parole of a person released from prison for an offense involving threatening, stalking, sexually abusing, harassing, or violent acts in which the victim is a person specified in Section 6211 of the Family Code:

For persons who committed the offense prior to January 1, 1997, participation in a batterer's program, as specified in this section, for the entire period of parole. For persons who committed the offense after January 1, 1997, successful completion of a batterer's program, which shall be a condition of release from parole. If no batterer's program is available, another appropriate counseling program designated by the parole agent or officer, for a period of not less than one year, with weekly sessions of a minimum of two hours of classroom time. The program director shall give periodic progress reports to the parole agent or officer at least every three months.

(c) The parole agent or officer shall refer the parolee only to a batterer's program that follows the standards outlined in Section 1203.097 and immediately following sections.

(d) The parolee shall file proof of enrollment in a batterer's program with the parole agent or officer within 30 days after the first meeting with his or her parole agent or officer, if he or she committed the offense after January 1, 1997, or within 30 days of receiving notice of this parole condition, if he or she committed the offense prior to January 1, 1997.

(e) The parole agent or officer shall conduct an initial assessment of the parolee, which information shall be provided to the batterer's program. The assessment shall include, but not be limited to, all of the following:

(1) Social, economic, and family background.

(2) Education.

(3) Vocational achievements.

(4) Criminal history, prior incidents of violence, and arrest reports.

(5) Medical history.

(6) Substance abuse history.

(7) Consultation with the probation officer.

(8) Verbal consultation with the victim, only if the victim desires to participate.

(f) Upon request of the victim, the victim shall be notified of the release of the parolee and the parolee's location and parole agent or officer. If the victim requests notification, he or she shall also be informed that attendance in any program does not guarantee that an abuser will not be violent.

(g) The parole agent or officer shall advise the parolee that the failure to enroll in a specified program, as directed, may be considered a parole violation that would result in possible further incarceration.

(h) The director of the batterer's program shall immediately report any violation of the terms of the protective order issued pursuant to paragraph (3) of subdivision (a), including any new acts of violence or failure to comply with the program requirements, to the parolee's parole agent or officer.

(i) Upon recommendation of the director of the batterer's program, a parole agent or officer may require a parolee to participate in additional sessions throughout the parole period, unless he or she finds that it is not in the interests of justice to do so. In deciding whether the parolee would benefit from more sessions, the parole agent or officer shall consider whether any of the following conditions exist:

(1) The parolee has been violence-free for a minimum of six months.

(2) The parolee has cooperated and participated in the batterer's program.

(3) The parolee demonstrates an understanding of, and practices, positive conflict resolution skills.

(4) The parolee blames, degrades, or has committed acts that dehumanize the victim or puts the victim's safety at risk, including, but not limited to, molesting, stalking, striking, attacking, threatening, sexually assaulting, or battering the victim.

(5) The parolee demonstrates an understanding that the use of coercion or violent behavior to maintain dominance is unacceptable in an intimate relationship.

(6) The parolee has made threats to harm another person in any manner.

(7) The parolee demonstrates acceptance of responsibility for the abusive behavior perpetrated against the victim.

SEC. 42. Section 3053.4 of the Penal Code is amended to read:

3053.4. In the case of any person who is released from prison on parole or after serving a term of imprisonment for any felony offense committed against the person or property of another individual, private institution, or public agency because of the victim's actual or perceived race, color, ethnicity, religion, nationality, country of origin, ancestry, disability, gender, gender identity, gender expression, or sexual orientation, including, but not limited to, offenses defined in Section 422.6, 422.7, 422.75, 594.3, or 11411, the *Board of Parole Hearings or the supervising* parole ~~authority,~~ *agency,* absent compelling circumstances, shall order the defendant as a condition of parole to refrain from further acts of violence, threats, stalking, or harassment of the victim, or known immediate family or domestic partner of the victim, including stay-away conditions when appropriate. In these cases, the parole authority may also order that the defendant be required as a condition of parole to complete a class or program on racial or ethnic sensitivity, or other similar training in the area of civil rights, or a one-year counseling program intended to reduce the tendency toward violent and antisocial behavior if that class, program, or training is available and was developed or authorized by the court or local agencies in cooperation with organizations serving the affected community.

SEC. 43. Section 3056 of the Penal Code is amended to read:

3056. (a) Prisoners on parole shall remain under the supervision of the department but shall not be returned to prison except as provided in subdivision (b) or as provided by subdivision (c) of Section 3000.09. ~~Except~~ *A parolee awaiting a parole revocation hearing may be housed in a county jail while awaiting revocation proceedings. If a parolee is housed in a county jail, he or she shall be housed in the county in which he or she was arrested or the county in which a petition to revoke parole has been filed or, if there is no county jail in that county, in the housing facility with which that county has contracted to house jail inmates. Additionally, except* as provided by subdivision (c) of Section 3000.09, upon revocation of parole, a parolee may be housed in a county jail for a maximum of 180 ~~days.~~ *days per revocation.* When housed in county facilities, parolees shall be under the *sole* legal custody and jurisdiction of local county facilities. *A parolee shall remain under the sole legal custody and jurisdiction of the local county or local correctional administrator, even if placed in an alternative custody program in lieu of incarceration, including, but not limited to, work furlough and electronic home detention.* When *a parolee is under the legal custody and jurisdiction of a county facility awaiting parole revocation proceedings or upon revocation, he or she shall not be under the parole supervision or jurisdiction of the department. When* released from ~~custody, parolees~~ *the county facility or county alternative custody program following a period of custody for revocation of parole or because no violation of parole is found, the parolee* shall be returned to the parole supervision of the department for the duration of parole.

(b) Inmates paroled pursuant to Section 3000.1 may be returned to prison following the revocation of parole by the Board of Parole Hearings until July 1, 2013, and thereafter by a court pursuant to Section 3000.08.

(c) A parolee who is subject to subdivision (a) but who is under 18 years of age may be housed in a facility of the Division of Juvenile Facilities.

SEC. 44. Section 3059 of the Penal Code is amended to read:

3059. If any paroled prisoner shall leave the state without permission of ~~the Board of Prison Terms,~~ *his or her supervising* *parole agency,* he *or she* shall be held as an escaped prisoner and arrested as such.

SEC. 45. Section 3060.5 of the Penal Code is amended to read:

3060.5. Notwithstanding any other provision of law, the parole authority shall revoke the parole of any prisoner who refuses to sign ~~a parole agreement setting forth the general and~~ any ~~special conditions applicable to the parole, refuses to sign any~~ form required by the Department of Justice stating that the duty of the prisoner to register under Section 290 has been explained to the prisoner, unless the duty to register has not been explained to the prisoner, or refuses to provide samples of blood or saliva as required by the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1), and shall order the prisoner returned to prison. Confinement pursuant to any single revocation of parole under this section shall not, absent a new conviction and commitment to prison under other provisions of law, exceed six months, except as provided in subdivision (c) of Section 3057.

SEC. 46. Section 3060.6 of the Penal Code is amended to read:

3060.6. Notwithstanding any other provision of law, on or after January 1, 2001, whenever any paroled person is returned to custody or has his or her parole revoked for conduct described in subdivision (c) of Section 290, the *supervising* parole ~~authority~~ *agency* shall report the circumstances that were the basis for the return to custody or revocation of parole to the law enforcement agency and the district attorney that has primary jurisdiction over the community in which the circumstances occurred and to the Department of Corrections and Rehabilitation. Upon the release of the paroled person, the Department of Corrections and Rehabilitation shall inform the law enforcement agency and the district attorney that has primary jurisdiction over the community in which the circumstances occurred and, if different, the county in which the person is paroled or discharged, of the circumstances that were the basis for the return to custody or revocation of parole.

SEC. 47. Section 3060.7 of the Penal Code is amended to read:

3060.7. (a) (1) Notwithstanding any other law, the *supervising* parole ~~authority~~ *agency* shall notify any person released on parole or postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) of Part 3 who has been classified by the Department of Corrections as included within the highest control or risk classification that he or she shall be required to report to his or her assigned parole officer or designated local supervising agency within two days of release from the state prison.

(2) This section shall not prohibit the *supervising* parole ~~authority~~ *agency* or local supervising agency from requiring any person released on parole or postrelease community supervision to report to his or her assigned parole officer within a time period that is less than two days from the time of release.

(b) The parole authority, within 24 hours of a parolee's failure to report as required by this section, shall issue a written order suspending the parole of that parolee, pending a hearing before the parole authority, and shall issue a warrant for the parolee's arrest.

(c) Upon the issuance of an arrest warrant for a parolee who has been classified within the highest control or risk classification, the assigned parole officer shall continue to carry the parolee on his or her regular caseload and shall continue to search for the parolee's whereabouts.

(d) With regard to any inmate subject to this section, the Department of Corrections and Rehabilitation shall release an inmate sentenced prior to the effective date of this section one or two days before his or her scheduled release date if the inmate's release date falls on the day before a holiday or weekend.

(e) With regard to any inmate subject to this section, the Department of Corrections and Rehabilitation shall release an inmate one or two days after his or her scheduled release date if the release date falls on the day before a holiday or weekend.

(f) This section shall remain in effect only until July 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2013, deletes or extends that date.

SEC. 48. Section 3060.7 is added to the Penal Code, to read:

3060.7. (a) (1) Notwithstanding any other law, the supervising parole agency shall notify any person released on parole or postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) of Part 3 who has been classified by the Department of Corrections as included within the highest control or risk classification that he or she shall be required to report to his or her assigned parole officer or designated local supervising agency within two days of release from the state prison.

(2) This section shall not prohibit the supervising parole agency or local supervising agency from requiring any person released on parole or postrelease community supervision to report to his or her assigned parole officer within a time period that is less than two days from the time of release.

(b) The supervising parole agency, within 24 hours of a parolee's failure to report as required by this section, shall issue a written order suspending the parole of that parolee, pending a hearing before the Board of Parole Hearings or the court, as applicable, and shall request that a warrant be issued for the parolee's arrest pursuant to subdivision (c) of Section 3000.08.

(c) Upon the issuance of an arrest warrant for a parolee who has been classified within the highest control or risk classification, the assigned parole officer shall continue to carry the parolee on his or her regular caseload and shall continue to search for the parolee's whereabouts.

(d) With regard to any inmate subject to this section, the Department of Corrections and Rehabilitation shall release an inmate sentenced prior to the effective date of this section one or two days before his or her scheduled release date if the inmate's release date falls on the day before a holiday or weekend.

(e) With regard to any inmate subject to this section, the Department of Corrections and Rehabilitation shall release an inmate one or two days after his or her scheduled release date if the release date falls on the day before a holiday or weekend.

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

SEC. 49. Section 3067 of the Penal Code is amended to read:

3067. (a) Any inmate who is eligible for release on parole pursuant to this chapter or postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) of Part 3 shall ~~agree in writing to~~ be *given notice that he or she is* subject to ~~search or seizure by a parole officer or other peace officer at any time~~ *terms and conditions* of ~~the day or night, with or without a search warrant and with or without cause.~~ *his or her release from prison.*

~~(b) Any inmate who does not comply with the provision of subdivision (a) shall lose worktime credit earned pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 on a day-for-day basis and shall not be released until he or she either complies with~~

~~the provision of subdivision (a) or has no remaining worktime credit, whichever occurs earlier.~~

(b) The notice shall include all of the following:

(1) The person's release date and the maximum period the person may be subject to supervision under this title.

(2) An advisement that if the person violates any law or violates any condition of his or her release that he or she may be incarcerated in a county jail or, if previously paroled pursuant to Section 3000.1 or paragraph (4) of subdivision (b) of Section 3000, returned to state prison, regardless of whether new charges are filed.

(3) An advisement that he or she is subject to search or seizure by a probation or parole officer or other peace officer at any time of the day or night, with or without a search warrant or with or without cause.

(c) This section shall only apply to an inmate who is eligible for release on parole for an offense committed on or after January 1, 1997.

(d) It is not the intent of the Legislature to authorize law enforcement officers to conduct searches for the sole purpose of harassment.

(e) This section does not affect the power of the Secretary of the Department of Corrections and Rehabilitation to prescribe and amend rules and regulations pursuant to Section 5058.

SEC. 50. Section 3452 of the Penal Code is amended to read:

3452. (a) ~~Persons~~ *A person who is* eligible for postrelease community supervision pursuant to this title shall ~~enter into a~~ *be given notice that he or she is subject to* postrelease community supervision ~~agreement~~ prior ~~to, and as a condition of, their~~ *to his or her* release from prison. ~~Persons~~ *A person who is* on parole *and is then* transferred to postrelease community supervision shall ~~enter into a~~ *be given notice that he or she is subject to* postrelease community supervision ~~agreement as a condition of their~~ *prior to his or her* release from state prison.

(b) A postrelease community supervision ~~agreement~~ *notice* shall specify the following:

(1) The person's release date and the maximum period the person may be subject to postrelease supervision under this title.

(2) The name, address, and telephone number of the county agency responsible for the person's postrelease supervision.

(3) An advisement that if a person breaks the law or violates the conditions of release, he or she can be incarcerated in a county jail regardless of whether or not new charges are filed.

SEC. 51. Section 3453 of the Penal Code is amended to read:

3453. ~~A postrelease~~ *Postrelease* community supervision ~~agreement~~ shall include the following conditions:

(a) The person shall ~~sign and agree to~~ *be informed of* the conditions of release.

(b) The person shall obey all laws.

(c) The person shall report to the supervising county agency within two working days of release from custody.

(d) The person shall follow the directives and instructions of the supervising county agency.

(e) The person shall report to the supervising county agency as directed by that agency.

(f) The person, and his or her residence and possessions, shall be subject to search at any time of the day or night, with or without a warrant, by an agent of the supervising county agency or by a peace officer.

(g) The person shall waive extradition if found outside the state.

(h) The person shall inform the supervising county agency of the person's place of residence, employment, education, or training.

(i) (1) The person shall inform the supervising county agency of any pending or anticipated changes in residence, employment, education, or training.

(2) If the person enters into new employment, he or she shall inform the supervising county agency of the new employment within three business days of that entry.

(j) The person shall immediately inform the supervising county agency if he or she is arrested or receives a citation.

(k) The person shall obtain the permission of the supervising county agency to travel more than 50 miles from the person's place of residence.

(*l*) The person shall obtain a travel pass from the supervising county agency before he or she may leave the county or state for more than two days.

(m) The person shall not be in the presence of a firearm or ammunition, or any item that appears to be a firearm or ammunition.

(n) The person shall not possess, use, or have access to any weapon listed in Section 12020, 16140, subdivision (c) of Section 16170, Section 16220, 16260, 16320, 16330, or 16340, subdivision (b) of Section 16460, Section 16470, subdivision (f) of Section 16520, or Section 16570, 16740, 16760, 16830, 16920, 16930, 16940, 17090, 17125, 17160, 17170, 17180, 17190, 17200, 17270, 17280, 17330, 17350, 17360, 17700, 17705, 17710, 17715, 17720, 17725, 17730, 17735, 17740, 17745, 19100, 19200, 19205, 20200, 20310, 20410, 20510, 20611, 20710, 20910, 21110, 21310, 21810, 22010, 22015, 22210, 22215, 22410, 32430, 24310, 24410, 24510, 24610, 24680, 24710, 30210, 30215, 31500, 32310, 32400, 32405, 32410, 32415, 32420, 32425, 32435, 32440, 32445, 32450, 32900, 33215, 33220, 33225, or 33600.

(o) (1) Except as provided in paragraph (2) and subdivision (p), the person shall not possess a knife with a blade longer than two inches.

(2) The person may possess a kitchen knife with a blade longer than two inches if the knife is used and kept only in the kitchen of the person's residence.

(p) The person may use a knife with a blade longer than two inches, if the use is required for that person's employment, the use has been approved in a document issued by the supervising county agency, and the person possesses the document of approval at all times and makes it available for inspection.

(q) The person ~~agrees to~~ *shall* waive any right to a court hearing prior to the imposition of a period of "flash incarceration" in a county jail of not more than 10 consecutive days for any violation of his or her postrelease supervision conditions.

(r) The person ~~agrees to~~ *shall* participate in rehabilitation programming as recommended by the supervising county agency.

(s) The person ~~agrees that he or she may~~ *shall* be subject to arrest with or without a warrant by a peace officer employed by the supervising county agency or, at the direction of the supervising county agency, by any peace officer when there is probable cause to believe the person has violated the terms and conditions of his or her release.

SEC. 52. Section 3455 of the Penal Code is amended to read:

3455. (a) If the supervising county agency has determined, following application of its assessment processes, that intermediate sanctions as authorized in subdivision (b) of Section 3454 are not appropriate, the supervising county agency shall petition the ~~revocation hearing officer appointed~~ *court* pursuant to Section ~~71622.5 of the Government Code~~ *1203.2* to ~~revoke and~~ *revoke, modify, or* terminate postrelease *community* supervision. At any point during the process initiated pursuant to this section, a person may waive, in writing, his or her right to counsel, admit the violation of his or her postrelease *community* supervision, waive a court hearing, and accept the proposed modification of his or her postrelease *community* supervision. The petition shall include a written report that contains additional information regarding the petition, including the relevant terms and conditions of postrelease *community* supervision, the circumstances of the alleged underlying violation, the history and background of the violator, and any recommendations. The Judicial Council shall adopt forms and rules of court to establish uniform statewide procedures to implement this subdivision, including the minimum contents of supervision agency reports. Upon a finding that the person has violated the conditions of postrelease *community* supervision, the revocation hearing officer shall have authority to do all of the following:

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

(2) Revoke *and terminate* postrelease *community* supervision and order the person to confinement in the county jail.

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

~~(4)~~

(b) (1) At any time during the period of postrelease *community* supervision, if any peace officer has probable cause to believe a person subject to postrelease community supervision is violating any term or condition of his or her release, the officer may, without a warrant or other process, arrest the person and bring him or her before the supervising county agency established by the county board of supervisors pursuant to subdivision (a) of Section 3451. Additionally, an officer employed by the supervising county agency may seek a warrant and a court or its designated hearing officer appointed pursuant to Section 71622.5 of the Government Code shall have the authority to issue a warrant for that person's arrest.

~~(5)~~

(2) The court or its designated hearing officer shall have the authority to issue a warrant for any person who is the subject of a petition filed under this section who has failed to appear for a hearing on the petition or for any reason in the interests of justice, or to remand to custody a person who does appear at a hearing on the petition for any reason in the interests of justice.

~~(b)~~

(c) The revocation hearing shall be held within a reasonable time after the filing of the revocation petition. Based upon a showing of a preponderance of the evidence that a person under supervision poses an unreasonable risk to public safety, or the person may not appear if released from custody, or for any reason in the interests of justice, the supervising county agency shall have the authority to make a determination whether the person should remain in custody pending *the first court appearance on* a ~~revocation hearing,~~ *petition to revoke postrelease community supervision,* and upon that determination, may order the person confined pending ~~a revocation hearing.~~ *his or her first court appearance.*

~~(c)~~

(d) Confinement pursuant to paragraphs (1) and (2) of subdivision (a) shall not exceed a period of 180 days in the county jail *for each custodial sanction*.

~~(d)~~

(e) A person shall not remain under supervision or in custody pursuant to this title on or after three years from the date of the person's initial entry onto postrelease *community* supervision, except when ~~a bench~~ *his* or ~~arrest warrant has been issued by a court or its designated hearing officer and the person has not appeared. During the time the warrant is outstanding the~~ *her* supervision ~~period shall be~~ *is* tolled ~~and when the person appears before the court~~ *pursuant to Section 1203.2* or ~~its designated hearing officer the supervision period may be extended for a period equivalent to the time tolled.~~ *subdivision (b) of Section 3456.*

SEC. 53. Section 3456.5 is added to the Penal Code, to read:

3456.5. (a) (1) The local supervising agency, in coordination with the sheriff or local correctional administrator, may require any person that is to be released from county jail or a local correctional facility into postrelease community supervision to report to a supervising agent or designated local supervising *agency within two days of release from the county jail or local correction facility.*

(2) This section shall not prohibit the local supervising agency from requiring any person released on postrelease community supervision to report to his or her assigned supervising agent within a time period that is less than two days from the time of release.

(b) With regard to any inmate subject to this section, the sheriff or local correctional administrator may release an inmate sentenced prior to the effective date of the act adding this section one or two days before his or her scheduled release date if the inmate's release date falls on the day before a holiday or weekend.

SEC. 54. Section 4024.1 of the Penal Code is amended to read:

4024.1. (a) The sheriff, chief of police, or any other person responsible for a county or city jail may apply to the presiding judge of the superior court to receive general authorization for a period of 30 days to release inmates pursuant to the provisions of this section.

(b) Whenever, after being authorized by a court pursuant to subdivision (a), the actual inmate count exceeds the actual bed capacity of a county or city jail, the sheriff, chief of police, or other person responsible for such county or city jail may accelerate the release, discharge, or expiration of sentence date of sentenced inmates up to a maximum of ~~five~~ *30* days.

(c) The total number of inmates released pursuant to this section shall not exceed a number necessary to balance the inmate count and actual bed capacity.

(d) Inmates closest to their normal release, discharge, or expiration of sentence date shall be given accelerated release priority.

(e) The number of days that release, discharge, or expiration of sentence is accelerated shall in no case exceed 10 percent of the particular inmate's original sentence, prior to the application thereto of any other credits or benefits authorized by law.

SEC. 55. Section 4115.55 of the Penal Code is amended to read:

4115.55. (a) Upon agreement with the sheriff or director of the county department of corrections, a board of supervisors may enter into a contract with other public agencies to provide housing for inmates sentenced to county jail in community correctional facilities created pursuant to Chapter *7 (commencing with Section 2910) of Title 1 or Chapter* 9.5 (commencing with Section 6250) of Title 7.

(b) ~~This section~~ *Facilities operated pursuant to agreements entered into under subdivision (a)* shall ~~remain in effect only until January 1, 2015, and~~ *comply with the minimum standards for local detention facilities* as *provided by Chapter 1 (commencing with Section 3000)* of ~~that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.~~ *Division 3 of Title 15 of the California Code of Regulations.*

SEC. 56. Section 4536 of the Penal Code is amended to read:

4536. (a) Every person committed to a state hospital or other public or private mental health facility as a mentally disordered sex offender, who escapes from or who escapes while being conveyed to or from such state hospital or other public or private mental health facility, is punishable by imprisonment ~~pursuant to subdivision (h) of Section 1170~~ *in the state prison* or in the county jail not to exceed one year. The term imposed pursuant to this section shall be served consecutively to any other sentence or commitment.

(b) The medical director or person in charge of a state hospital or other public or private mental health facility to which a person has been committed as a mentally disordered sex offender shall promptly notify the chief of police of the city in which the hospital or facility is located, or the sheriff of the county if the hospital or facility is located in an unincorporated area, of the escape of the person, and shall request the assistance of the chief of police or sheriff in apprehending the person, and shall, within 48 hours of the escape of the person, orally notify the court that made the commitment, the prosecutor in the case, and the Department of Justice of the escape.

SEC. 57. Section 7510 of the Penal Code is amended to read:

7510. (a) A law enforcement employee who believes that he or she came into contact with bodily fluids of either an inmate of a correctional institution, a person not in a correctional institution who has been arrested or taken into custody whether or not the person has been charged with a crime, including a person detained for or charged with an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, a person charged with any crime, whether or not the person is in custody,~~ or a person~~ *on postrelease community supervision, mandatory supervision pursuant to paragraph (5) of subdivision (h) of Section 1170, or* on probation or parole due to conviction of a crime, shall report the incident through the completion of a form provided by the State Department of Public Health. The form shall be directed to the chief medical officer, as defined in subdivision (c), who serves the applicable law enforcement employee. Utilizing this form the law enforcement employee may request a test for HIV or hepatitis B or C of the person who is the subject of the report. The forms may be combined with regular incident reports or other forms used by the correctional institution or law enforcement agency, however the processing of a form by the chief medical officer containing a request for HIV or hepatitis B or C testing of the subject person shall not be delayed by the processing of other reports or forms.

(b) The report required by subdivision (a) shall be submitted by the end of the law enforcement employee's shift during which the incident occurred, or if not practicable, as soon as possible, but no longer than two days after the incident, except that the chief medical officer may waive this filing period requirement if he or she finds that good cause exists. The report shall include names of witnesses to the incident, names of persons involved in the incident, and if feasible, any written statements from these parties. The law enforcement employee shall assist in the investigation of the incident, as requested by the chief medical officer.

(c) For purposes of this section, Section~~ 7502,~~ *7503,* and Section 7511, "chief medical officer" means:

(1) In the case of a report filed by a staff member of a state prison, the chief medical officer of that facility.

(2) In the case of a parole officer filing a report, the chief medical officer of the nearest state prison.

(3) In the case of a report filed by an employee of the Division of Juvenile Justice, the chief medical officer of the facility.

(4) In the case of a report filed against a subject who is an inmate of a city or county jail or a county- or city-operated juvenile facility, or a court facility, or who has been arrested or taken into custody whether or not the person has been charged with a crime, but who is not in a correctional facility, including a person detained for, or charged with, an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and

Institutions Code, or a person charged with a crime, whether or not the person is in custody, the county health officer of the county in which the individual is jailed or charged with the crime.

(5) In the case of a report filed by a probation officer, a prosecutor or staff person, a public defender attorney or staff person, the county health officer of the county in which the probation officer, prosecutor or staff person, a public defender attorney or staff person, is employed.

(6) In any instance where the chief medical officer, as determined pursuant to this subdivision, is not a physician and surgeon, the chief medical officer shall designate a physician and surgeon to perform his or her duties under this title.

SEC. 58. Section 7519 of the Penal Code is amended to read:

7519. (a) When an individual, including a minor charged with an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, has either been charged with a crime, but is not being held in a correctional institution due to his or her release, either through the granting of bail, a release on the individual's own recognizance, or for any other reason, or been convicted of a crime, but not held in a correctional institution due to the imposition of probation, a fine, or any other alternative sentence, and the individual is required to undergo initial or followup testing pursuant to this title, the failure of the individual to submit to the test may be grounds for revocation of the individual's release or probation or other sentence, whichever is applicable.

(b) Any refusal by a ~~parolee~~ *person on parole, probation, mandatory supervision pursuant to paragraph (5) of subdivision (h) of Section 1170,* or ~~probationer~~ *postrelease community supervision* to submit to testing required pursuant to this title may be ruled as a violation of the person's parole*, probation, mandatory supervision,* or ~~probation.~~ *postrelease community supervision.*

SEC. 59. Section 7520 of the Penal Code is amended to read:

7520. *(a)* Upon the release of an inmate from a correctional institution, a medical representative of the institution shall notify the inmate's parole or probation officer, where it is the case, that the inmate has tested positive for infection with HIV, or has been diagnosed as having AIDS or hepatitis B and C. The representative of the correctional institution shall obtain the latest available medical information concerning any precautions which should be taken under the circumstances, and shall convey that information to the parole or probation officer.

~~When~~

(b) When a parole or probation officer learns from responsible medical authorities that a ~~parolee~~ *person on parole, probation, mandatory supervision pursuant to paragraph (5) of subdivision (h) of Section 1170,* or ~~probationer~~ *postrelease community supervision* under his or her jurisdiction has AIDS or has tested positive for HIV infection, or hepatitis B or C, the parole or probation officer shall be responsible for ensuring that the parolee or probationer contacts the county health department in order to be, or through his or her own physician and surgeon is, made aware of counseling and treatment for AIDS or hepatitis B or C, as appropriate commensurate with that available to the general population of that county.

SEC. 60. Section 7521 of the Penal Code is amended to read:

7521. (a) When a parole or probation officer learns from responsible medical authorities that a ~~parolee or probationer~~ *supervised person* in his or her custody has any of the conditions listed in Section 7520, but that the ~~parolee or probationer~~ *supervised person* has not properly informed his or her spouse, the officer may ensure that this information is relayed to the spouse only through either the chief medical officer of the institution from which the person was released or the physician and surgeon treating the spouse or the ~~parolee or probationer.~~ *supervised person.* The parole or probation officer shall seek to ensure that proper counseling accompanies release of this information to the spouse, through the person providing the information to the inmate's spouse.

(b) If a parole or probation officer has received information from appropriate medical authorities that one of his or her ~~parolees or probationers~~ *supervised persons* is HIV infected or has AIDS or hepatitis B or C, and the ~~parolee or probationer~~ *supervised person* has a record of assault on a peace officer, and the officer seeks the aid of local law enforcement officers to apprehend or take into custody the ~~parolee or probationer,~~ *supervised person,* he or she shall inform the officers assisting him or her in apprehending or taking into custody the ~~parolee or probationer,~~ *supervised person,* of the person's condition, to aid them in protecting themselves from contracting AIDS or hepatitis B or C.

(c) Local law enforcement officers receiving information pursuant to this subdivision shall maintain confidentiality of information received pursuant to subdivision (b). Willful use or disclosure of this information is a misdemeanor. Parole or probation officers who willfully or negligently disclose information about AIDS or hepatitis B or C infection, other than as prescribed under this title or any other provision of law, shall also be guilty of a misdemeanor.

(d) For purposes of this section, "supervised person" means a person on parole, probation, mandatory supervision pursuant to paragraph (5) of subdivision (h) of Section 1170, or postrelease community supervision.

SEC. 61. Section 11105 of the Penal Code is amended to read:

11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(A) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, fingerprints, photographs, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(B) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, if needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or Section 11571 of the Health and Safety Code.

(6) Probation officers of the state.

(7) Parole officers of the state.

(8) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(9) A public defender or attorney of record when representing a person in a criminal case, or ~~parole~~ *a parole, mandatory supervision pursuant to paragraph (5) of subdivision (h) of Section 1170, or postrelease community supervision* revocation or revocation extension proceeding, and if authorized access by statutory or decisional law.

(10) Any agency, officer, or official of the state if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The agency, officer, or official of the state authorized by this paragraph to receive state summary criminal history information may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(11) Any city or county, city and county, district, or any officer or official thereof if access is needed in order to assist that agency, officer, or official in fulfilling employment, certification, or licensing duties, and if the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district if the criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The city or county, city and county, district, or the officer or official thereof authorized by this paragraph may also transmit fingerprint images and related

information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(12) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120).

(13) Any person or entity when access is expressly authorized by statute if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

(14) Health officers of a city, county, city and county, or district when in the performance of their official duties enforcing Section 120175 of the Health and Safety Code.

(15) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(16) Any humane society, or society for the prevention of cruelty to animals, for the specific purpose of complying with Section 14502 of the Corporations Code for the appointment of humane officers.

(17) Local child support agencies established by Section 17304 of the Family Code. When a local child support agency closes a support enforcement case containing summary criminal history information, the agency shall delete or purge from the file and destroy any documents or information concerning or arising from offenses for or of which the parent has been arrested, charged, or convicted, other than for offenses related to the parent's having failed to provide support for minor children, consistent with the requirements of Section 17531 of the Family Code.

(18) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal history information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code. Information from criminal history records provided pursuant to this subdivision shall not be used for any purposes other than those specified in this section and Section 16504.5 of the Welfare and Institutions Code. When an agency obtains records obtained both on the basis of name checks and fingerprint checks, final placement decisions

shall be based only on the records obtained pursuant to the fingerprint check.

(19) The court of a tribe, or court of a consortium of tribes, that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code. This information may be used only for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. Article 6 (commencing with Section 11140) shall apply to officers, members, and employees of a tribal court receiving criminal record offender information pursuant to this section.

(20) Child welfare agency personnel of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code and to whom the state has delegated duties under paragraph (2) of subdivision (a) of Section 272 of the Welfare and Institutions Code. The purposes for use of the information shall be for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. When an agency obtains records on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check. Article 6 (commencing with Section 11140) shall apply to child welfare agency personnel receiving criminal record offender information pursuant to this section.

(21) An officer providing conservatorship investigations pursuant to Sections 5351, 5354, and 5356 of the Welfare and Institutions Code.

(22) A court investigator providing investigations or reviews in conservatorships pursuant to Section 1826, 1850, 1851, or 2250.6 of the Probate Code.

(23) A person authorized to conduct a guardianship investigation pursuant to Section 1513 of the Probate Code.

(24) A humane officer pursuant to Section 14502 of the Corporations Code for the purposes of performing his or her duties.

(c) The Attorney General may furnish state summary criminal history information and, when specifically authorized by this subdivision, federal level criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) Any public utility, as defined in Section 216 of the Public Utilities Code, that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, he or she shall furnish a copy of the data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To an illegal dumping enforcement officer as defined in subdivision (j) of Section 830.7.

(4) To a peace officer of another country.

(5) To public officers, other than peace officers, of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States if the information is needed for the performance of their official duties.

(6) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(7) The courts of the United States, other states, or territories or possessions of the United States.

(8) Peace officers of the United States, other states, or territories or possessions of the United States.

(9) To any individual who is the subject of the record requested if needed in conjunction with an application to enter the United States or any foreign nation.

(10) (A) (i) Any public utility, as defined in Section 216 of the Public Utilities Code, or any cable corporation as defined in subparagraph (B), if receipt of criminal history information is needed in order to assist in employing current or prospective employees, contract employees, or subcontract employees who, in the course of their employment may be seeking entrance to private residences or adjacent grounds. The information provided

shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

(ii) If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

(iii) Any information obtained from the state summary criminal history is confidential and the receiving public utility or cable corporation shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility or cable corporation and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

(iv) A violation of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility or cable corporation to recover damages proximately caused by the violations. Any public utility's or cable corporation's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences or adjacent grounds in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

(v) Nothing in this section shall be construed as imposing any duty upon public utilities or cable corporations to request state summary criminal history information on any current or prospective employees.

(B) For purposes of this paragraph, "cable corporation" means any corporation or firm that transmits or provides television, computer, or telephone services by cable, digital, fiber optic, satellite, or comparable technology to subscribers for a fee.

(C) Requests for federal level criminal history information received by the Department of Justice from entities authorized pursuant to subparagraph (A) shall be forwarded to the Federal Bureau of Investigation by the Department of Justice. Federal level criminal history information received or compiled by the Department of Justice may then be disseminated to the entities referenced in subparagraph (A), as authorized by law.

(D) (i) Authority for a cable corporation to request state or federal level criminal history information under this paragraph shall commence July 1, 2005.

(ii) Authority for a public utility to request federal level criminal history information under this paragraph shall commence July 1, 2005.

(11) To any campus of the California State University or the University of California, or any four year college or university accredited by a regional accreditation organization approved by the United States Department of Education, if needed in conjunction with an application for admission by a convicted felon to any special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

(12) To any foreign government, if requested by the individual who is the subject of the record requested, if needed in conjunction with the individual's application to adopt a minor child who is a citizen of that foreign nation. Requests for information pursuant to this paragraph shall be in accordance with the process described in Sections 11122 to 11124, inclusive. The response shall be provided to the foreign government or its designee and to the individual who requested the information.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing, or certification purposes, the Department of Justice may charge the person or entity making the request a fee that it determines to be sufficient to reimburse the department for the cost of furnishing the information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other law, any person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for this expense. All moneys received by the department pursuant to this section, Sections 11105.3 and ~~26190 of the Penal Code,~~ *26190,* and *former* Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to those sections and for maintenance and improvements to the systems from which the information is obtained upon appropriation by the Legislature.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4 of the Business and Professions Code shall take priority over the processing of other applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record if the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) Notwithstanding any other law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information checks that are authorized by law.

(j) The state summary criminal history information shall include any finding of mental incompetence pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 arising out of a complaint charging a felony offense specified in Section 290.

(k) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the

Department of Justice as the result of an application by an authorized agency or organization and the information is to be used for peace officer employment or certification purposes. As used in this subdivision, a peace officer is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest or detention, except for an arrest or detention resulting in an exoneration, provided however that where the records of the Department of Justice do not contain a disposition for the arrest, the Department of Justice first makes a genuine effort to determine the disposition of the arrest.

(D) Every successful diversion.

(E) Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.

(*l*) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by a criminal justice agency or organization as defined in Section ~~13101 of the Penal Code,~~ *13101,* and the information is to be used for criminal justice employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest for an offense for which the records of the Department of Justice do not contain a disposition or did not result in a conviction, provided that the Department of Justice first makes a genuine effort to determine the disposition of the arrest. However, information concerning an arrest shall not be disclosed if the records of the Department of Justice indicate or if the genuine effort reveals that the subject was exonerated, successfully completed a diversion or deferred entry of judgment program, or the arrest was deemed a detention.

(D) Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.

(m) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or any statute that incorporates the criteria of any of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction of an offense rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest for an offense for which the Department of Social Services is required by paragraph (1) of subdivision (a) of Section 1522 of the Health and Safety Code to determine if an applicant has been arrested. However, if the records of the Department of Justice do not contain a disposition for an arrest, the Department of Justice shall first make a genuine effort to determine the disposition of the arrest.

(3) Notwithstanding the requirements of the sections referenced in paragraph (1) of this subdivision, the Department of Justice

shall not disseminate information about an arrest subsequently deemed a detention or an arrest that resulted in either the successful completion of a diversion program or exoneration.

(n) (1) This subdivision shall apply whenever state or federal summary criminal history information, to be used for employment, licensing, or certification purposes, is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual pursuant to any of the following:

(A) Paragraph (9) of subdivision (c), when the information is to be used by a cable corporation.

(B) Section 11105.3 or 11105.4.

(C) Section 15660 of the Welfare and Institutions Code.

(D) Any statute that incorporates the criteria of any of the statutory provisions listed in subparagraph (A), (B), or (C), or of this subdivision, by reference.

(2) With the exception of applications submitted by transportation companies authorized pursuant to Section 11105.3, and notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of any offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code. However, with the exception of those offenses for which registration is required pursuant to Section 290, the Department of Justice shall not disseminate information pursuant to this subdivision unless the conviction occurred within 10 years of the date of the agency's request for information or the conviction is over 10 years old but the subject of the request was incarcerated within 10 years of the agency's request for information.

(B) Every arrest for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(o) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section ~~261~~ *379* or

550 of the Financial Code, or any statute that incorporates the criteria of either of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of any offense specified in Section 550 of the Financial Code.

(B) Every arrest for a violation or attempted violation of an offense specified in Section 550 of the Financial Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(p) (1) This subdivision shall apply whenever state or federal criminal history information is furnished by the Department of Justice as the result of an application by an agency, organization, or individual not defined in subdivision (k), (*l*), (m), (n), or (o), or by a transportation company authorized pursuant to Section 11105.3, or any statute that incorporates the criteria of that section or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provisions of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(q) All agencies, organizations, or individuals defined in subdivisions (k), (*l*), (m), (n), (o), and (p) may contract with the Department of Justice for subsequent arrest notification pursuant to Section 11105.2. This subdivision shall not supersede sections that mandate an agency, organization, or individual to contract with the Department of Justice for subsequent arrest notification pursuant to Section 11105.2.

(r) Nothing in this section shall be construed to mean that the Department of Justice shall cease compliance with any other statutory notification requirements.

(s) The provisions of Section 50.12 of Title 28 of the Code of Federal Regulations are to be followed in processing federal criminal history information.

SEC. 62. Section 12022.1 of the Penal Code is amended to read:

12022.1. (a) For the purposes of this section only:

(1) "Primary offense" means a felony offense for which a person has been released from custody on bail or on his or her own recognizance prior to the judgment becoming final, including the disposition of any appeal, or for which release on bail or his or her own recognizance has been revoked. In cases where the court has granted a stay of execution of a county jail commitment or state prison commitment, "primary offense" also means a felony offense for which a person is out of custody during the period of time between the pronouncement of judgment and the time the person actually surrenders into custody or is otherwise returned to custody.

(2) "Secondary offense" means a felony offense alleged to have been committed while the person is released from custody for a primary offense.

(b) Any person arrested for a secondary offense which was alleged to have been committed while that person was released from custody on a primary offense shall be subject to a penalty enhancement of an additional two years ~~in state prison~~ which shall be served consecutive to any other term imposed by the court.

(c) The enhancement allegation provided in subdivision (b) shall be pleaded in the information or indictment which alleges the secondary offense, or in the information or indictment of the primary offense if a conviction has already occurred in the secondary offense, and shall be proved as provided by law. The enhancement allegation may be pleaded in a complaint but need not be proved at the preliminary hearing or grand jury hearing.

(d) Whenever there is a conviction for the secondary offense and the enhancement is proved, and the person is sentenced on the secondary offense prior to the conviction of the primary offense, the imposition of the enhancement shall be stayed pending imposition of the sentence for the primary offense. The stay shall be lifted by the court hearing the primary offense at the time of sentencing for that offense and shall be recorded in the abstract of judgment. If the person is acquitted of the primary offense the stay shall be permanent.

(e) If the person is convicted of a felony for the primary offense, is sentenced to state prison for the primary offense, and is convicted of a felony for the secondary offense, any ~~state prison~~ sentence for the secondary offense shall be consecutive to the primary sentence *and the aggregate term shall be served in the state prison, even if the term for the secondary offense specifies imprisonment in county jail pursuant to subdivision (h) of Section 1170*.

(f) If the person is convicted of a felony for the primary offense, is granted probation for the primary offense, and is convicted of a felony for the secondary offense, any ~~state prison~~ sentence for the secondary offense shall be enhanced as provided in subdivision (b).

(g) If the primary offense conviction is reversed on appeal, the enhancement shall be suspended pending retrial of that felony. Upon retrial and reconviction, the enhancement shall be reimposed. If the person is no longer in custody for the secondary offense upon reconviction of the primary offense, the court may, at its discretion, reimpose the enhancement and order him or her recommitted to custody.

SEC. 63. Section 13300 of the Penal Code is amended to read:

13300. (a) As used in this section:

(1) "Local summary criminal history information" means the master record of information compiled by any local criminal justice agency pursuant to Chapter 2 (commencing with Section 13100) of Title 3 of Part 4 pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(2) "Local summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than that local agency, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the local agency.

(3) "Local agency" means a local criminal justice agency.

(b) A local agency shall furnish local summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b), and (j) of Section 830.3, and subdivisions (a), (b), and (c) of Section 830.5.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or Section 11571 of the Health and Safety Code.

(6) Probation officers of the state.

(7) Parole officers of the state.

(8) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(9) A public defender or attorney of record when representing a person in a criminal case, *or a parole, mandatory supervision, or postrelease community supervision revocation or revocation extension hearing,* and when authorized access by statutory or decisional law.

(10) Any agency, officer, or official of the state when the local summary criminal history information is required to implement a statute, regulation, or ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon the specified criminal conduct.

(11) Any city, county, city and county, or district, or any officer or official thereof, when access is needed in order to assist the agency, officer, or official in fulfilling employment, certification, or licensing duties, and when the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district when the local summary criminal history information is required to implement a statute, regulation, or ordinance that expressly refers to specific criminal conduct

applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon the specified criminal conduct.

(12) The subject of the local summary criminal history information.

(13) Any person or entity when access is expressly authorized by statute when the local summary criminal history information is required to implement a statute, regulation, or ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon the specified criminal conduct.

(14) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(15) Local child support agencies established by Section 17304 of the Family Code. When a local child support agency closes a support enforcement case containing summary criminal history information, the agency shall delete or purge from the file and destroy any documents or information concerning or arising from offenses for or of which the parent has been arrested, charged, or convicted, other than for offenses related to the parents having failed to provide support for the minor children, consistent with Section 17531 of the Family Code.

(16) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code.

(17) A humane officer pursuant to Section 14502 of the Corporations Code for the purposes of performing his or her duties. A local agency may charge a reasonable fee sufficient to cover the costs of providing information pursuant to this paragraph.

(c) The local agency may furnish local summary criminal history information, upon a showing of a compelling need, to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) Any public utility, as defined in Section 216 of the Public Utilities Code, which operates a nuclear energy facility when access is needed to assist in employing persons to work at the facility, provided that, if the local agency supplies the information, it shall furnish a copy of this information to the person to whom the information relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers, other than peace officers, of the United States, other states, or possessions or territories of the United States, provided that access to records similar to local summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States when this information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the local summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states, or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(9) Any public utility, as defined in Section 216 of the Public Utilities Code, when access is needed to assist in employing persons who will be seeking entrance to private residences in the course of their employment. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the local agency supplies the information pursuant to this paragraph, it shall furnish a copy of the information to the person to whom the information relates.

Any information obtained from the local summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The local summary criminal history information in the possession of the public utility and all copies made from it shall be destroyed 30 days after employment is denied or granted, including any appeal periods, except for those cases where an employee or applicant is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed 30 days after the case is resolved, including any appeal periods.

A violation of any of the provisions of this paragraph is a misdemeanor, and shall give the employee or applicant who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violation.

Nothing in this section shall be construed as imposing any duty upon public utilities to request local summary criminal history information on any current or prospective employee.

Seeking entrance to private residences in the course of employment shall be deemed a "compelling need" as required to be shown in this subdivision.

(10) Any city, county, city and county, or district, or any officer or official thereof, if a written request is made to a local law enforcement agency and the information is needed to assist in the screening of a prospective concessionaire, and any affiliate or associate thereof, as these terms are defined in subdivision (k) of Section 432.7 of the Labor Code, for the purposes of consenting to, or approving of, the prospective concessionaire's application for, or acquisition of, any beneficial interest in a concession, lease, or other property interest.

Any local government's request for local summary criminal history information for purposes of screening a prospective concessionaire and their affiliates or associates before approving or denying an application for, or acquisition of, any beneficial interest in a concession, lease, or other property interest is deemed a "compelling need" as required by this subdivision. However, only local summary criminal history information pertaining to criminal convictions may be obtained pursuant to this paragraph.

Any information obtained from the local summary criminal history is confidential and the receiving local government shall not disclose its contents, other than for the purpose for which it was acquired. The local summary criminal history information in the possession of the local government and all copies made from it shall be destroyed not more than 30 days after the local government's final decision to grant or deny consent to, or approval of, the prospective concessionaire's application for, or acquisition of, a beneficial interest in a concession, lease, or other property interest. Nothing in this section shall be construed as imposing any duty upon a local government, or any officer or official thereof, to request local summary criminal history information on any current or prospective concessionaire or their affiliates or associates.

(d) Whenever an authorized request for local summary criminal history information pertains to a person whose fingerprints are on file with the local agency and the local agency has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) A local agency taking fingerprints of a person who is an applicant for licensing, employment, or certification may charge a fee to cover the cost of taking the fingerprints and processing the required documents.

(f) Whenever local summary criminal history information furnished pursuant to this section is to be used for employment, licensing, or certification purposes, the local agency shall charge the person or entity making the request a fee which it determines to be sufficient to reimburse the local agency for the cost of furnishing the information, provided that no fee shall be charged to any public law enforcement agency for local summary criminal history information furnished to assist it in employing, licensing, or certifying a person who is applying for employment with the agency as a peace officer or criminal investigator. Any state agency required to pay a fee to the local agency for information received under this section may charge the applicant a fee sufficient to reimburse the agency for the expense.

(g) Whenever there is a conflict, the processing of criminal fingerprints shall take priority over the processing of applicant fingerprints.

(h) It is not a violation of this article to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(i) It is not a violation of this article to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(j) Notwithstanding any other law, a public prosecutor may, in response to a written request made pursuant to Section 6253 of the Government Code, provide information from a local summary criminal history, if release of the information would enhance public safety, the interest of justice, or the public's understanding of the justice system and the person making the request declares that the request is made for a scholarly or journalistic purpose. If a person in a declaration required by this subdivision willfully states as true any material fact that he or she knows to be false, he or she shall be subject to a civil penalty not exceeding ten thousand dollars ($10,000). The requestor shall be informed in writing of this penalty. An action to impose a civil penalty under this subdivision may be brought by any public prosecutor and shall be enforced as a civil judgment.

(k) Notwithstanding any other law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information record checks which are authorized by law.

(*l*) Any local criminal justice agency may release, within five years of the arrest, information concerning an arrest or detention of a peace officer or applicant for a position as a peace officer, as defined in Section 830, which did not result in conviction, and for which the person did not complete a postarrest diversion program or a deferred entry of judgment program, to a government agency employer of that peace officer or applicant.

(m) Any local criminal justice agency may release information concerning an arrest of a peace officer or applicant for a position as a peace officer, as defined in Section 830, which did not result in conviction but for which the person completed a postarrest diversion program or a deferred entry of judgment program, or information concerning a referral to and participation in any postarrest diversion program or a deferred entry of judgment program to a government agency employer of that peace officer or applicant.

(n) Notwithstanding subdivision (*l*) or (m), a local criminal justice agency shall not release information under the following circumstances:

(1) Information concerning an arrest for which diversion or a deferred entry of judgment program has been ordered without attempting to determine whether diversion or a deferred entry of judgment program has been successfully completed.

(2) Information concerning an arrest or detention followed by a dismissal or release without attempting to determine whether the individual was exonerated.

(3) Information concerning an arrest without a disposition without attempting to determine whether diversion has been successfully completed or the individual was exonerated.

SEC. 64. Section 13821 of the Penal Code is amended to read:

~~13821. (a) Of the amount deposited in the Local Safety and Protection Account in the Transportation Fund authorized by Section 10752.2 of the Revenue and Taxation Code, the Controller shall allocate 12.68 percent in the 2008–09 fiscal year and 11.42 percent in the 2009–10 fiscal year, and each fiscal year thereafter, to the California Emergency Management Agency. The Controller shall allocate these funds on a quarterly basis beginning April 1, 2009.~~

~~(b) Commencing with~~

13821. (a) For the 2011–12 fiscal year, the Controller shall allocate 9 percent of the amount deposited in the Local Law Enforcement Services Account in the Local Revenue Fund 2011 to the California Emergency Management Agency. The Controller shall allocate these funds on a quarterly basis beginning on October 1. These funds shall be allocated by the Controller pursuant to a schedule provided by the California Emergency Management Agency which shall be developed according to the agency's existing programmatic guidelines and the following percentages:

(1) The California Multi-Jurisdictional Methamphetamine Enforcement Teams shall receive 47.52 percent in the 2011–12 fiscal ~~year and each fiscal year thereafter.~~ *year.*

(2) The Multi-Agency Gang Enforcement Consortium shall receive 0.2 percent in the 2011–12 fiscal ~~year, and each fiscal year thereafter.~~ *year.*

(3) The Sexual Assault Felony Enforcement Teams, authorized by Section 13887, shall receive 12.48 percent in the 2011–12 fiscal ~~year and each fiscal year thereafter.~~ *year.*

(4) The High Technology Theft Apprehension and Prosecution Program, authorized by Section 13848.2, shall receive 26.83 percent in the 2011–12 fiscal ~~year, and each fiscal year thereafter.~~ *year.*

(5) The Gang Violence Suppression Program authorized by Section 13826.1, shall receive 3.91 percent in the 2011–12 fiscal ~~year and each fiscal year thereafter.~~ *year.*

(6) The Central Valley and Central Coast Rural Crime Prevention Programs, authorized by Sections 14170 and 14180, shall receive 9.06 percent in the 2011–12 fiscal ~~year and each fiscal year thereafter.~~ *year.*

~~(c)~~

(b) For the 2011–12 fiscal year, the California Emergency Management Agency may be reimbursed up to five hundred eleven thousand dollars ($511,000) from the funds allocated in subdivision ~~(b)~~ *(a)* for program administrative costs.

(c) Commencing with the 2012–13 fiscal year, the Controller shall allocate 8.35 percent of the amount deposited in the Enhancing Law Enforcement Activities Subaccount in the Local Revenue Fund 2011 and shall distribute the moneys as follows:

(1) Commencing with the 2012–13 fiscal year, the California Multi-Jurisdictional Methamphetamine Enforcement Teams shall receive 47.52 percent and shall be allocated by the Controller according to the following schedule:

Alameda County	*1.7109%*
Alpine County	*0.6327%*
Amador County	*0.6327%*
Butte County	*1.6666%*
Calaveras County	*0.8435%*
Colusa County	*0.1623%*
Contra Costa County	*1.3163%*
Del Norte County	*0.2167%*
El Dorado County	*1.3716%*
Fresno County	*5.3775%*
Glenn County	*0.2130%*

Humboldt County	*1.0198%*
Imperial County	*2.5510%*
Inyo County	*0.6327%*
Kern County	*5.6938%*
Kings County	*0.9701%*
Lake County	*0.6604%*
Lassen County	*0.2643%*
Los Angeles County	*5.3239%*
Madera County	*0.9701%*
Marin County	*0.6292%*
Mariposa County	*0.6327%*
Mendocino County	*0.6846%*
Merced County	*1.8136%*
Modoc County	*0.0734%*
Mono County	*0.6327%*
Monterey County	*0.9018%*
Napa County	*0.6803%*
Nevada County	*0.7482%*
Orange County	*1.5661%*
Placer County	*2.6395%*
Plumas County	*0.1516%*
Riverside County	*5.6395%*
Sacramento County	*10.0169%*
San Benito County	*0.8404%*
San Bernardino County	*8.9364%*
San Diego County	*2.5510%*
San Francisco County	*1.0034%*
San Joaquin County	*4.6394%*
San Luis Obispo County	*1.3483%*
San Mateo County	*1.1224%*
Santa Barbara County	*1.3483%*
Santa Clara County	*2.0612%*
Santa Cruz County	*0.8333%*
Shasta County	*1.3426%*
Sierra County	*0.0245%*
Siskiyou County	*0.3401%*
Solano County	*1.8979%*
Sonoma County	*1.1610%*

Stanislaus County	*3.6272%*
Sutter County	*0.7177%*
Tehama County	*0.4808%*
Trinity County	*0.1044%*
Tulare County	*2.5306%*
Tuolumne County	*0.6327%*
Ventura County	*1.3483%*
Yolo County	*1.5215%*
Yuba County	*0.5466%*

(2) Commencing with the 2012–13 fiscal year, the Multi-Agency Gang Enforcement Consortium shall receive 0.2 percent and shall be allocated by the Controller to Fresno County.

(3) Commencing with the 2012–13 fiscal year, the Sexual Assault Felony Enforcement Teams, authorized by Section 13887, shall receive 12.48 percent and shall be allocated by the Controller according to the following schedule:

Los Angeles County	*21.0294%*
Riverside County	*12.8778%*
Sacramento County	*14.0198%*
San Luis Obispo County	*12.0168%*
Santa Clara County	*17.0238%*
Shasta County	*12.0168%*
Tulare County	*11.0156%*

(4) Commencing with the 2012–13 fiscal year, the High Technology Theft Apprehension and Prosecution Program, authorized by Section 13848.2, shall receive 26.83 percent and shall be allocated by the Controller according to the following schedule:

Los Angeles County	*18.25%*
Marin County	*18.25%*
Marin County, for use by the Department of Justice in implementing subdivision (b) of Section 13848.4	*7.00%*
Marin County, for use by the California District Attorneys Association in implementing subdivision (b) of Section 13848.4	*1.75%*

Sacramento County	*18.25%*
San Diego County	*18.25%*
Santa Clara County	*18.25%*

(5) Commencing with the 2012–13 fiscal year, the Gang Violence Suppression Program, authorized by Section 13826.1, shall receive 3.91 percent and shall be allocated by the Controller according to the following schedule:

Alameda County	*9.6775%*
Los Angeles County	*22.5808%*
Monterey County	*9.6775%*
Napa County	*17.7417%*
City of Oxnard	*17.7417%*
City of Sacramento	*22.5808%*

(6) Commencing with the 2012–13 fiscal year, the Central Valley and Central Coast Rural Crime Prevention Programs, authorized by Sections 14170 and 14180, shall receive 9.06 percent and shall be allocated by the Controller according to the following schedule:

Fresno County	*18.5588%*
Kern County	*13.7173%*
Kings County	*6.8587%*
Madera County	*4.4380%*
Merced County	*6.8587%*
Monterey County	*7.2411%*
San Benito County	*4.8273%*
San Joaquin County	*6.8587%*
San Luis Obispo County	*2.1723%*
Santa Barbara County	*3.6206%*
Santa Cruz County	*1.4482%*
Stanislaus County	*6.8587%*
Tulare County	*16.5415%*

(d) For any of the programs described in this section, funding will be distributed by local agencies as would otherwise have occurred pursuant to Section 1 of Chapter 13 of the Statutes of 2011, First Extraordinary Session.

SEC. 65. Section 13826.1 of the Penal Code, as amended by Section 229 of Chapter 36 of the Statutes of 2011, is amended to read:

13826.1. (a) There is hereby established in the ~~agency,~~ *Board of State and Community Corrections,* the Gang Violence Suppression Program, a program of financial and technical assistance for district attorneys' offices, local law enforcement agencies, county probation departments, school districts, county offices of education, or any consortium thereof, and community-based organizations which are primarily engaged in the suppression of gang violence. ~~All funds appropriated to the agency for the purposes of this chapter shall be administered and disbursed by the secretary in consultation with the California Council on Criminal Justice, and shall to the greatest extent feasible be coordinated or consolidated with federal funds that may be made available for these purposes.~~

~~(b) The secretary is authorized to allocate and award funds to cities, counties, school districts, county offices of education, or any consortium thereof, and community-based organizations in which gang violence suppression programs are established in substantial compliance with the policies and criteria set forth in this chapter.~~

~~(c) The allocation and award of funds shall be~~

(b) Funds made ~~on the application of the district attorney, chief law enforcement officer, or chief probation officer of the applicant unit of government and approved by the legislative body, on the application of school districts, county offices of education, or any consortium thereof, or on the application of the chief executive of a community-based organization. All programs funded~~ *available* pursuant to this chapter ~~shall work cooperatively~~ *are intended* to ensure the highest quality provision of services and to reduce unnecessary duplication. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the Gang Violence Suppression Program, be made available to support the activities set forth in this chapter. Funds awarded under this program as local assistance grants shall not be subject to review as specified in Section 10295 of the Public Contract Code.

~~(d) The secretary shall prepare and issue written program and administrative guidelines and procedures for the Gang Violence Suppression Program, consistent with this chapter. These guidelines~~

~~shall set forth the terms and conditions upon which the agency is prepared to offer grants of funds pursuant to statutory authority. The guidelines do not constitute rules, regulations, orders, or standards of general application.~~

~~(e) Annually, commencing November 1, 1984, the secretary shall prepare a report to the Legislature describing in detail the operation of the statewide program and the results obtained by district attorneys' offices, local law enforcement agencies, county probation departments, school districts, county offices of education, or any consortium thereof, and community-based organizations receiving funds under this chapter and under comparable federally financed awards.~~

~~(f) Criteria for selection of district attorneys' offices, local law enforcement agencies, county probation departments, school districts, county offices of education, or any consortium thereof, and community-based organizations to receive gang violence suppression funding shall be developed in consultation with the Gang Violence Suppression Advisory Committee whose members shall be appointed by the secretary, unless otherwise designated.~~

~~(g) The Gang Violence Suppression Advisory Committee shall be composed of five district attorneys; two chief probation officers; two representatives of community-based organizations; three attorneys primarily engaged in the practice of juvenile criminal defense; three law enforcement officials with expertise in gang-related investigations; one member from the California Youth Authority Gang Task Force nominated by the Director of the California Youth Authority; one member of the Department of Corrections Law Enforcement Liaison Unit nominated by the Director of the Department of Corrections and Rehabilitation; one member from the Department of Justice nominated by the Attorney General; the Superintendent of Public Instruction, or his or her designee; one member of the California School Boards Association; and one representative of a school program specializing in the education of the target population identified in this chapter.~~

~~Five members of the Gang Violence Suppression Advisory Committee appointed by the secretary shall be from rural or predominately suburban counties and shall be designated by the secretary as comprising the Rural Gang Task Force Subcommittee.~~

~~The Rural Gang Task Force Subcommittee, in coordination with the Gang Violence Suppression Advisory Committee and the~~

~~agency, shall review the Gang Violence Suppression Program participation requirements and recommend changes in the requirements which recognize the unique conditions and constraints that exist in small rural jurisdictions and enhance the ability of small rural jurisdictions to participate in the Gang Violence Suppression Program.~~

~~(h) The secretary shall designate a staff member in the Gang Violence Suppression Program to act as the Rural Gang Prevention Coordinator and to provide technical assistance and outreach to rural jurisdictions with emerging gang activities. It is the intent of the Legislature that compliance with this subdivision not necessitate an additional staff person.~~

~~(i) This section shall be operative January 1, 1994.~~

SEC. 66. Section 13826.1 of the Penal Code, as amended by Section 62 of Chapter 36 of the Statutes of 2011, is amended to read:

13826.1. (a) There is hereby established in the Board of State and Community Corrections, the Gang Violence Suppression Program, a program of financial and technical assistance for district attorneys' offices, local law enforcement agencies, county probation departments, school districts, county offices of education, or any consortium thereof, and community-based organizations which are primarily engaged in the suppression of gang violence. ~~All funds appropriated to the board for the purposes of this chapter shall be administered and disbursed by the board consistent with the purposes and mission of the board, and shall to the greatest extent feasible be coordinated or consolidated with federal funds that may be made available for these purposes.~~

~~(b) The board is authorized to allocate and award funds to cities, counties, school districts, county offices of education, or any consortium thereof, and community-based organizations in which gang violence suppression programs are established in substantial compliance with the policies and criteria set forth in this chapter.~~

~~(c) The allocation and award of funds shall be~~

(b) Funds made ~~on the application of the district attorney, chief law enforcement officer, or chief probation officer of the applicant unit of government and approved by the legislative body, on the application of school districts, county offices of education, or any consortium thereof, or on the application of the chief executive of a community-based organization. All programs funded~~ *available*

pursuant to this chapter ~~shall work cooperatively~~ *are intended* to ensure the highest quality provision of services and to reduce unnecessary duplication. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the Gang Violence Suppression Program, be made available to support the activities set forth in this chapter. Funds awarded under this program as local assistance grants shall not be subject to review as specified in Section 10295 of the Public Contract Code.

~~(d) The board shall prepare and issue written program and administrative guidelines and procedures for the Gang Violence Suppression Program, consistent with this chapter. These guidelines shall set forth the terms and conditions upon which the board is prepared to offer grants of funds pursuant to statutory authority. The guidelines do not constitute rules, regulations, orders, or standards of general application.~~

~~(e) Annually, commencing November 1, 1984, the board shall prepare a report to the Legislature describing in detail the operation of the statewide program and the results obtained by district attorneys' offices, local law enforcement agencies, county probation departments, school districts, county offices of education, or any consortium thereof, and community-based organizations receiving funds under this chapter and under comparable federally financed awards.~~

~~(f) Criteria for selection of district attorneys' offices, local law enforcement agencies, county probation departments, school districts, county offices of education, or any consortium thereof, and community-based organizations to receive gang violence suppression funding shall be developed in consultation with the Gang Violence Suppression Advisory Committee whose members shall be appointed by the executive director of the board, unless otherwise designated.~~

~~(g) (1) The Gang Violence Suppression Advisory Committee shall be composed of five district attorneys; two chief probation officers; two representatives of community-based organizations; three attorneys primarily engaged in the practice of juvenile criminal defense; three law enforcement officials with expertise in gang-related investigations; one member from the California Youth Authority Gang Task Force nominated by the Director of the California Youth Authority; one member of the Department of Corrections Law Enforcement Liaison Unit nominated by the~~

~~Director of the Department of Corrections and Rehabilitation; one member from the Department of Justice nominated by the Attorney General; the Superintendent of Public Instruction, or his or her designee; one member of the California School Boards Association; and one representative of a school program specializing in the education of the target population identified in this chapter.~~

~~(2) Five members of the Gang Violence Suppression Advisory Committee appointed by the executive director shall be from rural or predominately suburban counties and shall be designated by the secretary as comprising the Rural Gang Task Force Subcommittee.~~

~~(3) The Rural Gang Task Force Subcommittee, in coordination with the Gang Violence Suppression Advisory Committee and the board, shall review the Gang Violence Suppression Program participation requirements and recommend changes in the requirements which recognize the unique conditions and constraints that exist in small rural jurisdictions and enhance the ability of small rural jurisdictions to participate in the Gang Violence Suppression Program.~~

~~(h) The executive director shall designate a staff member in the Gang Violence Suppression Program to act as the Rural Gang Prevention Coordinator and to provide technical assistance and outreach to rural jurisdictions with emerging gang activities. It is the intent of the Legislature that compliance with this subdivision not necessitate an additional staff person.~~

SEC. 67. Section 13826.15 of the Penal Code, as amended by Section 230 of Chapter 36 of the Statutes of 2010, is amended to read:

13826.15. (a) The Legislature hereby finds and declares that the implementation of the Gang Violence Suppression Program, as provided in this chapter, has made a positive impact in the battle against crimes committed by gang members in California.

~~The~~

(b) The Legislature further finds and declares that the program, when it was originally created in 1981, provided financial and technical assistance only for district attorneys' offices. Since that time, however, the provisions of the program have been amended by the Legislature to enable additional public entities and community-based organizations to participate in the program. ~~In this respect, the agency, pursuant to Section 13826.1, administers~~

~~funding for the program by awarding grants to worthy applicants. Therefore, it is the intent of the Legislature in enacting this measure to assist the agency in setting forth guidelines for this funding.~~

~~(b) The agency may give priority to applicants for new grant awards, as follows:~~

~~(1) First priority may be given to applicants representing unfunded single components, as specified in Sections 13826.2, 13826.4, 13826.5, 13826.6, and 13826.65, in those counties that receive Gang Violence Suppression Program funding for some, but not all, of the program's components. The purpose of establishing this priority is to provide funding for a full complement of the five Gang Violence Suppression Program components in those counties that have less than all five components established.~~

~~(2) Second priority may be given to those applicants that propose a multiagency, or multijurisdictional single component project, whereby more than one agency would be funded as a joint project under the single components specified in Sections 13826.2, 13826.4, 13826.5, 13826.6, and 13826.65, and the funding would be provided through a single grant award.~~

~~(3) Third priority may be given to applicants that propose multijurisdictional multicomponent projects, whereby all five Gang Violence Suppression Program components, as specified in Sections 13826.2, 13826.4, 13826.5, 13826.6, and 13826.65, would be funded in a county that does not currently receive Gang Violence Suppression Program funds.~~

~~(4) Fourth priority may be given to those single agency single component applicants, in counties wherein the program component is not currently funded.~~

~~(c) The agency shall consider the unique needs of, and circumstances of jurisdiction in, rural and suburban counties when awarding new grant funds.~~

SEC. 68. Section 13826.15 of the Penal Code, as amended by Section 63 of Chapter 36 of the Statutes of 2011, is amended to read:

13826.15. (a) ~~(1)~~ The Legislature hereby finds and declares that the implementation of the Gang Violence Suppression Program, as provided in this chapter, has made a positive impact in the battle against crimes committed by gang members in California.

~~(2)~~

(b) The Legislature further finds and declares that the program, when it was originally created in 1981, provided financial and technical assistance only for district attorneys' offices. Since that time, however, the provisions of the program have been amended by the Legislature to enable additional public entities and community-based organizations to participate in the program. ~~In this respect, the agency, pursuant to Section 13826.1, administers funding for the program by awarding grants to worthy applicants. Therefore, it is the intent of the Legislature in enacting this measure to assist the Board of State and Community Corrections in setting forth guidelines for this funding.~~

~~(b) The board may give priority to applicants for new grant awards, as follows:~~

~~(1) First priority may be given to applicants representing unfunded single components, as specified in Sections 13826.2, 13826.4, 13826.5, 13826.6, and 13826.65, in those counties that receive Gang Violence Suppression Program funding for some, but not all, of the program's components. The purpose of establishing this priority is to provide funding for a full complement of the five Gang Violence Suppression Program components in those counties that have less than all five components established.~~

~~(2) Second priority may be given to those applicants that propose a multiagency, or multijurisdictional single component project, whereby more than one agency would be funded as a joint project under the single components specified in Sections 13826.2, 13826.4, 13826.5, 13826.6, and 13826.65, and the funding would be provided through a single grant award.~~

~~(3) Third priority may be given to applicants that propose multijurisdictional multicomponent projects, whereby all five Gang Violence Suppression Program components, as specified in Sections 13826.2, 13826.4, 13826.5, 13826.6, and 13826.65, would be funded in a county that does not currently receive Gang Violence Suppression Program funds.~~

~~(4) Fourth priority may be given to those single agency single component applicants, in counties wherein the program component is not currently funded.~~

~~(c) The board shall consider the unique needs of, and circumstances of jurisdiction in, rural and suburban counties when awarding new grant funds.~~

SEC. 69. Section 13826.2 of the Penal Code is amended to read:

13826.2. Gang violence prosecution units receiving funds under this chapter ~~shall~~ *are encouraged to* concentrate enhanced prosecution efforts and resources upon cases identified under *the suggested* criteria set forth in Section 13826.3. Enhanced prosecution efforts ~~shall~~ *may* include, but not be limited to:

(a) "Vertical" prosecutorial representation, whereby the prosecutor who makes the initial filing or appearance in a gang-related case will perform all subsequent court appearances on that particular case through its conclusion, including the sentencing phase.

(b) Assignment of highly qualified investigators and prosecutors to gang-related cases.

(c) Significant reduction of caseloads for investigators and prosecutors assigned to gang-related cases.

(d) Measures taken in coordination with law enforcement agencies to protect cooperating witnesses from intimidation or retribution at the hands of gang members or associates.

SEC. 70. Section 13826.3 of the Penal Code is amended to read:

13826.3. (a) An individual ~~shall be~~ *is* subject to gang violence prosecution efforts ~~who~~ *if he or she* is under arrest for the commission or the attempted commission of any gang-related violent crime where the individual is (1) a known member of a gang, and (2) has exhibited a prior criminal background.

(b) For purposes of this chapter, ~~gang-related~~ *"gang-related"* means that the suspect or victim of the crime is a known member of a gang.

(c) For purposes of this chapter, gang violence prosecution includes both criminal prosecutions and proceedings in Juvenile Court in which a petition is filed pursuant to Section 602 of the Welfare and Institutions Code.

SEC. 71. Section 13826.4 of the Penal Code is amended to read:

13826.4. Law enforcement agencies receiving funds under this chapter ~~shall~~ *are encouraged to* concentrate enhanced law enforcement efforts and resources upon cases identified under criteria set forth in Section 13826.3. Enhanced law enforcement criteria efforts ~~shall~~ *may* include, but not be limited to:

(a) The formation of a specialized gang violence unit whose staff shall be composed of the most highly qualified and trained personnel.

(b) The efforts of the gang violence unit ~~shall~~ *may* include, but not be limited to:

(1) Increased efforts to apprehend, prosecute, and convict violent "hard core" target gang members.

(2) Increasing the clearance rate of reported crimes which are targeted as gang related.

(3) Establishing more positive relations with, and encouraging the support of local citizens, community-based organizations, business representatives, and other criminal agencies.

(4) Aiding and assisting other criminal justice and governmental agencies in protecting cooperating witnesses from intimidation or retribution at the hands of gang members and their associates.

(c) Law enforcement agencies receiving funds under this program shall maintain a crime analysis capability which provides the following type of information:

(1) Identification of active gang members who have exhibited a prior criminal background.

(2) Identification of evolving or existing crime patterns that are gang related.

(3) Providing investigative leads.

(4) Maintaining statistical information pertaining to gang related criminal activity.

SEC. 72. Section 13826.5 of the Penal Code is amended to read:

13826.5. County probation departments receiving funding under this chapter shall strictly enforce court-ordered conditions of probation for gang members.

(a) County probation departments supported under the Gang Violence Suppression Program ~~shall~~ *may* implement the following activities:

(1) A Gang Violence Intensive Supervision Unit dealing with gang members ~~shall~~ *may* be established.

(2) Criteria used to determine which probationer ~~shall~~ *may* be assigned to the Gang Violence Intensive Supervision Unit ~~shall~~ *may* be approved by the district attorney having a Gang Violence Prosecution Unit described in Section 13826.2.

(3) ~~Probationers~~ *County probation departments are encouraged to inform probationers* whose cases are assigned to the intensive supervision unit ~~shall be informed~~ of what types of behavior are prescribed or forbidden. The ~~notice shall be provided~~ *counties are encouraged to provide notice* in both oral and written form.

(4) ~~Probationers~~ *County probation departments are encouraged to inform probationers* whose cases are assigned to the intensive supervision ~~unit shall be informed,~~ *unit,* in writing, that all court-ordered conditions of probation will be strictly enforced.

(5) ~~Deputy~~ *County* probation *departments are encouraged to ensure that deputy probation* officers in the intensive supervision unit ~~shall~~ have reduced probationer caseloads and ~~shall~~ coordinate their supervision efforts with law enforcement and prosecution personnel. The coordination ~~shall~~ *is encouraged to* include informing law enforcement and prosecution personnel of the conditions set for probationers and of the strict enforcement procedures to be implemented.

(6) Deputy probation officers in the intensive supervision unit ~~shall~~ *are encouraged to* coordinate with the district attorney in ensuring that court-ordered conditions of probation are consistently enforced.

(7) Intensive supervision unit deputy probation officers ~~shall~~ *are encouraged to* coordinate, whenever feasible, with community-based organizations in seeking to ensure that probationers adhere to their court-ordered conditions.

(b) County probation departments may implement the California TEAM (Together Each Achieves More) Sports Camp Program, as described in Article 23.5 (commencing with Section 875) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code.

SEC. 73. Section 13826.6 of the Penal Code is amended to read:

13826.6. For purposes of this chapter, a "community-based" organization is defined as a nonprofit operation established to serve gang members, their families, schools, and the community with programs of community supervision and service that maintain community participation in the planning, operation, and evaluation of their programs.

"Community-based" organization also includes public park and recreation agencies, public libraries, and public community services departments that provide gang suppression activities, either alone or in cooperation with other public agencies or other community-based organizations.

(a) Unless funded pursuant to subdivision (c), community-based organizations supported under the Gang Violence Suppression Program ~~shall~~ *may* implement the following activities:

(1) Providing information to law enforcement agencies concerning gang related activities in the community.

(2) Providing information to school administrators and staff concerning gang related activities in the community.

(3) Providing conflict resolution by means of intervention or mediation to prevent and limit gang crisis situations.

(4) Increasing witness cooperation through coordination with local law enforcement and prosecutors and by education of the community about the roles of these government agencies and the availability of witness protection services.

(b) Community-based organizations funded pursuant to subdivision (a) ~~shall~~ *may* also implement ~~at least one of~~ the following activities:

(1) Maintaining a 24-hour public telephone message center for the receipt of information and to assist individuals seeking services from the organization.

(2) Maintaining a "rumor control" public telephone service to provide accurate and reliable information to concerned citizens.

(3) Providing technical assistance and training concerning gang related activities to school staff members, law enforcement personnel, and community members, including parental groups. This training and assistance ~~shall~~ *may* include coverage of how to prevent and minimize intergang confrontations.

(4) Providing recreational activities for gang members or potential gang members.

(5) Providing job training and placement services for youth.

(6) Referring gang members, as needed, to appropriate agencies for the treatment of health, psychological, and drug-related problems.

(7) Administration of the Urban Corps Program pursuant to Section 13826.62.

(8) Mobilizing the community to share joint responsibility with local criminal justice personnel to prevent and suppress gang violence.

(c) Community-based organizations funded under the Gang Violence Suppression Program for specialized school prevention and intervention activities shall only be required to implement activities in the schools which are designed to discourage students from joining gangs and which offer or encourage students to participate in alternative programs.

(d) Community-based organizations funded pursuant to the Gang Violence Suppression Program as of January 1, 1997, shall receive preference over public agencies in any future funding awards.

SEC. 74. Section 13826.62 of the Penal Code is amended to read:

13826.62. (a) There is hereby established in the agency the Urban Corps Program. The Urban Corps Program is established as an optional activity under Section 13826.6. Community-based organizations receiving grants to participate in the Urban Corps Program ~~shall~~ *may* implement the following activities:

(1) Identification of publicly and privately administered programs in the county dealing with the suppression or prevention of criminal gang activities, or both.

(2) Maintenance of a listing of programs within the county identified as dealing with the suppression or prevention of criminal gang activities, or both.

(3) Surveying gang suppression and prevention organizations for the types of services and activities each is engaged in, and identifying needs among these organizations for resources to provide services and fulfill their activities.

(4) Recruitment of volunteers, identification of their skills, abilities, and interests, and matching volunteers with the resource needs of gang prevention and suppression organizations.

(5) Establishment of an urban respite program for the purpose of preventing self-destructive activities and diverting (A) identified youth gang members, and (B) youths who are at risk of becoming gang members, for the purposes of reducing or eliminating incentives for those youths to participate in gang-related crime activities.

(b) The Urban Corps Program shall operate within the agency for two years following the establishment of a contract with a community-based organization to administer the program.

(c) This section shall be implemented to the extent that funds are available to the agency for this purpose.

SEC. 75. Section 13848.2 of the Penal Code is amended to read:

13848.2. ~~(a)~~ There is hereby established ~~in the California Emergency Management Agency~~ a program of financial and technical assistance for law enforcement and district attorneys' offices, designated the High Technology Theft Apprehension and Prosecution Program. ~~All funds allocated to the California Emergency Management Agency for the purposes of this chapter shall be administered and disbursed by the Secretary of Emergency Management in consultation with the High Technology Crime Advisory Committee as established in Section 13848.6 and shall to the extent feasible be coordinated with federal funds and private grants or private donations that are made available for these purposes.~~

~~(b) The Secretary of California Emergency Management is authorized to allocate and award funds to regional high technology crime programs which are established in compliance with Section 13848.4.~~

~~(c) The allocation and award of funds under this chapter shall be made on application executed by the district attorney, county sheriff, or chief of police and approved by the board of supervisors for each county that is a participant of a high technology theft apprehension and prosecution unit.~~

SEC. 76. Section 13848.4 of the Penal Code is amended to read:

13848.4. (a) Moneys allocated for the High Technology Theft Apprehension and Prosecution Program pursuant to ~~subdivision (b) of~~ Section 13821 shall be expended to fund programs to enhance the capacity of local law enforcement and prosecutors to deter, investigate, and prosecute high technology related crimes. ~~After deduction of the actual and necessary administrative costs referred to in subdivision (f), the funds~~ *Funds* shall be expended to fund programs to enhance the capacity of local law enforcement, state police, and local prosecutors to deter, investigate, and prosecute high technology related crimes. Any funds distributed under this chapter shall be expended for the exclusive purpose of deterring, investigating, and prosecuting high technology related crimes.

(b) ~~Up~~ *The funds allocated* to ~~10 percent~~ *the Department* of ~~the funds~~ *Justice pursuant to paragraph (4) of subdivision (c) of Section 13821* shall be used for developing and maintaining a statewide database on high technology crime for use in developing and distributing intelligence information to participating law enforcement agencies. ~~In addition, the Secretary of~~ *The funds allocated to the* California ~~Emergency Management may allocate and award up~~ *District Attorneys Association pursuant* to ~~5 percent~~ *paragraph (4)* of ~~the funds available to public agencies or private nonprofit organizations~~ *subdivision (c) of Section 13821, shall be used* for the purposes of establishing statewide programs of education, training, and research for public prosecutors, investigators, and law enforcement officers relating to deterring, investigating, and prosecuting high technology related crimes. ~~Any funds not expended in a fiscal year for these purposes shall be distributed to regional high technology theft task forces pursuant to subdivision (b).~~

(c) Any regional task force receiving funds under this section may elect to have the Department of Justice administer the regional task force program. The department may be reimbursed for any expenditures incurred for administering a regional task force from funds given to local law enforcement pursuant to subdivision (b).

~~(d) The California Emergency Management Agency shall distribute funds to eligible agencies pursuant to subdivision (b) in consultation with the High Technology Crime Advisory Committee established pursuant to Section 13848.6.~~

~~(e) Administration of the overall program and the evaluation and monitoring of all grants made pursuant to this chapter shall be performed by the California Emergency Management Agency.~~

SEC. 77. Section 13848.6 of the Penal Code is repealed.

~~13848.6. (a) The High Technology Crime Advisory Committee is hereby established for the purpose of formulating a comprehensive written strategy for addressing high technology crime throughout the state, with the exception of crimes that occur on state property or are committed against state employees, and to advise the California Emergency Management Agency on the appropriate disbursement of funds to regional task forces.~~

~~(b) This strategy shall be designed to be implemented through regional task forces. In formulating that strategy, the committee~~

~~shall identify various priorities for law enforcement attention, including the following goals:~~

~~(1) To apprehend and prosecute criminal organizations, networks, and groups of individuals engaged in the following activities:~~

~~(A) Theft of computer components and other high technology products.~~

~~(B) Violations of Sections 211, 350, 351a, 459, 496, 537e, 593d, 593e, 653h, 653s, and 653w.~~

~~(C) Theft of telecommunications services and other violations of Sections 502.7 and 502.8.~~

~~(D) Counterfeiting of negotiable instruments and other valuable items through the use of computer technology.~~

~~(E) Creation and distribution of counterfeit software and other digital information, including the use of counterfeit trademarks to misrepresent the origin of that software or digital information.~~

~~(F) Creation and distribution of pirated sound recordings or audiovisual works or the failure to disclose the origin of a recording or audiovisual work.~~

~~(2) To apprehend and prosecute individuals and groups engaged in the unlawful access, destruction, or unauthorized entry into and use of private, corporate, or government computers and networks, including wireless and wire line communications networks and law enforcement dispatch systems, and the theft, interception, manipulation, destruction, and unauthorized disclosure of data stored within those computers.~~

~~(3) To apprehend and prosecute individuals and groups engaged in the theft of trade secrets.~~

~~(4) To investigate and prosecute high technology crime cases requiring coordination and cooperation between regional task forces and local, state, federal, and international law enforcement agencies.~~

~~(c) The Secretary of California Emergency Management shall appoint the following members to the committee:~~

~~(1) A designee of the California District Attorneys Association.~~

~~(2) A designee of the California State Sheriffs Association.~~

~~(3) A designee of the California Police Chiefs Association.~~

~~(4) A designee of the Attorney General.~~

~~(5) A designee of the Department of the California Highway Patrol.~~

~~(6) A designee of the High Technology Crime Investigation Association.~~

~~(7) A designee of the California Emergency Management Agency.~~

~~(8) A designee of the American Electronic Association to represent California computer system manufacturers.~~

~~(9) A designee of the American Electronic Association to represent California computer software producers.~~

~~(10) A designee of CTIA - The Wireless Association.~~

~~(11) A representative of the California Internet industry.~~

~~(12) A designee of the Semiconductor Equipment and Materials International.~~

~~(13) A designee of the California Cable & Telecommunications Association.~~

~~(14) A designee of the Motion Picture Association of America.~~

~~(15) A designee of the California Communications Associations (CalCom).~~

~~(16) A representative of the California banking industry.~~

~~(17) A representative of the Office of Information Security and Privacy Protection.~~

~~(18) A representative of the Department of Finance.~~

~~(19) A representative of the State Chief Information Officer.~~

~~(20) A representative of the Recording Industry of America.~~

~~(21) A representative of the Consumers Union.~~

~~(d) The Secretary of California Emergency Management shall designate the Chairperson of the High Technology Crime Advisory Committee from the appointed members.~~

~~(e) The advisory committee shall not be required to meet more than 12 times per year. The advisory committee may create subcommittees of its own membership, and each subcommittee shall meet as often as the subcommittee members find necessary. It is the intent of the Legislature that all advisory committee members shall actively participate in all advisory committee deliberations required by this chapter.~~

~~Any member who, without advance notice to the Secretary of California Emergency Management and without designating an alternative representative, misses three scheduled meetings in any calendar year for any reason other than severe temporary illness or injury (as determined by the secretary) shall automatically be removed from the advisory committee. If a member wishes to send~~

~~an alternative representative in his or her place, advance written notification of this substitution shall be presented to the executive director. This notification shall be required for each meeting the appointed member elects not to attend.~~

~~Members of the advisory committee shall receive no compensation for their services, but shall be reimbursed for travel and per diem expenses incurred as a result of attending meetings sponsored by the California Emergency Management Agency.~~

~~(f) The Secretary of California Emergency Management, in consultation with the High Technology Crime Advisory Committee, shall develop specific guidelines and administrative procedures for the selection of projects to be funded by the High Technology Theft Apprehension and Prosecution Program, which guidelines shall include the following selection criteria:~~

~~(1) Each regional task force that seeks funds shall submit a written application to the committee setting forth in detail the proposed use of the funds.~~

~~(2) In order to qualify for the receipt of funds, each proposed regional task force submitting an application shall provide written evidence that the agency meets either of the following conditions:~~

~~(A) The regional task force devoted to the investigation and prosecution of high technology related crimes is comprised of local law enforcement and prosecutors, and has been in existence for at least one year prior to the application date.~~

~~(B) At least one member of the task force has at least three years of experience in investigating or prosecuting cases of suspected high technology crime.~~

~~(3) Each regional task force shall be identified by a name that is appropriate to the area that it serves. In order to qualify for funds, a regional task force shall be comprised of local law enforcement and prosecutors from at least two counties. At the time of funding, the proposed task force shall also have at least one investigator assigned to it from a state law enforcement agency. Each task force shall be directed by a local steering committee composed of representatives of participating agencies and members of the local high technology industry.~~

~~(4) The California High Technology Crimes Task Force shall be comprised of each regional task force developed pursuant to this subdivision.~~

~~(5) Additional criteria that shall be considered by the advisory committee in awarding grant funds shall include, but not be limited to, the following:~~

~~(A) The number of high technology crime cases filed in the prior year.~~

~~(B) The number of high technology crime cases investigated in the prior year.~~

~~(C) The number of victims involved in the cases filed.~~

~~(D) The total aggregate monetary loss suffered by the victims, including individuals, associations, institutions, or corporations, as a result of the high technology crime cases filed, and those under active investigation by that task force.~~

~~(6) Each regional task force that has been awarded funds authorized under the High Technology Theft Apprehension and Prosecution Program during the previous grant-funding cycle, upon reapplication for funds to the committee in each successive year, shall be required to submit a detailed accounting of funds received and expended in the prior year in addition to any information required by this section. The accounting shall include all of the following information:~~

~~(A) The amount of funds received and expended.~~

~~(B) The use to which those funds were put, including payment of salaries and expenses, purchase of equipment and supplies, and other expenditures by type.~~

~~(C) The number of filed complaints, investigations, arrests, and convictions that resulted from the expenditure of the funds.~~

~~(g) The committee shall annually review the effectiveness of the California High Technology Crimes Task Force in deterring, investigating, and prosecuting high technology crimes and provide its findings in a report to the Legislature and the Governor. This report shall be based on information provided by the regional task forces in an annual report to the committee which shall detail the following:~~

~~(1) Facts based upon, but not limited to, the following:~~

~~(A) The number of high technology crime cases filed in the prior year.~~

~~(B) The number of high technology crime cases investigated in the prior year.~~

~~(C) The number of victims involved in the cases filed.~~

~~(D) The number of convictions obtained in the prior year.~~

~~(E) The total aggregate monetary loss suffered by the victims, including individuals, associations, institutions, corporations, and other relevant public entities, according to the number of cases filed, investigations, prosecutions, and convictions obtained.~~

~~(2) An accounting of funds received and expended in the prior year, which shall include all of the following:~~

~~(A) The amount of funds received and expended.~~

~~(B) The uses to which those funds were put, including payment of salaries and expenses, purchase of supplies, and other expenditures of funds.~~

~~(C) Any other relevant information requested.~~

SEC. 78. Section 13887.5 of the Penal Code is repealed.

~~13887.5. The agency shall establish standards by which grants are awarded on a competitive basis to counties for SAFE teams. The grants shall be awarded to innovative teams designed to promote the purposes of this chapter.~~

SEC. 79. Section 14171 of the Penal Code is amended to read:

14171. (a) Each of the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare may develop within its respective jurisdiction a Central Valley Rural Crime Prevention Program, which shall be administered by the county district attorney's office *or the county sheriff's department* of each respective county under a joint powers agreement ~~with the corresponding county sheriff's office~~ entered into pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

(b) The parties to each agreement shall form a regional task force that shall be known as the Central Valley Rural Crime Task Force, that ~~includes~~ *may include* the respective county office of the county agricultural commissioner, the county district attorney, the county sheriff, and interested property owner groups or associations. The task force shall be an interactive team working together to develop crime prevention, problem solving, and crime control techniques, to encourage timely reporting of crimes, and to evaluate the results of these activities. The task force ~~shall~~ *may* operate from a joint facility in order to facilitate investigative coordination. The task force ~~shall~~ *may* also consult with experts from the United States military, the California Military Department, the Department of Justice, other law enforcement entities, and various other state and private organizations as deemed necessary to maximize the effectiveness of this program. Media and community support ~~shall~~ *may* be solicited to promote this program. Each of the *participating* designated counties shall adopt rules and regulations for the implementation and administration of this program.

(1) In order to receive funds for this program, each designated county shall agree to participate in a regional task force, to be known as the Central Valley Rural Crime Task Force, and shall appoint a representative to that task force.

(2) The Central Valley Rural Crime Task Force ~~shall~~ *may* develop rural crime prevention programs containing a system for reporting rural crimes that enables the swift recovery of stolen goods and the apprehension of criminal suspects for prosecution. The task force ~~shall~~ *may* develop computer software and use communication technology to implement the reporting system, although the task force is not limited to the use of these means to achieve the stated goals.

(3) The Central Valley Rural Crime Task Force ~~shall~~ *may* develop a uniform procedure for all participating counties to collect, and each participating county ~~shall~~ *may* collect, data on agricultural crimes. The task force ~~shall~~ *may* also establish a central database for the collection and maintenance of data on agricultural crimes and designate one participating county to maintain the database. State funds the counties receive to operate their rural crime prevention programs may be used to implement the requirements of this paragraph. This paragraph does not prohibit counties from using their own funds to implement the paragraph's provisions, however, it is the Legislature's intent that this paragraph shall not be construed as creating a state-mandated local program.

(c) The staff for each program ~~shall~~ *may* consist of the personnel designated by the district attorney and sheriff for each county in accordance with the joint powers agreement.

SEC. 80. Section 14173 of the Penal Code is amended to read:

14173. ~~It is the intent of the Legislature that any funds~~ *Funds* appropriated to the Central Valley Rural Crime Prevention Program *shall* be *allocated by the Controller and* distributed according to the following schedule:

Fresno *County*	23%
Kern *County*	17%

Kings *County*	8.5%
Madera *County*	5.5%
Merced *County*	8.5%
San Joaquin *County*	8.5%
Stanislaus *County*	8.5%
Tulare *County*	20.5%

SEC. 81. Section 14175 of the Penal Code is repealed.

~~14175. This title shall become inoperative on July 1, 2012, and is repealed as of January 1, 2013, unless a later enacted statute, which is enacted before January 1, 2013, deletes or extends that date.~~

SEC. 82. Section 14181 of the Penal Code is amended to read:

14181. (a) The Counties of Monterey, San Luis Obispo, Santa Barbara, Santa Cruz, and San Benito may each develop within its respective jurisdiction a Central Coast Rural Crime Prevention Program, which shall be administered in San Benito County, Santa Barbara County, Santa Cruz County, and San Luis Obispo County by the county district attorney's office ~~under a joint powers agreement with~~ *or* the county sheriff's ~~office, and in Monterey County by the county sheriff's~~ office under a joint powers agreement ~~with the county district attorney's office. Each joint powers agreement shall be~~ entered into pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

(b) The parties to each agreement shall form a regional task force that shall be known as the Central Coast Rural Crime Task Force, that includes the respective county office of the county agricultural commissioner, the county district attorney, the county sheriff, and interested property owner groups or associations. The task force shall be an interactive team working together to develop crime prevention, problem solving, and crime control techniques, to encourage timely reporting of crimes, and to evaluate the results of these activities. The task force ~~shall~~ *may* operate from a joint facility in order to facilitate investigative coordination. The task force ~~shall~~ *may* also consult with experts from the United States military, other law enforcement entities, and various private organizations as deemed necessary to maximize the effectiveness of this program. Media and community support ~~shall~~ *may* be solicited to promote this program. Each of the *participating* designated counties shall adopt rules and regulations for the implementation and administration of this program.

(1) The Central Coast Rural Crime Task Force ~~shall~~ *may* develop rural crime prevention programs containing a system for reporting rural crimes that enables the swift recovery of stolen goods and the apprehension of criminal suspects for prosecution. The task force ~~shall~~ *may* develop computer software and use communication technology to implement the reporting system, although the task force is not limited to the use of these means to achieve the stated goals.

(2) The Central Coast Rural Crime Task Force ~~shall~~ *may* develop a uniform procedure for all participating counties to collect, and each participating county ~~shall~~ *may* collect, data on agricultural crimes. The task force ~~shall~~ *may* also establish a central database for the collection and maintenance of data on agricultural crimes and designate one participating county to maintain the database.

(c) The staff for each program shall consist of the personnel designated by the district attorney and sheriff for each county in accordance with the joint powers agreement.

SEC. 83. Section 14183 of the Penal Code is repealed.

~~14183. This title shall become inoperative on July 1, 2013, and is repealed as of January 1, 2014, unless a later enacted statute that is enacted before January 1, 2014, deletes or extends those dates.~~

SEC. 84. Section 19100 of the Penal Code is amended to read:

19100. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2, any person in this state who carries concealed upon the person any explosive substance, other than fixed ammunition, is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 85. Section 19200 of the Penal Code is amended to read:

19200. (a) Except as provided in Section 19205 and Chapter 1 (commencing with Section 17700) of Division 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any metal military practice handgrenade or metal replica handgrenade is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

(b) Notwithstanding subdivision (a), a first offense involving any metal military practice handgrenade or metal replica handgrenade shall be punishable only as an infraction unless the offender is an active participant in a criminal street gang as defined in the Street Terrorism and Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1).

SEC. 86. Section 20110 of the Penal Code is amended to read:

20110. (a) Except as provided in Chapter 1 (commencing with Section 18710) of Division 5 of Title 2, any person who assembles, maintains, places, or causes to be placed a boobytrap device is guilty of a felony punishable by imprisonment ~~in a county jail~~ *pursuant to subdivision (h) of Section 1170* for two, three, or five years.

(b) Possession of any device with the intent to use the device as a boobytrap is punishable by imprisonment pursuant to subdivision (h) of Section 1170, or in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars ($5,000), or by both that fine and imprisonment.

SEC. 87. Section 20310 of the Penal Code is amended to read:

20310. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any air gauge knife is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 88. Section 20410 of the Penal Code is amended to read:

20410. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any belt buckle knife is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 89. Section 20510 of the Penal Code is amended to read:

20510. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane sword is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 90. Section 20610 of the Penal Code is amended to read:

20610. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any lipstick case knife is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 91. Section 20710 of the Penal Code is amended to read:

20710. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any shobi-zue is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 92. Section 20910 of the Penal Code is amended to read:

20910. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any writing pen knife is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 93. Section 21110 of the Penal Code is amended to read:

21110. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any ballistic knife is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 94. Section 21310 of the Penal Code is amended to read:

21310. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who carries concealed upon the person any dirk or dagger is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 95. Section 21810 of the Penal Code is amended to read:

21810. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any metal knuckles is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 96. Section 22010 of the Penal Code is amended to read:

22010. Except as provided in Section 22015 and Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any nunchaku is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 97. Section 22210 of the Penal Code is amended to read:

22210. Except as provided in Section 22215 and Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any leaded cane, or any instrument or weapon of the kind commonly known as a billy, blackjack, sandbag, sandclub, sap, or slungshot, is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 98. Section 22410 of the Penal Code is amended to read:

22410. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any shuriken is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 99. Section 24310 of the Penal Code is amended to read:

24310. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any camouflaging firearm container is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 100. Section 24410 of the Penal Code is amended to read:

24410. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 101. Section 24510 of the Penal Code is amended to read:

24510. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any firearm not immediately recognizable as a firearm is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 102. Section 24610 of the Penal Code is amended to read:

24610. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any undetectable firearm is punishable by imprisonment in a county jail not exceeding one year or ~~in the~~

~~state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 103. Section 24710 of the Penal Code is amended to read:

24710. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any wallet gun is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 104. Section 30210 of the Penal Code is amended to read:

30210. Except as provided in Section 30215 and Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses either of the following is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison:~~ *imprisonment pursuant to subdivision (h) of Section 1170:*

(a) Any ammunition that contains or consists of any flechette dart.

(b) Any bullet containing or carrying an explosive agent.

SEC. 105. Section 31360 of the Penal Code is amended to read:

31360. (a) A person who has been convicted of a violent felony under the laws of the United States, the State of California, or any other state, government, or country, who purchases, owns, or possesses body armor, as defined in Section 16288, except as authorized under subdivision (b), is guilty of a felony, punishable by imprisonment ~~pursuant to subdivision (h) of Section 1170~~ *in state prison* for 16 months, or two or three years.

(b) A person whose employment, livelihood, or safety is dependent on the ability to legally possess and use body armor, who is subject to the prohibition imposed by subdivision (a) due to a prior violent felony conviction, may file a petition for an exception to this prohibition with the chief of police or county sheriff of the jurisdiction in which that person seeks to possess and use the body armor. The chief of police or sheriff may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the chief of police or sheriff deems appropriate, based on the following:

(1) A finding that the petitioner is likely to use body armor in a safe and lawful manner.

(2) A finding that the petitioner has a reasonable need for this type of protection under the circumstances.

In making its decision, the chief of police or sheriff shall consider the petitioner's continued employment, the interests of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that law enforcement officials exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, this paragraph may not be construed to require law enforcement officials to grant relief to any particular petitioner. Relief from this prohibition does not relieve any other person or entity from any liability that might otherwise be imposed.

(c) The chief of police or sheriff shall require, as a condition of granting an exception under subdivision (b), that the petitioner agree to maintain on the petitioner's person a certified copy of the law enforcement official's permission to possess and use body armor, including any conditions or limitations.

(d) Law enforcement officials who enforce the prohibition specified in subdivision (a) against a person who has been granted relief pursuant to subdivision (b), shall be immune from any liability for false arrest arising from the enforcement of this subdivision unless the person has in possession a certified copy of the permission granting the person relief from the prohibition, as required by subdivision (c). This immunity from liability does not relieve any person or entity from any other liability that might otherwise be imposed.

SEC. 106. Section 31500 of the Penal Code is amended to read:

31500. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any unconventional pistol is punishable by imprisonment in a county jail not exceeding one year or ~~in the~~

~~state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 107. Section 32310 of the Penal Code is amended to read:

32310. Except as provided in Article 2 (commencing with Section 32400) of this chapter and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, commencing January 1, 2000, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, or lends, any large-capacity magazine is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 108. Section 32900 of the Penal Code is amended to read:

32900. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any multiburst trigger activator is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 109. Section 33215 of the Penal Code is amended to read:

33215. Except as provided in Sections 33220 and 33225 and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any short-barreled rifle or short-barreled shotgun is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 110. Section 33600 of the Penal Code is amended to read:

33600. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any zip gun is punishable by imprisonment in a county jail not exceeding one year or ~~in the state prison.~~ *imprisonment pursuant to subdivision (h) of Section 1170.*

SEC. 111. Section 2800.4 of the Vehicle Code is amended to read:

2800.4. Whenever a person willfully flees or attempts to elude a pursuing peace officer in violation of Section 2800.1, and the person operating the pursued vehicle willfully drives that vehicle on a highway in a direction opposite to that in which the traffic lawfully moves upon that highway, the person upon conviction is punishable by imprisonment for not less than six months nor more than one year in a county jail or by imprisonment ~~pursuant to subdivision (h) of Section 1170 of~~ *in* the ~~Penal Code,~~ *state prison,* or by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or by both that fine and imprisonment.

SEC. 112. Section 10980 of the Welfare and Institutions Code is amended to read:

10980. (a) Any person who, willfully and knowingly, with the intent to deceive, makes a false statement or representation or knowingly fails to disclose a material fact in order to obtain aid under the provisions of this division or who, knowing he or she is not entitled thereto, attempts to obtain aid or to continue to receive aid to which he or she is not entitled, or to receive a larger amount than that to which he or she is legally entitled, is guilty of a misdemeanor, punishable by imprisonment in the county jail for a period of not more than six months, by a fine of not more than five hundred dollars ($500), or by both imprisonment and fine.

(b) Any person who knowingly makes more than one application for aid under the provisions of this division with the intent of establishing multiple entitlements for any person for the same period or who makes an application for that aid for a fictitious or nonexistent person or by claiming a false identity for any person is guilty of a felony, punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two years, or three years, by a fine of not more than five thousand dollars ($5,000), or by both that imprisonment and fine; or by imprisonment in the county jail for a period of not more than one year, or by a fine of not more than one thousand dollars ($1,000), or by both imprisonment and fine.

(c) Whenever any person has, willfully and knowingly, with the intent to deceive, by means of false statement or representation, or by failing to disclose a material fact, or by impersonation or other fraudulent device, obtained or retained aid under the provisions of this division for himself or herself or for a child not in fact entitled thereto, the person obtaining this aid shall be punished as follows:

(1) If the total amount of the aid obtained or retained is nine hundred fifty dollars ($950) or less, by imprisonment in the county jail for a period of not more than six months, by a fine of not more than five hundred dollars ($500), or by both imprisonment and fine.

(2) If the total amount of the aid obtained or retained is more than nine hundred fifty dollars ($950), by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two years, or three years, by a fine of not more than five thousand dollars ($5,000), or by both that imprisonment and fine; or by imprisonment in the county jail for a period of not more than one year, by a fine of not more than one thousand dollars ($1,000), or by both imprisonment and fine.

(d) Any person who knowingly uses, transfers, acquires, or possesses blank authorizations to participate in the federal Supplemental Nutrition Assistance Program in any manner not authorized by Chapter 10 (commencing with Section 18900) of Part 6 with the intent to defraud is guilty of a felony, punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two years, or three years, by a fine of not more than five thousand dollars ($5,000), or by both that imprisonment and fine.

(e) Any person who counterfeits or alters or knowingly uses, transfers, acquires, or possesses counterfeited or altered authorizations to participate in the federal Supplemental Nutrition Assistance Program or to receive CalFresh benefits or electronically transferred benefits in any manner not authorized by the federal Food Stamp Act of 1964 (Public Law 88-525 and all amendments thereto) or the federal Food and Nutrition Act of 2008 (7 U.S.C. Sec. 2011 et seq.) or the federal regulations pursuant to the act is guilty of forgery.

(f) Any person who fraudulently appropriates CalFresh benefits, electronically transferred benefits, or authorizations to participate in the federal Supplemental Nutrition Assistance Program with which he or she has been entrusted pursuant to his or her duties as a public employee is guilty of embezzlement of public funds.

(g) Any person who knowingly uses, transfers, sells, purchases, or possesses CalFresh benefits, electronically transferred benefits, or authorizations to participate in the federal Supplemental Nutrition Assistance Program in any manner not authorized by Chapter 10 (commencing with Section 18900), of Part 6, or by the federal Food Stamp Act of 1977 (Public Law 95-113 and all amendments thereto) or the Food and Nutrition Act of 2008 (7 U.S.C. Sec. 2011 et seq.) (1) is guilty of a misdemeanor if the face value of the food stamp benefits or the authorizations to participate is nine hundred fifty dollars ($950) or less, and shall be punished by imprisonment in the county jail for a period of not more than six months, by a fine of not more than five hundred dollars ($500), or by both imprisonment and fine, or (2) is guilty of a felony if the face value of the CalFresh benefits or the authorizations to participate exceeds nine hundred fifty dollars ($950), and shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two years, or three years, by a fine of not more than five thousand dollars ($5,000), or by both that imprisonment and fine, or by imprisonment in the county jail for a period of not more than one year, or by a fine of not more than one thousand dollars ($1,000), or by both imprisonment and fine.

(h) (1) If the violation of subdivision (f) or (g) is committed by means of an electronic transfer of benefits, in addition and consecutive to the penalties for the violation, or attempted violation, of those subdivisions, the court shall impose the following punishment:

(A) If the electronic transfer of benefits exceeds fifty thousand dollars ($50,000), an additional term pursuant to subdivision (h) of Section 1170 of the Penal Code of one year.

(B) If the electronic transfer of benefits exceeds one hundred fifty thousand dollars ($150,000), an additional term pursuant to subdivision (h) of Section 1170 of the Penal Code of two years.

(C) If the electronic transfer of benefits exceeds one million dollars ($1,000,000), an additional term pursuant to subdivision (h) of Section 1170 of the Penal Code of three years.

(D) If the electronic transfer of benefits exceeds two million five hundred thousand dollars ($2,500,000), an additional term *pursuant to subdivision (h)* of *Section 1170 of the Penal Code of* four years.

(2) In any accusatory pleading involving multiple charges of violations of subdivision (f) or (g), or both, committed by means of an electronic transfer of benefits, the additional terms provided in paragraph (1) may be imposed if the aggregate losses to the victims from all violations exceed the amounts specified in this paragraph and arise from a common scheme or plan.

(i) A person who is punished by an additional term of imprisonment under another provision of law for a violation of subdivision (f) or (g) shall not receive an additional term of imprisonment under subdivision (h).

SEC. 113. Section 18220 of the Welfare and Institutions Code is amended to read:

~~18220. (a) Of the amount deposited in the Local Safety and Protection Account in the Transportation Fund, authorized by Section 10752.2 of the Revenue and Taxation Code, the Controller shall allocate 33.52 percent in the 2008–09 fiscal year and 30.19 percent in the 2009–10 fiscal year, and each fiscal year thereafter, for purposes of Section 18221.~~

~~(b) Commencing with~~

18220. (a) For the 2011–12 fiscal year, the Controller shall allocate 33.38 percent of the funds deposited in the Local Law Enforcement Services Account in the Local Revenue Fund 2011 for purposes of Section 18221.

(b) Commencing with the 2012–13 fiscal year, the Controller shall allocate 30.99 percent of the funds deposited in the Enhancing Law Enforcement Activities Subaccount in the Local Revenue Fund 2011 for purposes of Section 18221.

(c) The Controller shall allocate funds ~~in equal quarterly installments, commencing April 1, 2009, for those amounts described in subdivision (a) and commencing October 1, 2011, for those amounts described in subdivision (b),~~ to local jurisdictions to support juvenile probation activities ~~based on~~ *according to* the ~~percentages as follows:~~ *following schedule:*

Alameda *County*	3.9522%
Alpine *County*	0.0004%

Amador *County*	0.0597%
Butte *County*	0.3193%
Calaveras *County*	0.0611%
Colusa *County*	0.0341%
Contra Costa *County*	2.6634%
Del Norte *County*	0.1170%
El Dorado *County*	0.3016%
Fresno *County*	2.1547%
Glenn *County*	0.0536%
Humboldt *County*	0.1696%
Imperial *County*	0.3393%
Inyo *County*	0.1432%
Kern *County*	2.5687%
Kings *County*	0.3839%
Lake *County*	0.1866%
Lassen *County*	0.0543%
Los Angeles *County*	40.1353%
Madera *County*	0.2399%
Marin *County*	0.3742%
Mariposa *County*	0.0133%
Mendocino *County*	0.1975%
Merced *County*	0.3464%
Modoc *County*	0.0213%
Mono *County*	0.0071%
Monterey *County*	0.6039%
Napa *County*	0.3520%
Nevada *County*	0.1244%
Orange *County*	8.4582%
Placer *County*	0.2667%
Plumas *County*	0.0273%
Riverside *County*	3.2234%
Sacramento *County*	2.1350%
San Benito *County*	0.2136%
San Bernardino *County*	3.4715%
San Diego *County*	5.6095%
San Francisco *County*	1.9161%
San Joaquin *County*	0.8854%
San Luis Obispo *County*	0.6007%
San Mateo *County*	1.8974%
Santa Barbara *County*	1.6561%

Santa Clara *County*	5.8082%
Santa Cruz *County*	0.6128%
Shasta *County*	0.4116%
Sierra *County*	0.0037%
Siskiyou *County*	0.0750%
Solano *County*	1.0363%
Sonoma *County*	1.3043%
Stanislaus *County*	0.5275%
Sutter *County*	0.1344%
Tehama *County*	0.1444%
Trinity *County*	0.0346%
Tulare *County*	1.4116%
Tuolumne *County*	0.0706%
Ventura *County*	1.7193%
Yolo *County*	0.2543%
Yuba *County*	0.1125%
~~Total~~	~~100%~~

SEC. 114. Section 18220.1 of the Welfare and Institutions Code is amended to read:

18220.1. (a) ~~Of~~ *For* the ~~amount deposited in the Local Safety and Protection Account in the Transportation Fund authorized by Section 10752.2 of the Revenue and Taxation Code, the Controller shall allocate 5.85 percent in the 2009–10~~ *2011–12* fiscal ~~year and each year thereafter. The~~ *year, the* Controller ~~shall allocate these funds~~ *shall,* on a quarterly basis beginning ~~April~~ *October* 1, ~~2009,~~ *allocate 6.47 percent of the funds deposited in the Local Law Enforcement Services Account in the Local Revenue Fund 2011 pursuant* to *a schedule provided by* the Department of Corrections and Rehabilitation. The ~~department~~ *department's schedule* shall ~~allocate~~ *provide for* the *allocation of* funds appropriated in the annual Budget ~~Act~~ *Act,* and included in the Local ~~Safety and Protection Account~~ *Law Enforcement Services Account,* among counties that operate juvenile camps and ranches based on the number of occupied beds in each camp as of 12:01 a.m. each day, up to the Corrections Standards Authority rated maximum capacity, as determined by the Corrections Standards Authority.

(b) Commencing with the ~~2011–12~~ *2012–13* fiscal year, the Controller ~~shall, on a quarterly basis beginning October 1,~~ *shall* allocate ~~6.47~~ *6.01* percent of the funds deposited in the ~~Local~~ *Enhancing* Law Enforcement ~~Services Account~~ *Activities Subaccount* in the Local Revenue Fund 2011 pursuant to ~~a~~ *the* schedule provided by the Department of ~~Corrections~~ *Finance based on data reported to the Board of State* and ~~Rehabilitation.~~ *Community Corrections*. The ~~department's~~ schedule shall provide for the allocation of funds appropriated in the annual Budget Act, and included in the ~~Local~~ *Enhancing* Law Enforcement ~~Services Account,~~ *Activities Subaccount*, among counties that operate juvenile camps and ranches based on the number of occupied beds in each camp as of 12:01 a.m. each day, up to the ~~Corrections Standards Authority~~ rated maximum capacity, as determined by the ~~Corrections Standards Authority.~~ *board. Allocations shall be made following the end of each fiscal quarter, beginning July 1, 2012, to account for beds occupied in that quarter.*

SEC. 115. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 116. The sum of $1,000 is hereby appropriated from the General Fund to the Department of Corrections and Rehabilitation for the purpose of administration.

SEC. 117. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

~~SECTION 1. It is the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.~~

O